



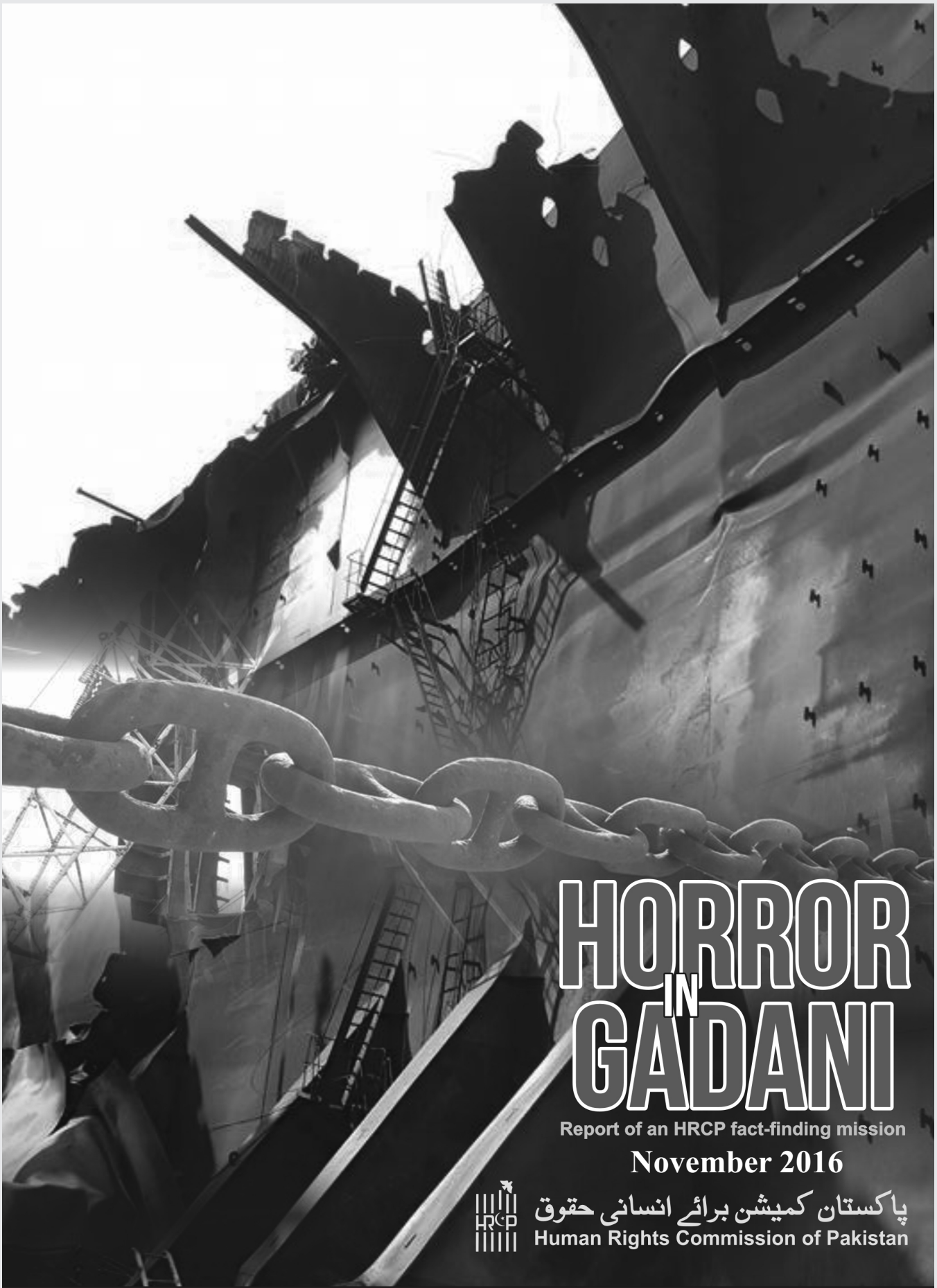
# HORROR IN GADANI

Report of an HRCP fact-finding mission



پاکستان کمیشن برائے انسانی حقوق  
Human Rights Commission of Pakistan





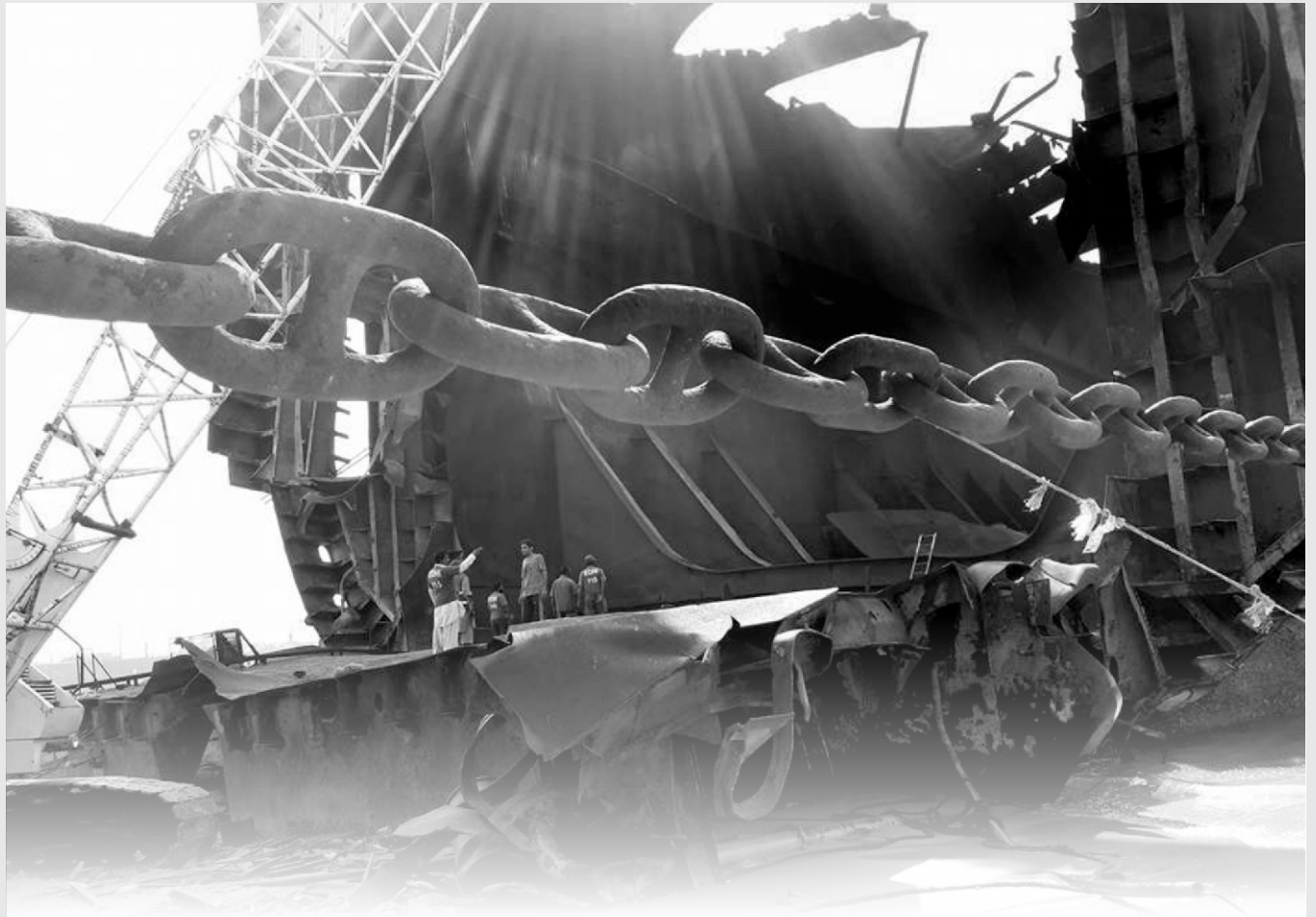
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## KEY

➤	BDA	Balochistan Development Authority
➤	BEPA	Balochistan Environmental Protection Agency/Act
➤	CSO	Civil Society Organization
➤	PEPA	Pakistan Environmental Protection Act
➤	EPA	Environment Protection Agency
➤	EPO	Environment Protection Order
➤	EIA	Environmental Impact Assessment
➤	IEE	Initial Environmental Examination
➤	IMO	International Maritime Organization
➤	NOC	No Objection Certificate
➤	NIRC	National Industrial Relations Commission
➤	OSH	Organizational Health and Safety
➤	PSBA	Pakistan Ship Breaking Association
➤	UNEP	United Nations Environment Programme
➤	ILO	International Labor Organization

## FOREWORD

In the first week of November, Gadani ship breaking yard confronted perhaps the worst workplace catastrophe in recent Pakistani history. In fire that lasted three days, there were scores whose bodies, beloveds, breadwinners and dreams were turned to ashes. This prompted a Fact Finding Mission consisting of various members of civil society. The disaster cruelly highlighted much graver institutional and systemic issues in the areas of environment, workers' health and living conditions.

The mission aimed to determine the facts surrounding the disaster through cross-sectional meetings, with ship owners' representatives, ship breaking contractors, workers, union representatives, injured victims, their families, rescue workers, medical and technical experts, government representatives and security officials.

Pakistan is one of five main ship-breaking destinations in the world; alongside Bangladesh, India, China and Turkey. Pakistan ranks fourth in the global comparison, in terms of scrapped volume as well as in absolute number of ships recycled. Together with Bangladesh and India, Pakistan holds 68% share of the world's ship-breaking industry.<sup>1</sup>

As per the Pakistan Ship Breaking Association (PSBA), Gadani contributes an overwhelming proportion of scrap metal used by Pakistan's steel industry. Thus reducing import burdens. The ship-breaking industry owners and affiliates argue that it plays an important role to the national economy and contributes substantially to the GDP. According to the PSBA, the (vast) profit margin for shipbreaking in Pakistan, as depicted in a 2010 World Bank report, persists despite any odds. According to the PSBA, the industry pays taxes in the vicinity of PKR 5 billion annually, out of which 30% go to the provincial government of Balochistan.<sup>2</sup>

While the volume of trade at Gadani ship breaking yard has seen some crests and troughs, tens of ships are dismantled at Gadani every year. Even in slower years, Gadani manages to scrape large quantities of metal, measured in Long Displacement Tonnage (LDT).

Year	No. of Ships	Tonnage (LDT)	Total Taxes (Million of PER)
1993-94	38	456,189	1,433.736
1994-95	50	977,170	2,667.362

<sup>1</sup> Page 6, SDPI, NGO Ship breaking Platform, 'Pakistan Shipbreaking Outlook: The Way Forward for a Green Ship Recycling Industry – Environmental, Health and Safety Conditions', 2013

<sup>2</sup> Page 8-9, Supra.



<b>Year</b>	<b>No. of Ships</b>	<b>Tonnage (LDT)</b>	<b>Total Taxes (Million of PER)</b>
1995-96	33	649,013	3,334.372
1996-97	24	418,011	2,342.758
1997-98	51	620,914.36	2,472.041
1998-99	54	925,392.98	3,493.819
1999-00	35	530,769.42	2,506.453
2000-01	25	182,568.14	1,158.62
2001-02	39	773,633.914	2,388.318
2002-03	40	205,771.917	649.700
Source: Pakistan Ship-breakers Association <sup>3</sup>			

<sup>3</sup> 'Ship Breaking Industry Signs of Revival?' Pakistan Economist  
<<http://www.pakistaneconomist.com/issue2003/issue37/i&e2.php>>

Nasrullah Zehri, Ship breaking Manager, Balochistan Development Authority, BDA, says that on average 60 to 70 vessels are beached at Gadani. According to him, 130 vessels were beached at Gadani in 2016. He confirms that the vessel under question had gone through none of the requisite processes and obtained no clearances declaring the vessel fit for the breaking work to begin.

There are a total of 135 plots at the Gadani yard. Out of these, 35 are owned by the government and BDA receives PKR 100,000 in rent per year for each government owned plot, notes Zehri. The remaining plots are leased to private parties, at higher costs. At present, 68 plots are operational in the Gadani ship-breaking yard, which are run by 38 operators and employ more than 12,000 workers.

Amidst this apparent partisan prosperity, lawlessness and gory reports of painful deaths and melting bodies, we began the fact finding. While the HRCP has conducted Fact Findings in Balochistan in 2009 and 2011, this is its first foray into the ship breaking yard at Gadani.

**Palvasha Shahab**



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## AIMS

### The Fact-Finding Sought to Determine the Following:

- General context and share of the ship breaking industry in national economy and impact of steel and other materials from broken up ship on industry. Is there commensurate attention paid to the environment, workers' health, accommodation for an industry that contributes to economy at such a scale?
- How many workers were working on the ship when the fire broke out? How many had been killed, injured or remained unaccounted for?
- The direct and contributing causes for the eruption and spread of fire and the measures supposed to be taken by (a) the ship owner/contractor and (b) the authorities at Gadani to prevent a fire outbreak.
- Which of the aforementioned measures were actually taken and what could have been done to (a) prevent the fire from starting in the first place, and (b) to put it out quickly?
- What medical, fire-fighting and rescue/ambulance provisions were available (a) on site or (b) arrived later? Were they adequate?
- Are any official inspections or safety checks required before ship-breaking operations start on a vessel? If so, were they conducted on the stricken ship?
- Assessment of the general demographic spread of workers at Gadani and more specifically on the said ship.
- Application of labor laws in the area. Any specific laws related to the ship breaking industry? What legal requirements/official departments regulate worker rights and safety during ship-breaking operations? Are these adequate on paper?
- Explore the international standards or accepted industry standards regarding safe ship-breaking elsewhere in the world.
- Assess the presence, capacity and role of the labor unions, in ensuring workplace safety and interest of laborers.
- Assess the compensation possibilities/regime in case of death or injury of workers at Gadani.
- Explore the international standards or accepted industry standards regarding safe ship-breaking elsewhere in the world.
- How much does Gadani benefit from its proximity to Karachi in terms of administrative and technical capacities and expertise, trade union linkages, etc.?



## TEAM

This fact finding mission constituted of a varying team, wherein some members were able to participate in some visits and some in others. Each was able to bring in their perspectives and we are very grateful to every single member for their contribution.

The HRCP team consisted of Asad Iqbal Butt, Vice Chairperson for Sindh, Palvasha Shahab, Abdul Hai, Chandan Kumar and Nida Tanveer from the Karachi office; and Abdullah Baloch, HRCP member based in Hub, Balochistan.

From our civil society affiliates, contributors included Farhat Parveen from NOW Communities, Aabida Ali from PILER, and activists Ali Arqam, Malka Khan, Naghma Iqtidar, Khalid Jameel, Ayoub Qureshi. All pictures, except those attributed, were taken by Aabida Ali and Palvasha Shahab.



## VISITS AND MEETINGS

Date	Place of meeting	Persons met	Team members
3 <sup>rd</sup> November	Burn Wards, Civil Hospital, Karachi	<ol style="list-style-type: none"> <li>1. Faisal Edhi, Edhi Foundation</li> <li>2. Dr. Naeem Azmi, Civil</li> <li>3. Dr. Greesh Kumar, Civil</li> <li>4. Dr. Ahmed Bugti, Govt of Balochistan</li> <li>5. Assistant Health Officer, Govt of Balochistan</li> <li>6. Nine burns victims and their attendants</li> </ol>	<p>Abdul Hai Palvasha Shahab Nida Tanveer</p>
4 <sup>th</sup> November	Hub DC Guest House	Rajab Ali Rind, Naib Nazim of district Hub	<p>Asad Iqbal Butt Abdul Hai Farhat Parveen Palvasha Shahab Aabida Ali Khalid Jameel Malka Khan Ali Arqam Ayoub Qureshi</p>
4 <sup>th</sup> November	Gadani, Plot # 54	1. Bashir Mehmoodani, President of NTUF Affiliate Union	<p>Asad Iqbal Butt Abdul Hai</p>



Date	Place of meeting	Persons met	Team members
4 <sup>th</sup> November	Gadani, Plot # 54	<ol style="list-style-type: none"> <li>2. Fida Muhammad, Assistant Director-Labour, Balochistan</li> <li>3. Meherban Shah, Chairman of Pakistan Mines and Industries Trade Union</li> <li>4. Dawa Khan and multiple ship-breaking workers</li> <li>5. Sub-Contractor of nearby plot JumaGul</li> <li>6. Fireman Muhammed Qasim, Rajab and other firemen on site</li> <li>7. Local journalist Abdul Aziz Sheikh</li> </ol>	<p>Farhat Parveen Palvasha Shahab Aabida Ali Khalid Jameel Malka Khan Ali Arqam Ayoub Qureshi</p>
13 <sup>th</sup> November	Hub	<ol style="list-style-type: none"> <li>1. Assistant Commissioner, Hub Police</li> <li>2. SHO Zulfiqar, Hub Police, Investigating officer on the Gadani case</li> <li>3. Local Activist Khalil Roonjo</li> <li>4. Nasrullah Zehri, Manager Ship breaking, BDA and Co-Manager, Dinar Khan</li> <li>5. Tanveer Aftab, People's Primary Health Care Initiative Balochistan</li> <li>6. Balochistan Labor Department, attempted. Office closed by 1:45 pm.</li> </ol>	<p>Abdullah Baloch Palvasha Shahab Aabida Ali Ali Arqam Chandan Kumar</p>

<b>Date</b>	<b>Place of meeting</b>	<b>Persons met</b>	<b>Team members</b>
<b>Via Phone</b>			
<b>5<sup>th</sup> November</b>	<b>Remained unavailable for comment 9<sup>th</sup> – 14<sup>th</sup> December, after report was published.</b>	<b>Minister for Ports and Shipping, Mir Hasil Bizenjo.</b>	<b>Asad Iqbal Butt Palvasha Shahab</b>
<b>29<sup>th</sup> November</b>		<b>Lawyers at Hub: Haneef Rahal and Usman Shaib.</b>	<b>Palvasha Shahab</b>
<b>30<sup>th</sup> November, 9<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup> December</b>		<b>Deputy Director, Balochistan Environment Protection Agency, MuhammedRizwan Ali</b>	<b>Palvasha Shahab</b>

## THE CATASTROPHE

On 22<sup>nd</sup> October 2016, an oil tanker named MT ACES, built in 1982, Japan, arrived at Plot # 54, Gadani, which is owned by Chaudhry Abdul Ghafoor. More than 120 workers enlisted to dismantle it. On 1<sup>st</sup> November 2016, the first day of work on the vessel, an explosion of gigantic proportions occurred while workers were cutting the oil tanker. It resulted in approximately 28 workers dead, and 58 injured. Firefighters from Gadani, Hub and Karachi battled the fire for three days; it is unclear whether the fire subsided as a result of their efforts or because the fire exhausted its fuel. The exact number of deaths, injuries and disappearances have been difficult to nail down because, as it will be



seen in this report, there is immense controversy as to what records of the workers on board even existed in the first place.

Several of them had been burnt alive. Mangled body parts dispersed from impact were reportedly strewn across the plot when help arrived some workers jumped in to the sea, some of them survived, others could not make it, some did not know how to swim,

others who made it to shore where gravely injured. They said the ship was not thoroughly cleaned, and there was oil and gas inside the ship when the work was started.

MT ACES was a mid-sized crude oil tanker, categorized as Aframax. It was built by Japanese manufacturer Ishikawajima-Harima Heavy Industries Co., Ltd. (IHI) for Mobil Tanker Company; and was run by Exxon Mobil till 1992. During these years, it was owned and managed by different companies, renamed as Mobil Flinders until 1992, Flinders until 2002 Dec, Navarino until 2006 January, Federal-1 until August 2016. It was reflagged to different countries as Panama, Greece, Marshall Islands, and Indonesia. For the last time after it was sold for recycling in August, it was renamed MT ACES and reflagged to Djibouti, using the African country as Flag of convenience (FOC) for avoiding legal hindrances and regulations.

As Federal 1, the vessel's former owners were the Singapore based investment group and ship owners, Federal International Limited. It was acquired through their investment company Federal Offshore Services Private Limited. In 2007, Federal 1 was converted to Floating Storage and Offloading unit (FSO). It was sold to the Indonesian Oil company Sinar Mentari Prima PT in 2011 and was used at Indonesian port, Jabung Batanghari Terminal as offshore terminal for LPG, condensate and crude. Having a length of 289 meters, molded breadth of 48 meters, and molded depth 23.5 meters. Federal 1 had 11 cargo tanks with total capacity of 172,194 cubic meters, and slop tank capacity 4146 cubic meters. Its last operators were PetroChina Company; it was chartered to them in 2006 for ten years (by the previous owners). The ship was technically maintained and managed by Singapore based ship management company V Ships Asia Private Limited, one of the largest technical ship managers. <sup>4</sup>

Some of the workers related that they knew it was technically illegal to start work on the ship. [As per the Baluchistan Environment Protection Act 2012] before it was properly cleaned of all possible fire hazards, oil and gas remnants and cleared for hazards and granted a No Objection Certificate (NOC). However, they were bound and pressured into beginning work. It appears that the workers went ahead because they feared loss of future income, only passively apprehending the risks, believing they could do nothing as it was the only option to earn anything.

“They [the Plot #54 Management] called the contractor while he ate dinner at the *dhabba* with us. They said *kisi bhi haal main kal batti lagao warna nikal jao* (you either begin welding [torch] work tomorrow or you ship out).”  
*An elderly ship breaking labourer at Gadani*

Ship breaking work is organized on a contractual basis. The main contractor is hired by the ship breaking plot and vessel owner or his management. Separate contractors are hired by the main contractor and each contractor is responsible for a particular job or area of work. Any further contracting and hiring of labor is done by the subcontractors. It is believed that the main contractor in this case, a certain Gul Zamin, has expired in the explosion.

Two union leaders, workers and the Labor Department all suggest that the exact list of all workers on board had not been finalized; it was only the first day of work and contractors and sub-contractors were meant to take attendance aboard the ship that day.

The workers and union leaders further stated that a preliminary skilled worker attendance was conducted before they boarded the ship, and that record can be found with the plot management. The investigating officer, SHO Zulfiqar of Hub Police on this case confirmed that he was in possession of the list and read to us parts of it that are quoted in the casualties section. However, note that this was not an exhaustive list and the remaining attendance record was yet to be brought off the ship before the catastrophe occurred.

We note here that as per our sources in the government, it was not just the Plot#54 Chaudhry Abdul Ghafoor's nephew and manager, Abdul Hafeez, who looked after the affairs of Plot # 54. Chaudhry Abdul Ghafoor's cousin, a Colonel (retd) Rafiq, also looked after the affairs at Plot#54. However, this cousin has not been brought into the investigation at all



<sup>4</sup> Ali Arqam reports this from his secondary research through marine enterprise databases and profiles.



remains at large and scot free.

The Investigating Officer, SHO Zulfiqar of Hub Police, says that mainly the skilled labor was registered and issued cards. It appears that between 100 to 120 skilled workers were working on the stricken ship. This police officer was appointed after the removal of the previous investigating officer, a week into the investigation, for unknown grounds.

Despite having the main contractor Gul Zamin's second in command *Sarangi* in custody, he remains unsure exactly how many sub-contracts or teams were even supposed to be working on the ship at that time. An FIR has been lodged, against the owner of Plot #54 Chaudry Abdul Ghafoor, the management, the main contractor and his *Sarangi*, under sections 322, 289 and 279 of the Pakistan Penal Code. Plot #54 Manager MohamadHafeez and contractor Muhammed Farooq Bengali are under investigation at a police 'safe house'.

All work has since been halted at the shipyard and the provincial and Federal government is conducting inquiries and inspections.

## CASUALTIES

The police have seized the record of workers from Abdul Hafeez. According to the police tally, 28 workers are dead, of which 27 have been identified. The police officer informed the HRCPT team that the tally of records found is as follows: 13 laborers, 5 ship welders, 12 ship welder holders, 3 Kinara welders, 3 Kinara welder helpers, 2 pump fillers, and 19 'agri'-electrical workers. Further, sub-contractors are known to have hired another 24 workers for *taelsafai* (oil cleaning). According to the workers, official figures are inaccurate; some said the number of casualties might actually be 80 and not 28.

Workers also said that the wood workers and other sub-contractor teams had not come aboard yet.

He further said the main contractor, Gul Zamin, has likely expired in the fire. Another contractor known as Tabani or Tabassum, who contracted about 20 laborers, has absconded. Dogar, the foreman of Plot #54 whom the Gadani workers believe to be the main force behind hurrying the contractor to dismantle the ship, is also believed to have absconded. The workers simply refer to him as Dogar and others deny his existence so the full name remains unknown.

As per the investigating officer, Plot# 54 owner, Abdul Ghafoor, has pleaded old age and ill health to avoid arrest. On the side, it is noted that according to our research, ship breaking at Gadani picked up speed in the 1970s. Chaudhry Abdul Ghafoor the owner of Plot # 54 has held a large share in the ship breaking industry in Pakistan since the beginning of this work. As per our sources in the government, roughly 76 vessels have been dismantled by his business to date. Not just Plot # 54 where the tragic accident occurred, he also owns Plot # 55 and 56 in the same yard. It stands to be assumed that he is familiar with the ins and outs, the risks, laws and obligations of care surrounding shipbreaking work.

The police issued *Talbi or* show-cause notices dated 12<sup>th</sup> November to all relevant government authorities under Section 160 of the Pakistan Penal Code; including the Balochistan Environmental Protection Agency, Customs Department, Balochistan Development Authority, and the Labor Department. The criminal negligence and ill-preparedness of the Fire Department is likely covered under the Balochistan Development Authority (BDA).

The Assistant Commissioner of Hub Police additionally set up a missing persons' cell regarding the Gadani disaster. Two complaints were registered with the cell.

According to Assistant Director of the Balochistan Labor Department, Fida Hussain, only the ship owner's management and the main contractor know the precise number of workers engaged for the ship dismantling and the department had no information or record of the same. As per his statement, even the list of skilled workers need not have necessarily existed. He also suggested that even if such a list had existed it was quite possible that it was burnt with the ship.



## RISK MITIGATION INFRASTRUCTURE

From our cross-sectional interviews as listed above, our basic findings, and the journalistic consensus, it appears that the blast occurred due to the presence of inflammable and toxic gases inside the tank of the ship when work with 'gaslight' welding torches containing highly purified oxygen began. The Sub-contractors and their workers were forced and/or cajoled by offerings of additional money and permanent contracts to start the dismantling process before the oil tanker could be cleaned of leftover fuel and flammables.

As per the firefighters present on the site, and other eye witnesses confirm that the fire originated somewhere in the bottom chambers of the ship, inside or near the fuel containing chambers of the oil tanker, where workers were using the welding torch, colloquially called *gaslight*, to weld open the ship.



Shipbreaking workers, and union leaders and a two engineers explained to the team that the welding torch uses purified oxygen to fuel the flame that pierces the metal of the ship. The workers, union leaders, and Nasrullah Zehri, shipbreaking manager of the BDA explained that if a ship is not cleaned properly before work begins, a residual mix of oil and water, that is, oil sludge remains at the bottom of the ship, and often emits flammable, noxious gases.

Although no one from the bottom chambers of the ship lived to tell the tale, the recurring conjecture is that the immediate blast was the result of a worker accidentally dropping a gaslight into the oil-water-gas sludge at the bottom of the discarded ship. Since there was no safety equipment or strapping that could prevent the *gaslight* from falling in, the disaster could not be mitigated.

The workers at the yard and some government officials said that the work had been given to a new, relatively inexperienced contractor, Gul Zamin, who was hired on trial basis and baited by the promise that if he could dismantle the ship within 45 days, he would be hired on a permanent basis, for more ships to come. He in turn hired relatively unskilled labor.



As per the managers of BDA, corroborated by the Balochistan Environment Agency, the process through which a ship is approved for breaking after arriving in Pakistan usually takes around a month. They explain the process as follows:

As per workers and officials from other agencies, it is after this process that Labor Department is supposed to conduct its final inspection and ensure that the vessel is secure for work, giving its clearance. This is the final go-ahead for labor to board and work to begin. In our interview with the Assistant Director of the Labor Department, he seemed unaware of this practice.

First, any vessel that arrives in Pakistani waters for dismantling at Gadani has to be inspected by the Customs Department and given an NOC. Their job is to ensure no illegal materials; no disproportionate risk is being brought into Pakistani domestic shores.

Then, after verifying the Customs NOC, the Balochistan Environment Protection Agency BEPA has to inspect the vessel and put it through various internationally approved tests; particularly to ensure that there is no fire hazard or risk of other potential damage to the environments per Pakistani law before issuing an NOC in the form of an IEE.

Then both these NOCs have to be brought to the BDA which, after inspecting the NOCs, ascertains that the vessel's origin, weight and bank or insurance documents are accounted for. BDA then determines and collects the requisite provincial and federal tax and then finally issues its own NOC.

## BDA

As per the BDA, this entire-three tiered process takes roughly a month and that it was avoided almost wholly as far as present reports go. That is, no NOC had been obtained for the vessel.

While other NOC application processes may have begun, the BDA had not so much as been approached with an application when disaster struck.

Shipbreaking Manager Nasrullah Zehri says that the BDA leases the ship-breaking plots, and collects a tax of PKR 50/- per ton for the Balochistan Government and PKR 8,000/- per ton as consolidated Income Tax plus General Sales Tax for the Federal Board of Revenue. In case of malpractice, such as proceeding without NOC, a flat penalty of PKR 30 per ton is applied regardless of how grave or heinous the malpractice.

Moreover, as per Zehri 50% of the revenue collected by BDA from Gadani has to be reinvested in the local infrastructure for which the BDA is responsible. However, Nasrullah Zehri notes that not only are these funds not



made available, even BDA staff salaries are often delayed. He further asserts that 1986 was the last time the government released any development funds to the BDA. There is neither a basic supply of water, housing, electricity nor an adequately functional and proportionate fire department.

## **BEPA**

As per Muhammed Rizwan Ali, Deputy Director of BEPA, the proprietor of a vessel is supposed to approach the BEPA with an Initial Environmental Examination, IEE application. In this application, The relevant laws, origin, tonnage and type of vessel, procedure to be followed for proposed ship breaking, proposed timeline, proposed number and skill of labor, and a precautionary, Environment Management Plan, detailing contingency plans, need to be submitted in this application.

The BEPA is supposed to accept, reject or seek additional information within 10 working days. Muhammed Rizwan says that in the case of oil tankers, such as this one, and chemical carriers, the BEPA always conducts an on-site examination before granting an IEE. This includes conducting requisite checks for fire hazards and other potential environmental damage.

This inspection is preceded by officially dispatching a letter seeking additional information after initial review. In this case a letter, dated 27<sup>th</sup> October 2016, had been dispatched from Quetta on the 1<sup>st</sup> of November, on which day the vessel had already caught fire. Therefore, it must unequivocally be stated that no IEE was issued.

As per BEPA, it has no office in Gadani and an annual fuel budget of PKR 36,000. These exams take up to two days to conduct. Therefore, travelling from Quetta to Gadani, with all the requisite testing equipment is often tough. As a result, inspections are often delayed. If they started trying to abide by the timelines stated in the law, they would exhaust their annual budget in a month he says. It is further noted, that federal agencies and departments are better funded and capacitated to do their job; yet, they also get maximum impunity in case they fail to do so.

## **Customs, Pakistan Navy, Maritime Security and National Coast Guard**

Previously, and customarily, Customs would access the vessel before the vessel was beached at Gadani, that is, while it was still in water. However, this is no longer the invariable practice. Although customs is supposed to and should have the capacity and access to board the vessel once it has entered domestic waters and before it is beached, it no longer does so. Whether this is because of a lack of communication between security agencies allowing vessels into Pakistani waters, or sheer complacency, remains unknown. The current practice is that Customs board the vessel once it is beached. Sometimes, they approach it for inspection once the beak of the vessel has been welded open.

When a vessel enters Pakistani waters, it is the three above named security agencies that provide clearance for a vessel to be beached. As per government officials, the Pakistan Navy receives information regarding the navigation communication code, flag of origin and type of a vessel at least two days prior to its arrival in Pakistani waters. But the Navy, Coast Guard or Maritime Security does not communicate an impending arrival. Nor does it communicate when it has granted clearance to a vessel.

Moreover, there is no mechanism for these security forces to notify provincial agencies such as the BDA or BEPA. There

is also no overt mechanism for notification for the Customs, in which the security agencies work in closer or more direct collaboration since it is the first to access the vessel once it is beached. Nor do the Customs have any capacity for them to access the vessel before it is beached. According to our sources, the BEPA has been requesting a prior notification, if not access; so that it may promptly prepare to inspect the vessel where need be

It is these agencies that have the access and the capacity to ensure that a vessel entering Pakistani waters does not contain any hazardous substances or smuggled goods, may it be oil or other. It would be the job of these three agencies to ensure the basic safety clearance of a vessel.

All other agencies, including Customs, are only able to access the vessel once it has been beached, and

cannot be returned per se. Therefore, if, hypothetically, a vessel was carrying toxic poisonous waste or smuggled oil, we would be stuck with it once the vessel was beached. While smuggled oil can still be absorbed into the market, the environmental damage or loss of life caused by a potentially hazardous chemical substance or worse cannot be absorbed or returned.



## GOVERNMENT REPORT

When approached for comment the Ports and Shipping Minister, Mir Hasil Bizenjo, clarified that shipbreaking was not within the purview of his ministry. Although he visited Gadani on 3<sup>rd</sup> November 2016, he clarified that it was simply on humanitarian grounds, and on instructions from Prime Minister Nawaz Sharif, to whom he would be reporting regarding the situation on ground.

According to our sources in the government, a meeting was on 29<sup>th</sup> November 2016, in the week following the disaster, in the committee room of the Chief Secretary Sindh. It was presided by the Chair of the Inquiry Committee constituted by the Chief Minister of Balochistan, and attended by four Senators. However, the Navy, Maritime Security, Coast Guard and Customs were not even part of that meeting.

The Federal Minister for Defense Production Rana Tanveer Hussain led a seven member team to probe the incident. The team reported to the Prime Minister in the first week of December, stating that oil smuggling might have been a major contributing factor in the incident. It stated that the vessel had originally contained 1,600,000 liters (1600 metric tons) of lubricants; it asserts 1,400,000 liters (1400 metric tons) was diesel. It held that this is a disproportionate quantity and may have contributed or been the cause for the overall flammability of the vessel when shipbreaking work began. The report has recommended strict investigation and penalization of relevant customs officials.

While the HRCF team appreciates the report and acknowledges that the alleged smuggling would have exponentially increased the fire and disaster risk of the vessel, and Customs official would be most culpable in the matter, there are larger, more systemic, institutional problems at work in propelling this vessel towards disaster. Customs needs to access the vessel before it beached and be held accountable for all vessels.

Therefore, in this report, HRCF notes that those responsible for this disaster and accompanying loss of human life were also the security forces at our water frontiers, especially Maritime Security and Coast Guard. They should have a mechanism to check and then clear vessels before allowing them entry into domestic waters, lest they be carrying substances even more dangerous than smuggled oil.

The next direct responsibility did lie with the Customs department. As per our sources in the complementary agencies, the Customs has given contradictory statements as to whether or not it had cleared the vessel for breaking. Moreover, as per Customs practice, one police inspector and two *sipaahis* or guards have to be deployed on the vessel until all customs duties are paid off.

However, it remains unclear whether the Department even approached the vessel for inspection as soon as it was beached. Lastly, it should have had a mechanism for alerting Balochistan Environment Protection Agency, BEPA, which could conduct checks for fire hazards. The third responsibility lies with the Labor department which remains almost entirely aloof from ensuring and enforcing Occupational Health and Safety measures.

We also note that as per our sources, the official delivery report which is handed by the foreign captain of the ship to the Pakistani captain had very different figures. According to our sources in the government, as per the delivery report, the vessel approximately contained 27 metric tons (or 27,000 liters) of diesel oil, 30 metric tons (or

30,000 liters) of lube oil, 132.80 metric tons (132800 liters) of furnace oil and 1100 metric tons (1100,000 liters) of oil-sludge.

The taxable part of this was: 1 metric ton (1000 liters) of diesel oil, 6 metric tons (6000 liters) of furnace oil and 1.8 metric ton (1800 liters) of lube oil was taxable. All taxes are decided by the Federal Board of Revenue (FBR).

While the HRCR report also holds the Customs responsible, among various others, it is noted that the present report is shrouded in gaps and uncertainties. Perhaps if the reports

At this point it would be relevant to note that our sources in the government suggest that it is common practice for Customs to tax a very small amount of this fuel or other substances, in lieu of vested interests, and for the rest of it to go undocumented. As per our sources, in case of malpractice, Federal bodies and departments, like the Customs, enjoy a far greater level of impunity.

## DISASTER MANAGEMENT INFRASTRUCTURE

Because of its proximity to Karachi, which is 51 km away, Edhi Foundation sent numerous ambulances from the port city to rush the injured to hospitals in Karachi which have burn units. The overwhelming majority of the victims of the Gadani disaster had burn injuries. Our conversations with doctors deployed at Civil Hospital Karachi by the Balochistan Government, by Faisal Edhi and numerous ambulance drivers confirmed that these were the only ambulances available for use.

The only medical facility in Gadani is a Rural Health Centre, which is not equipped to offer much more than basic first aid. It has no ambulance and the medical staff is only intermittently available. Tanveer Aftab of the People's Primary Health Care Initiative Balochistan notes



that the capacity of the health center is negligible, substantially less than projected by the size of the building. Limited medical facilities are, however, available at Hub Power Plant. Although the medical facility at Hub Power Plant essentially meant for staff and their dependents, it also remains open and provides for residents of multiple nearby villages and oftentimes, for residents of Gadani. The hospital at the

plant, however, also lacked the capacity to treat burn victims.

As per Assistant Commissioner of Hub twenty eight of the injured were brought to Civil Hospital, three to Abbasi Shaheed Hospital, three to the Rural Health Centre at Gadani. A few others were taken to privately owned Rahman Hospital at Benaras Chowk, Karachi; workers and patient attendants allege this hospital is owned by power brokers of the 'pocket union' at Gadani.

On 3<sup>rd</sup> November, when the HRCP team visited the Civil Hospital Burns Unit in Karachi, it found two doctors, deployed by the Government of Balochistan, sitting outside the hospital, in the waiting area. We were able to



speak to Dr. Muhammed Amin Bugti and an Assistant Health Officer accompanying him said that nine doctors had been deputed to care for the injured by the province, and agreed to the suggestion that the official infrastructure was absolutely unable to transport victims on its own. They further stated that if an ambulance had been called it would have taken over a day to arrive at the disaster site. These doctors had a list with the names of twenty-eight patients brought to that hospital, 10 of whom were at the Burns Unit and the rest in the out-patient department (OPD).

At Civil Hospital, Dr. Naeem Azmi and Dr. Greesh Kumar informed the HRCF team that most of the burns victims had more than 60% burn on their body which meant that they had little or no chance of survival. Two of the 10 victims brought to the hospital had already expired.

Details of the remaining thirty or so injured persons remain hazy; as per the Hub police, a large number seemed to have been discharged or simply left the hospitals without a clear means to track them.

The firefighting capacity at Gadani is better than the healthcare facilities. Gadani town/shipbreaking yard had only one fire truck to fight the blaze. Two more were provided by Hub Power Plant. The remaining half a dozen fire trucks were sent from Karachi. The Karachi Port Trust firefighting team was active during the efforts. However, as per the fire fighters' own admission, these fire trucks were largely ill-equipped for the type of the fire on the burning vessel. This type of fire needed to be put out with foam and not water. For the same reason, two Pakistan Navy helicopters deployed to spray water onto the flames were believed to not have much effect since foam was required to quench the fire.



The firemen on site claim that 1500 litres of foam was used to fight the fire. Irrespective of that, however, firemen on the site admitted that none of the trucks was fully equipped with the requisite foam, and odd amounts from each truck had to be directed at the fire.

On the third day, only firefighters from Hub remained on site. At least half of these firemen and fire trucks stood by, it was noteworthy that there not a speck of dirt on their person, uniform or trucks; despite the fact that bodies were still being extracted from the vessel and the Edhi Foundation remained at work.

It is unclear whether the fire stopped because of the firefighting efforts or after the flames consumed everything that could burn.

## RECENT DEVELOPMENTS

In the wake of the disaster, Deputy Director BEPA, Rizwan Ali says that the environment agency, BEPA, and the Labor Department have set up a number of Standard Operating Procedures (SOPs) for the ship breaking yard. First, each plot is now required to have 5000-7000 liters of foam, at all times, and 2 foam pumping machines. Second, each proprietor is required to have ambulances and first aid rooms on the ship breaking plots. Third, a number of new occupational safety arrangements and equipment such as uniforms and helmets have been introduced, as seen in pictures. He further reassures that the ship breaking yard will not be allowed to function again until all safety measures are in place. And that a detailed inspection of all newly implemented measures is scheduled for January 2017.

As optimistic as these may be, it is noted that those in Quetta are often more eloquent than those on ground at Gadani. It is hoped that measures will not be limited to these and that these measure will not be one time affair. These needs to be mechanisms that ensure these measures are followed and implemented.

It must be remembered that in this case, the last chance of saving the disaster from happening lay with the Pot # 54 management. The second responsibility lay with the Balochistan Environment Protection Agency (BEPA) and the Labor Department. The environment agency regularly delays inspections since it does not have an office at Gadani; it may be that this is due to budgetary constraints, in which case the burden would shift to the provincial government. The labor department. If occupational health and safety measures had been the modus operandi and if the ship breaking plot owners were not swayed by past impunity, they might not have begun work. The third responsibility lay with the Balochistan Development Authority, which has miserably failed to provide any infrastructure in the form of a fire department, health facilities, roads, electricity etc. However, in this case again, there is a paucity of funds to the extent that salaries are delayed.

A good beginning might be for the provincial government or the Quetta head office to educate the Labor Department about their role, particularly at Gadani. Moreover, institutional safe havens for corruption, and lack of accountability need to be urgently addressed. It is also immensely important for the BEPA to have a presence at Gadani.



## DEMOGRAPHIC SPREAD

According to the accumulative accounts of Assistant Commissioner Hub, local activist Khalil Roonjo, National Trade Union Federation (NTUF) affiliate Union President Bashir Mehmoodani and numerous other workers the overall worker demographics of the area appear to be as follows.

Roughly 80% of the labor engaged in the Gadani ship-breaking industry is Pakhtun and 10% are irregular migrants of Bengali origin; these are the main ethnicities that engage in hard labor in the Gadani ship breaking industry. The Bengali workers are generally the most poorly paid and worst treated because of their hazy legal status and general discriminatory practices towards them, which results in them having little social, political or legal recourse. Another 5% are workers of Siraiki origin; these are mostly technicians and the remaining 5% - mostly *munshisor* clerks and other clerical posts- are filled by Baloch. The Baloch are largely from the *Sarmastani* caste, which is considered a low caste. As a result, the local social fabric has remained largely detached from the effects of the disaster, and the ship-breaking enterprise generally.

Some workers live in Karachi and work at Gadani. However, those that do live in Gadani are without any proper living quarters. The housing situation is worse than deplorable. Most workers live in shacks made out of a host of mismatched materials from metal sheets to wooden planks to oddly shaped pieces of formica- faux wood. One of the sources claimed that they are *not allowed* to make anything more permanent or livable so as to discourage them from 'settling down' or 'getting comfortable'.

As per Chapter III, Section 33 (Q), of the Factories Act 1934, it is required of the business proprietor to provide well-constructed and well equipped rest shelters to all workers. The government must require that living quarters or hostels also be set up for labor by business proprietors, as they have been done at the nearby Hub Co. Power Plant or by Engro in the Thar Coal Project. As per fundamental right, no man can be denied adequate housing, particularly not on any discriminatory grounds, so them *not being allowed* to construct better shelters ushers show us glimpse of the real life dystopia that Gadani is for the common worker. It is preposterous in this day and by any standards of humanity.

## LABOR POLITY

Two workers' unions operate in Gadani at the moment. One is what many workers described to the HRCP teams as a pro-management union, which is led by Meherban Shah and associates; this union has the status of a Collective Bargaining Agent (CBA). The HRCP team often heard it being referred to as a 'pocket union', because it was believed to be part of the management itself.

The other union, led by Bashir Memoodani, is an affiliate of the National Trade Union Federation but does not have CBA status. During the fact finding team's first visit, there was an ongoing protest by the NTUF affiliate union against the management, the *pocket union* and its apathy towards the general working conditions & workers' rights and towards the plight of victims' families and the injured. Besides absence of the CBA status, the union led by Mehmoodani seems to lack the capacity and clout to take definitive action.

From workers and local activists, the HRCP team learned that the family of a worker dying while working at Gadani, is given compensation between PKR 0.3 million and 0.7 million. According

to local activists, the variation is attributed to the ethnic origin or degree of skill of the laborer. Local mechanism, as they were explained, seem to suggest that in order to prevent a case being lodged with the police, or where the threat of a case being filed exists the going compensation 'rate' is PKR 0.6 million, with an additional PKR 150,000 going towards miscellaneous bribes to prevent reporting. Local activists claim that there is an alleged Sessions Court Judgment that has set the compensation rate at PKR 0.7 million and determined that a workplace death will be treated as murder.

The total strength of workers at the Gadani ship breaking yard is 12,000-16,000. Wages range from 500-800 per day.

The effectiveness and/or helplessness of unions can be determined from the account of Dawa Khan, and elderly worker at Gadani, who said that workers were being treated as slaves. He said that workers were beaten if they asked for better working conditions and wages. He stated that Bengalis and other 'outsiders' were paid less than the local's workers and workers from other provinces. He said that there was no provision for occupational health and safety. He complained that the present labor leaders were all phonies, 'Look at the situation how bad could it be?'

This is a sentiment reiterated by several workers the team talked to. The workers further said that there was widespread politicization and *buying* of labor unions. It was often the case, and the present case, that in order to deny the local unions the right to collective bargaining, the management would set up its own union and then set up a branch of the union in another province so that the National Industrial Relations Commission (NIRC) could easily be bribed to turn a blind eye to the facts on ground. This would mean the NIRC would grant the management supported union the superior status of a national or inter-provincial unions. By law, this superior status would also mean that this national or inter-provincial union would have monopoly over the collective bargaining status/right. They asserted and re-asserted that there was widespread facilitation of phony unions of this sort.



## LEGAL FRAMEWORK

There is no specific legal regime to regulate the overall ship-breaking industry, only basic procedures such as checks by Customs (for taxation purposes), Balochistan Environmental Protection Agency BEPA and Balochistan Development Authority, BDA, (for tonnage, taxation, origin and insurance purposes) are mandatory.

These are governed by Ship-Breaking Industry (Special Procedure) Rules, 1997 (vide SRO Sales Tax notification S.R.O. 1283(I)/97; amended vide notifications SRO 313(I)/2001 dated 23.05.2001, SRO 699(I)/2002 dated 12.10.2002, and SRO 887(I)/2003 dated 05.09.2003. By the Balochistan Environmental Protection Act 2012; and by the Balochistan Development Authority Act 1974.

### Occupational Health and Safety (OHS)

Legally ship breaking industry is yet to be placed under the purview of any single ministry. In the circumstances, the contractual labor is particularly hard done by, and deprived of vital occupational safeguards.

The workers, BDA, BEPA and Police understand the Labor Department to be responsible for conducting inspections of vessels at Gadani in order to ensure that they are safe for labor to work on.

While there is no particular law or rules defining the tasks of the labor department vis-a-vis ship breaking, it is understood that this practice originates from the fact that ship breaking plots' are registered under the Factories Act 1934. Chapters II and III of the Factories Act particularly address site inspections and Occupational Health and Safety (OSH). The Provincial Government is responsible for appointing inspectors [ from the Labor Department] who may certify that the site (in this case the vessel and Plot# 54) is safe, clean, well ventilated, temperature and humidity controlled, well lit, has adequate sanitation/ restrooms, and provides laborers access to clean drinking water among other stipulations.

Note here that, based on the interviews during this fact finding, the practice of vessel inspection is one that seems intermittent at best. Although the plots allotted for ship-breaking are registered under the Factories Act 1934; there is no registration of contractors or the contractual labor. The practice of hiring contractual labor infests a lacuna in the labor law regime. Since the laborers are not directly employed by the factory owners, or in this case, ship breaking plot owners, labor law is largely blind to their existence.

The Labor Department therefore is not directly responsible for most of the workers on the vessel or the plot because they are deemed informal contractual labor and therefore do not benefit from any substantial labor law





protection.

As per the Industrial and Commercial Employment Standing Order Ordinance 1968, if a laborer is not hired for a period of three months, they are not eligible for social security, medical insurance and such other benefits which are to be provided by the employer in part.

**1. Classification of workmen.—(a) Workmen shall be classified as—**

- (1) permanent,
- (2) probationers,
- (3) *badlis*,
- (4) temporary,
- (5) apprentices.

**[(6) contract worker]**

(b) A “permanent workman” is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment [and includes a *badli* who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months.]

[(g) a contract worker means a workman who works on contract basis for a specific period of remuneration to be calculated on piece rate basis.]<sup>5</sup>

As per the workers, sub-contractors and BDA manager, Zehri, the dismantling of one vessel takes approximately two to three months. This means that by default, no worker can qualify as a permanent worker and gain the social security and benefits that come therewith.

Each subcontractor has a contract of PKR 0.7 million to 1.5 million. In order to maximize on their profits, and minimize on the daily wages they need to pay, contractors often rush the workers, prolong the work day and avoid the necessary safety measures. The practice of hiring subcontractors is said to have gained popularity since the so-called revival of the Gadani yard in the 2000s, when more vessels started coming in.

In the year 2003, a vessel named Sea Giant was beached at Gadani and this arrival is said to have marked the revival.<sup>6</sup> Before this, the BDA says, the industry saw a downturn in the 1990s, as a result of increased taxation and decreased competitive advantage. However, since 2000s, the workers say that subcontracting of ship breaking work has gained much currency with the business owners. As a result, the dismantling of an average ship that used to take up to six months a few decades ago, now only takes two to three months at most. This is despite that fact that no major technological change has been adopted. This allows the owners to reclaim competitive advantage at the cost of laborers.

Discriminatory practices towards impermanent or informal labor are being addressed slowly in the labor regime. There have been moves towards including informal labor in Sindh, and domestic labor in Punjab. In Balochistan, however, there is no such trend yet.

The Balochistan Ship Breaking Industry Rules from 1979 are limited to empowering the BDA to lease plots for shipbreaking.<sup>7</sup> Nevertheless, general legal provisions cover the shipbreaking industry as listed above. Constitutional guarantees for fundamental rights are also applicable to the shipbreaking sector.

Nevertheless, the few OHS related laws that do exist, could be applied to shipbreaking work such as the Factories Act discussed above. There is, however, no single, comprehensive law covering OHS at the workplace, much less one focused on the ship breaking industry at Gadani. This is a particularly important disadvantage to note

<sup>5</sup> Section 1 of the Schedule, Industrial and Commercial Employment Standing Order Ordinance, 1968.

<sup>6</sup> 'Ship Breaking Industry Signs of Revival?' Pakistan Economist  
<<http://www.pakistaneconomist.com/issue2003/issue37/i&e2.php>>

<sup>7</sup> Page 16, SDPI, NGO Shipbreaking Platform, 'Pakistan Shipbreaking Outlook: The Way Forward for a Green Ship Recycling Industry – Environmental, Health and Safety Conditions', 2013

since the shipbreaking industry is not recognized as a distinct industry for the purposes of labor, although it is recognized for the purposes of taxation.

The few OHS relevant legal provisions that do exist date back to the British colonial period and have not evolved into a consolidated and nationally applicable legal code to date. Farhat Parveen of NOW Communities notes that the Ministry of Labor and Manpower prepared a draft legislation for occupational health and safety at the work place in 2008, but the draft has not been debated since.

Fragments of Occupational Health and Safety laws are found in the Workmen Compensation Act of 1923, the Laborers Act of 1934 and the Factories Act of 1934. Other fragments are found in

provisions of the Rules to operationalize the Workmen Compensation Act were formulated in 1961, the West Pakistan Hazardous Occupations Rules in 1963, the Provincial Employees Social Security (Occupational Diseases) Regulations in 1967, and the Labor Laws (Amendment) Ordinance in 1972.

Moreover, the practice is such that in the HRCP team's meeting with the Assistant Director of Balochistan Labor Department, he could not identify a obligation of the Labor Department, with respect to the ship breaking industry, whether customary practice or codified law, other than ensuring minimum wage. Vessel inspection was not mentioned at all. When specifically asked about inspection, the team received avague and circular reply.

Pakistan has not ratified ILO Convention 155 Occupational Safety and Health Convention and Convention 187, Promotional Framework for Occupational Safety and Health Convention, 2006.<sup>8</sup>

Convention 187 is particularly important; it requires all participating nations to have a comprehensive national framework and the commitment to continuously improve upon its national framework.<sup>9</sup>

Pakistan needs to implement the ILO recommendations relevant for the labor sector. It needs to comply with the policy and principles identified in general human rights instruments it is party to, most notably the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Since informal labor which holds impermanent jobs is one of the most economically (and socio-politically) marginalized groups, it is important for law, policy and rule makers in Pakistan to appreciate and implement the principles enshrined in covenants like the ICCPR and the ICESCR.

## Environment

### Domestic Law

It is the Balochistan Environmental Protection Agency BEPA which is responsible for ensuring that a vessel has been thoroughly cleaned and is devoid of any oil sludge etc which might catch fire. Regardless, of whether oil was being smuggled due to a complacent Customs, regardless of whether the Labor Department was snoozing, BEPA was responsible for ensuring the vessel was hazard free. From workers, to labor Union management to BDA, all described to us the various ways in which BEPA officials test a vessel for fire hazards.

The Balochistan Environmental Protection Agency, Balochistan (BEPA) was founded in 1992 and placed under the administration of the Urban Planning & Development Department. Its administration was then handed to the Department of Environment; when this was abolished, it was placed under the Environment, Wildlife Livestock and Tourism Department. Then it was placed under the Secretary for Environment and Sports. At present, since its rebirth under the Balochistan Environmental Protection Act 2012, the Government of Balochistan has notified it as a separate department.



<sup>8</sup> Page 15, SDPI, NGO Shipbreaking Platform, 'Pakistan Shipbreaking Outlook: The Way Forward for a Green Ship Recycling Industry – Environmental, Health and Safety Conditions', 2013

<sup>9</sup> ILO website <[http://blue.lim.ilo.org/cariblex/conventions\\_10.shtml](http://blue.lim.ilo.org/cariblex/conventions_10.shtml)>

'The primary responsibility to administer and implement the provisions of [Pakistan Environment Protection Act] PEPA lies with the [Environmental Protection Agency] EPA, and with the provincial environmental protection agencies under the Punjab Act and the Balochistan Act. In addition to the provincial environmental protection agencies in Balochistan, the powers may be delegated to district environmental protection agencies for each district in the province. The Punjab Act [and other provincial acts] does not have the authority to delegate powers to the district level... The structures of [Balochistan] district agencies are the same as that of the provincial agency.'

- ADB Report 10

The environment agency(s) gives out two types of NOC or clearance: the Initial Environmental Examination, IEE and the Environmental Impact Assessment, EIA. The former is a preliminary report required before the commencement of all new projects and undertakings while the latter is a more detailed assessment more selectively required. The (national) EPA or (provincial) BEPA may designate certain areas as particularly vulnerable, therefore requiring an EIA for them instead or in addition to an IEE. The Balochistan Act has gone above and beyond other in identifying categories where an EIA would be required. While the Act does not identify ship breaking as a special case, the relevant IEE may be obtained under Section 15(17) of the Act. This section acknowledges the need for review and identifies fees for review of all processes, projects of schemes not specifically listed for an IEE in the Act. BEPA confirms that it demands an IEE under Section 15 of the Act. It is noted that given the high risks involved in ship breaking, perhaps an EIA should be required.

Under the existent domestic framework, while there may be no criminal penalty, a violation of a court order does constitute criminal offense where law enforcement agencies may intervene.

However, in this case BEPA had only been approached for clearance yet; work began and disaster struck fairly quickly, it may not have had a chance to take note of the vessel being dismantled without approval. Nevertheless, by virtue of sheer size of vessel, the dangerous and hazardous nature of work, it should be an excuse for the BEPA to not take action where it was legally empowered to do so. Had there been an official presence at Gadani, and had monitoring been vigilant and proactive, this disaster might not have occurred.

There is, therefore, a serious and urgent need to develop a mechanism whereby the different agencies involved can take note of a vessel being beached and relay the information to the next relevant counterpart once they have provided their own clearance NOC. For example, Customs must immediately send intimation to the BEPA, stating the vessel had been beached for the purpose of ship breaking so that BEPA may begin inspections without waiting to be invited.

Section 23 of the Act specifically addresses ship breaking at Gadani or along the coastal belt. It identifies the Basel Convention and the Rotterdam Convention and affirms that the Act intends to fulfill all obligations identified in

*The Balochistan Act has added some vital definitions missing in the other acts:*

*alien species, Balochistan coastline or coastal zones, best practicable environmental option, clinical waste, electronic waste, endemic and indigenous species, genetic resources, handling, integrated pollution control, living modified organism, protection of environment, ship breaking strategic environmental assessment, sustainable management, and water resources.*

- ADB Report 11

the two conventions. BEPA admits that little has been done in this regard. The section also requires the BEPA to report bi-annually on the ship breaking situation at Gadani. The Act identifies penalty, under Section 25, for those who fail to comply with the provisions and stipulations of the Act and the international obligations guiding it. Section 26 which deals with corporate offenders, and Section 27 which deals with offences by government bodies, councils or agencies both state that these judicial persons are also subject to the same penalties and deemed guilty according to Section 25.

10 Page 5, Asian Development Bank, 'Development of Environmental Laws and Jurisprudence in Pakistan' 2013  
<<https://www.adb.org/sites/default/files/publication/31140/environmental-law-jurisprudence-pakistan.pdf>>

11 Page 4, Asian Development Bank, 'Development of Environmental Laws and Jurisprudence in Pakistan' 2013  
<<https://www.adb.org/sites/default/files/publication/31140/environmental-law-jurisprudence-pakistan.pdf>>

Post 18<sup>th</sup> amendment, environment became an exclusive subject of the provinces. At present the Balochistan Environmental Protection Act 2012 is functional at Gadani. This act specifically identifies ship breaking and brings it into its purview.

Moreover the EPA had set up a quasi-judicial mechanism under the Environmental Protection Order (EPO) to curb anti- environment activities; gives provincial agencies like BEPA to take a wide range of actions including stopping the source, installing devices to control anti-environment activities, amongst other. The EPA also set up a judicial framework of Environmental Tribunals and Environmental Magistrates.

The federal government may establish any number of environmental tribunals as per need, specifying their territorial limits or the class of cases to be heard. Environmental tribunals are administratively managed by the Ministry of Law Affairs and Justice.

As per Section 20(2) of Pakistan Environmental Protection Act, each environmental tribunal consists of three members: a chair qualified to be a judge of the High Court, and two members. A minimum of one member must be technically trained with professional qualifications and experience in the environmental field.

**“The Balochistan Environmental Tribunal has been without a chair since 2010, and as a result a legal member [not a High Court Judge] was appointed as a chair to meet the requirements of law. Interruptions in the continuous working of these tribunals lead to a backlog of cases, an increased workload, the absence of a specialized environmental forum, and burdening of the superior courts... Since June 2011, the judgments of environmental tribunals have been reported in monthly law journals. Generally, the judgments of the environmental tribunals fail to address the environmental concerns in a comprehensive manner.”**

- ADB Report 12

The BEPA may also charge offenders, apply administrative penalties and require industries to self-monitor. Moreover, the agency must submit regular reports of offences and/or violations of provisions of environmental law which it can take note of through monitoring inspections and visits. As per section 6(2) of the Balochistan Environment Protections Act, it may take action based on its own monitoring, without any official complaint or some such.

If it finds a violator is unwilling to comply or has begun work without any or adequate clearance, it may go to court and seek a stay order to halt any and all such activities. Local lawyers say that courts are usually favorable towards swift grant of stay order, unless it becomes a case of vested interest. However, we note that litigation is usually considered a last resort since the court going process is long tedious and expensive.

## International Framework and Obligations

The UN HRC Special Rapporteur identified ship breaking as a new form of waste trafficking and stated that end-of-life ships should be considered as hazardous waste. The issue of human rights in ship breaking yards then came to the attention of the international community in the 1990s, also pushed by the concerted actions of NGOs. <sup>13</sup>

Pakistan has ratified the UNEP's Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. Like its south Asian counterparts, Pakistan has not signed International Maritime Organization (IMO)'s Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships, 2013.

Pakistan has also ratified the **Rotterdam Convention** on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 2004. This convention was the result of joint efforts of the UNEP and the FAO and built on principles of open exchange of information such that the importing party may be well aware of the contents of vessels and risks of importing such contents, as per local conditions and laws.

Pakistan needs to adopt more advanced methods, as practiced in other parts of the world such as China or Turkey, with whom it will have to compete for the business of 'green recycling' that western ship owning countries

12 Page 12-14, Asian Development Bank, 'Development of Environmental Laws and Jurisprudence in Pakistan' 2013  
<<https://www.adb.org/sites/default/files/publication/31140/environmental-law-jurisprudence-pakistan.pdf>>

13 Page 13, SDPI, NGO Shipbreaking Platform, 'Pakistan Shipbreaking Outlook: The Way Forward for a Green Ship Recycling Industry – Environmental, Health and Safety Conditions', 2013



are looking to give business to those countries that abide by environmental and safety standards. Therefore, even from a purely economic point of view, Pakistan must urgently move towards radically improved environmental and safety standards.

Moreover, it should eventually move its activities from breaking ships directly on the beaches to structures that allow for the containment of pollutants, proper handling of hazardous wastes, the safe use of heavy lifting equipment and the rapid access of emergency response in case of accidents. The Basel Convention adopted the Technical Guidelines for the Environmentally Sound Management (ESM) of the Full and Partial Dismantling of Ships in 2002. This is a manual for countries that already have or are establishing ship dismantling facilities which sets out a ten-year transition mechanism vis a vis beaching methods.<sup>14</sup>

Pakistan may also benefit from the UNEP Technical Guidelines for Environmentally Sound Management (ESM) of the Full and Partial Dismantling of Ships, 2003 and ILO Safety and Health in Ship breaking: Guidelines for Asian Countries and Turkey, 2004.

However, the fact-finding team wishes to reiterate that these international best practices are a far cry from the state of affairs in Gadani. Even if the domestic law had been vigilantly implemented, it may have avoided the lax, offender enabling environment which allowed for the owner and management of Plot # 54 proceeding without clearance.

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<sup>14</sup> SDPI, NGO Shipbreaking Platform, 'Pakistan Shipbreaking Outlook: The Way Forward for a Green Ship Recycling Industry – Environmental, Health and Safety Conditions', 2013



# **GEOSTRATEGIC BENEFITS AT GADANI**

## **For labor**

The ship-breaking work at Gadani is seasonal. Gadani's proximity to Karachi, 51 km roughly 2 hours by road; and Hub, 33 km, roughly 1.5 hours by road where there is a surplus of labor, translates into employment opportunities for laborers. While there are some regular skilled and unskilled workers, this often also means that many transportation trucks, going back and forth between Gadani and Karachi, will come back to Gadani filled with unskilled laborers, hoping to find work for just that day or week. This means the laborers, particularly unskilled ones, are not only undocumented but also unfamiliar with the ways and risks of the ship-breaking industry. In case of death, as seen in the recent disaster at Gadani, it is much tougher to identify them or their families.

Due to the proximity, labor protests can often be organized at Karachi Press Club where there are chances of better projection of their message, to broadcast and print media, and dialogue with fellow labor unions can also prevail. It is due to proximity that the National Trade Union Federation and non-governmental organizations like PILER and NOW can have quick access. Had the ship-breaking yard not been merely two hours away from Karachi, the seriousness of the disaster might not have been captured so promptly, or at all.

## **For the industrialists**

Through our visits of Gadani, and Karachi S.I.T.E area, we found that a large number of ship-breaking yard owners are also owners of steel re-rolling factories and/or other affiliated industrial installations. For the ship-breaking yard owners, this does away with the middleman and multiplies the profit margins

From conversations with BDA, different yard managements, sub-contractors, fuel suppliers, and other employees of the industry it was found that the owners of ship-breaking yards profit immensely from Gadani's proximity to Karachi. The scrap metal from life-end vessels is directly transported to Karachi's S.I.T.E area, and the adjacent Hub Industrial and Trading Estate.

# RECOMMENDATIONS

## For the Federal Government

1. Because of the challenges in establishing the whereabouts of victims of the disaster and their families, many of whom are not residents of Balochistan, federal authorities should offer to coordinate efforts to identify and compensate the victims and their families.
2. The gaps that enable some industries to escape all meaningful regulation aimed at ensuring workers' rights and well-being must be addressed in consultation with the provinces in question.
3. The provincial authorities must be consulted of occupational health and safety issues where they think they lack capacity and expertise and the same should be arranged for them. They should be assisted in ensuring that the appropriate rescue and healthcare facilities commensurate with the level of risk in industries such as ship-breaking are in place.
4. Ship breaking must urgently be given a clear legal status as an industry and the ministry it falls under must be specified. It should be made clear as to where responsibility shall rest, in the event of any future incident.
5. The operations at Gadani should not be resumed until the legal status of the ship breaking industry is resolved and the Balochistan Government has developed a comprehensive OHS framework and funds have been released for its implementation.

## For the Balochistan Government

1. The provincial authorities need to conduct an occupational health and safety audit of high-risk industries by independent and respected experts. Such an exercise takes into account the input of workers' bodies such as National Trade Union Federation. Clear terms of reference must be developed and shared with all stakeholders to identify short- medium- and long-term disaster response strategies.
2. The required fire-fighting capacity and equipment must be provided at the Gadani shipyard on priority. Such measures must not be blighted by bureaucratic hurdles or on account of delay in sanction of resources.
3. There needs to be an urgent establishment of a robust health facility, particularly on with a burn centre, at Gadani. It is suggested that operations remain halted until a plan and timeline is shared for this.
4. A fully capacitated office of the BEPA should be opened at Gadani so that a crew on ground can remain vigilant.
5. Regular reports and better implementation of international obligations need to be demanded of the BEPA.
6. Overall funds and capacity of the BDA and BEPA need to be improved.
7. A comprehensive organizational health and safety law needs to be developed and relevant bodies need to be capacitated for the implementation thereof.

## For Civil Society Organizations

1. Workers' organizations with a national reach and character should be more engaged with local level labor unions in high-risk industry to play their role in preventing disasters from striking by bringing pressing issues to attention of the authorities and the larger civil society.
2. CSOs must recognize their role in keeping the spotlight at the Gadani disaster with a view to ensure that perpetrators of all acts of commission and omission that contributed to the loss of life and injuries are held to account.
3. Civil societies organizations must play a more active role in prevent disaster by prioritizing their attention and advocacy efforts to ensure occupational health and safety. These efforts need to be collaborative and must reflect the fractures among the ranks of workers because of devolution of labor as a legislative subject to the provinces.
4. They should also come forward and offer technical assistance to the Balochistan government where appropriate.
5. Civil Society organizations should take it upon themselves to regularly report on ship breaking activities at Gadani; especially with regards to occupational health and safety and the environment.

# PHOTOGRAPHS











