

Coastal Regulation in India

A Saga of Betrayal

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The Coastal Regulation Zone (CRZ) Notification 1991 is the most significant and specialized legislation guiding developmental activities along the coast and in islands. Since its inception, it has been amended 20 times, each time diluting its provisions further. In an unwarranted move, the Ministry of Environment and Forests (MoEF) proposed to replace the CRZ Notification with a Coastal Management Zone (CMZ) Notification based on recommendations of the Swaminathan Committee Report. Many doubts and concerns are raised because of this move. The critical ones being: the impact on coastal communities and ecosystems, conservation and sustainable development, and a complete lack of democratic processes in its making. This paper provides a background and context for the CRZ Notification 1991, what went wrong with the Notification, the reasons for it, the status of the CMZ Notification and its impacts and a few of the regulations in CMZ Notification that are diluted for purely the benefit of the tourism development industry. The paper also brings to light how these Notifications have become an instrument to execute developmental activities rather than protect the highly pressurised coastal ecosystems.

Background & Context

The Indian coastal stretch is made up of diverse ecosystems - sand dunes, beaches, wetlands, mangroves, estuaries, backwater lagoons and coral reefs. Settlements of traditional people comprising about 10 million fisherfolk, are concentrated in these areas, as they mainly depend on coastal resources and seas for their survival. Several activities are affecting the coast such as unregulated tourism, polluting industries, infrastructure, aquaculture, sand mining, construction of sea walls and rapid urbanization pose serious threats to the health of these ecosystems and to lives and livelihoods of coastal communities. The recent 2004 tsunami has shown that the coast is a naturally vulnerable area and that these activities have worsened the impacts on coastal people.

The Coastal Regulation Zone Notification, issued in 1991 using the provisions of the Environment (Protection) Act, 1986 is the most significant and specialized legislation regulating developmental activities along the coast.

The CRZ notification was introduced with three main principles:

- It is necessary to arrive at a balance between development needs and protection of natural resources
- Certain activities are harmful for both coastal communities and their environment, and these should be prohibited or regulated.
- If coastal ecosystems are sustainably managed, then the livelihoods of millions will be protected and their survival guaranteed.

The CRZ Notification includes the strip of coastal land abutting the sea all along the Indian coast and her islands. It extends 500 metres from the High Tide Line. In this narrow sensitive region, certain activities are regulated while other inappropriate ones are prohibited. This was a far-sighted law declared by the Central Government which recognized India's need to protect the interests of millions of her coastal people while ensuring their overall development.

The CRZ notification seeks to operationalise three objectives, which are very significant:

Siting or location of activities or operations

This is based on the understanding that coasts perform important functions for coastal communities and ecosystems. The coasts are important nesting and feeding grounds for several terrestrial and aquatic species. These coastal habitats also provide sustenance and livelihood opportunities to several coastal communities (both fishing and non-fishing communities). Rules for the siting of activities can ensure that the rights of traditional fishing and coastal communities over certain areas are not compromised to meet increasing development requirements such as the demands of the burgeoning tourism industry.

Restricting and permitting activities

The CRZ Notification defines the nature of activities that are to be regulated or restricted. It does not issue a blanket ban on all activities but lists activities that are restricted and those that are permitted.

Balancing development and protection needs

This objective is ingrained in the spirit of the CRZ, which recognises that different areas have different ecological sensitivities and therefore need varying levels or modes of protection. Thus, the protection afforded to CRZ I is designed to be more stringent than that accorded to CRZ II areas, where more activities are permitted.

With respect to Andaman & Nicobar Islands and Lakshadweep, the CRZ would be instrumental in deciding activities and developments because of their special status as oceanic island groups recognized by CRZ as Category IV. Moreover, environmental issues confronting these islands are more complex; it is critically important to address these.

What went wrong with the notification?

The implementation of this critical notification was by and large ignored by many state governments. Vested interests from various lobbies such as the tourism and industrial lobby has constantly sought to get rid of this notification. The CRZ Notification has been amended 20 times, and each dilution rendered the law more impotent. The 26 December 2004 tsunami starkly demonstrated the impact of this gross neglect and innocent people paid dearly for this.

Evidence of poor implementation

- I. The Coastal Zone Management Authority has been completely ineffective as an implementing agency and has no representation of panchayats or qualified persons in its composition. The CZMA has not executed half its responsibilities such as the preparation of plans for ecologically and economically sensitive areas.
- II. Coastal Zone Management Plans: Not a single coastal state or union territory has a fully approved Coastal Zone Management Plans. This document is critical to the implementation of the law as it identifies the various CRZ areas and therefore the range of activities that can be permitted or prohibited. Without this unregulated activities take place on the coast and this is true of the present state of the Indian coast.
- III. The High Tide Line or the 500 m line is not demarcated in any of the states and it becomes impossible to determine the extent of the CRZ areas.
- IV. The CRZ has been continually amendment to permit activities that were initially prohibited such as storage for petroleum products (4th August 2000 amendment) and oil and natural gas exploration in CRZ-I (12th April 2001 amendment) IT and service industries through Special Economic Zones (21st May 2002 amendment) SEZs have been controversial and there are many concerns about labour and environmental norms in them.
- V. The 'deadline' for permitting sand mining in erosion prone Andaman & Nicobar Islands has been meaninglessly extended 10 times with no promotion of alternative building materials.

Present status of Coastal Zone Management Plans

There is no fully approved Coastal Zone Management Plan for the any coastal state, union territory; oceanic island groups in India since the initiation of the CRZ Notification in 1991. All that is available for implementation agencies is a draft CZMP that has been conditionally approved by the MoEF. This conditional approval could mean that the ANI Administration was to revise their maps and plans along the conditions specified in the MoEF's letter dated 27, September 1996, and submit the final revised documents to the MoEF. It is not clear whether this has taken place, since there is no letter from the MoEF to this effect.

Initiation of an Integrated Coastal Zone Management Plan for the Islands

The MOEF also initiated a parallel process of drafting an Integrated Coastal Zone Management Plan (MoEF 2004). This was initiated for the Andaman & Nicobar and Lakshadweep islands through scientific institutions such as the Institute of Ocean management, Anna University, Chennai¹ and Centre of Earth Science Studies, Thiruvananthapuram respectively. Under this project, twenty inhabited islands of the Andaman group have been selected for developing ICZM Plans based on the status of the environment, socio-economic conditions and development potentials. The ICZMP is yet to be completed, finalised and discussed with various civil society groups that are involved in ecological, social and anthropological research and advocacy. However, without completing these processes, the MOEF amended the CRZ notification to state that based on the findings of the ICZMP, in identified areas of 13 islands which are part of the ICZMP process, the NDZ can be reduced from 200 m to 50 m for tourism development².

The ICZMP report has not been finalised³. The study considered the constraints to development in the coastal areas of inhabited islands. As per plans, Cinque, Havelock, Neil, Rutland, North Passage, Long Island, Ross and Smith Islands have been recommended for development through tourism in the ICZMP.

Reduction in the No-Development Zone for promotion of tourism

2. The first amendment to the Notification was made because of pressure from the tourism lobby. The amendment was vide notification no. S.O. 595(E) dated 18th Aug 1994 on recommendations of the B. B. Vohra Committee, which was constituted on 1st Jan 1992 and report submitted on 31st Dec 1992. The issue dealt with was tourism. The reason for the constitution of the committee was that there was intense pressure from the hotel and tourism lobby on the GOI stating that the said notification was very stringent and their work was severely restricted by the CRZ. One of the recommendations of the Committee was reduction of distance of the NDZ in selected coastal stretches for promoting tourism. The Ministry amended the CRZ Notification, 1991 on 18th Aug 1994, reducing No Development Zone (NDZ) area all along the coast from 200m to 50m. The amendment also permitted construction in NDZ thus giving expansive powers to the central government to permit such constructions on the landward side within 200m from the HTL according to its discretion.
3. Although the SC quashed the amendments later, the tendency of MoEF to dilute its own laws raises concerns about where its loyalties lie – a facilitator of impact inducing developments rather than that of a regulator.
4. The tourism chapter of the State Development Report of Andaman & Nicobar Islands (draft) voices the same attitude: "While most of the acts in force are designed to protect the ecology and environment, the CRZ guidelines are generally perceived to be inhibiting. In case of CRZ I, no new construction is permitted up to 500m from the HTL while this is reduced to 200m in case of CRZ III. CRZ II and IV also restrict development up to 200 m from the HTL. However, it is reported that internationally CRZ norms of 50 and 70 m are commonly used and combined with stringent limits on land area covered, number of buildings, etc. There is thus a suggestion to look at the CRZ regulations on a case-to-case basis".
5. The NDZ reduction was eventually reduced to 50m in the case of A&N Islands and Lakshadweep for tourism development through amendment of amendment, S.O.838 (E), 24th July 2003 against the directives of SC in 2002, which were based on Shekhar Singh Committee report. The relaxation was based on identification of areas in NDZ by the Integrated Coastal Zone Management Plan study conducted by the Ministry of Environment and Forests.
6. First, the CZMPs of states are not prepared, including that for Andaman & Nicobar Islands; then an ICZMP is commissioned specifically for the purpose of relaxing CRZ norms for tourism development. To date, both the CZMP and ICZMP have not been finalized or approved. But the objective of reducing the NDZ to 50m has been successfully achieved for tourism development purposes!

Tourism has succeeded in achieving its objective of reducing the NDZ from 200m to 50m in the A&N Islands. This has been possible by with active connivance of the MoEF. What the MoEF could not get through in Aug 1984, it achieved in July 2003. The was done in the guise of the ICZMP. The Department of Environment & Forests, A&N Islands Administration has included 40 islands to be opened up for 'ecotourism' in the Andamans. For the vulnerable and ecologically sensitive islands, this could as well mean doom.

Some Recent Progressive moves on CRZ Violations and Tourism

1. Andhra Pradesh: The High Court gave stay orders against Thenneti Park – an amusement park being constructed by private players at a cost of 6 crores in Vishakapatnam as a CRZ violation.
2. West Bengal: Courts have upheld a verdict for a PIL filed by National Fishworkers' Forum and DISHA in relation to violation of CRZ rules by the tourism industry. As per the judgement of the District Court, upheld by the Appellate Body and the High Court, the Pollution Control Board has asked for the demolition of more than 10 hotels (some with investment of above 10 crores) in the Midnapore area of West Bengal Coast. The hotels were displacing and taking over the fishing grounds of more than 10,000 fishermen in the region.
3. Goa:
Goa tough on CRZ violations
Source: <http://www.deccanherald.com/Archives/Jun242006/national1952172006623.asp>
A number of blatant violations of the CRZ (coastal regulation zone) on the tourist coast here will face the axe under a revived Goa Coastal Zone Management Authority, headed by Chief Secretary J P Singh. Tourism development has taken a huge toll on Goa's coastal environment with violations mounting by the day. A few months ago the state government identified over 300 constructions that defied the ban on construction within 200 metres of the high tide line. Mr. Singh, who took over as chief secretary some months ago is perhaps the first high ranking bureaucrat to take a stand to protect whatever is left of the coast here. Hundreds of illegalities have escaped being demolished in the past with the connivance of politicians. The authority has

also ruled against beach shacks on turtle nesting sites like Galjibag beach in south Goa and Morjim in the north. Morjim beach attracts a large number of Russian tourists, many of whom have taken over the business of running shacks, illegally from locals.

4. Karnataka:

New resort raises head on Devbagh beach

Source: <http://www.deccanherald.com/Archives/Apr232006/state215752006422.asp>

A beach resort is quietly raising its head on the Devbagh beach in violation of Coastal Regulatory Zone (CRZ) rules. It is certain that the resort will become a hotshot tourist destination, when it is fully developed. There is already a resort run by Jungle Lodges and Resorts near the spot where the Kali River meets the sea. The new resort is being built two kilometres away from the Devbagh beach on the stretch that leads to Majali. It is being said that this area comes under the jurisdiction of the Majali gram panchayat limits though it is on the Devbagh beach. Small cottage-like structures have come up as part of the resort. A swimming pool is already under construction. It is still not known as to who is the owner of the resort, or who is getting it constructed. When contacted, CRZ Regional Director Vasanth Kumar said the issue of the resort has come to the notice of the department. Mr Vasanth Kumar added that he had already gone to the spot and inspected the survey number and other documents available. A case of violation of rules is being registered, he said. "A structure is coming up next to the Highway near the lower region of the Sadashivgadhi Hills. It appears as if there are plans to construct a three-star hotel there. It is 150 metres away from the river bank. If it was on the beach, constructions within 500 metres of the beach are not allowed," Mr Vasanth Kumar pointed out.

Why is it that the Officials who take stern action when the poor or fishermen build something on the coast, turn a blind eye when it comes to the moneyed? Officials who were asked the question drew a blank. Pleading helplessness, they explain that they have no authority to take action on their own. "A high-level meet will be held in Delhi on April 26. There are possibilities of making the rules less rigid," Mr Vasanth Kumar said. The spot where the resort is coming up is a beautiful one and is bound to attract a lot of tourists. If there is any way the resort owners can circumvent rules, it is certain that they will do it. Instances of CRZ rule violation are aplenty, especially on the beach near Murudeshwar. However, no action is being taken by the government. Because tourism is big in Goa, the CRZ rules there are less rigid. Though there are stringent rules in Karnataka, they are being flouted blatantly.

Conclusion

There are positive sides to the CRZ Notification too, e.g. classifying CRZ to include rivers, creeks etc, upto the point where a minimum salinity level of 5 ppt is recorded, and for the first time in history of CRZ, the clause of Environment Protection Rules 5(4) have been used to actually prevent further ecological damage, unlike earlier instances where the same clause has been used to relax provisions of the Notification and allowing more and more activities on coasts. But where the Notification fails miserably is in its poor implementation by state governments & union territories. It has also been interpreted inconsistently due to many of its provisions that are ambiguous and incomplete, like lack of guidelines for demarcating HTL. One glaring aspect is that the Ministry of Environment & Forests has succumbed to the development lobby, first from tourism and later others. It has frequently sought, and actually managed, to dilute it. It has rendered the CRZ Notification an instrument to plan and execute developmental activities rather than protect the highly pressurised coastal systems.

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End Notes

1 Integrated Coastal Zone Management Plan Preparation for Andaman and Nicobar islands. A study commissioned by the Ministry of Environment and Forests, GOI. Period of the study: 2002-2004. Cost involved: Rs. 83.00 lakhs

The objective of the project is to promote the sustainable development of natural and physical resources and the maintenance of coastal ecological processes and genetic diversity in the coastal resources of Andaman and Nicobar islands through Integrated Coastal Zone Management plans.

2 S.O 838 (E) dated 24th July 2003, vide Gazette of India (Extra) No. 654.

3 Pers. Comm. Samir Mehta, Dec 2005.