

CZMAs and Coastal Environments: Two Decades of Regulating Land Use Change on India's Coastline

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June 2015

Executive Summary

Coastal Zone Management Authorities (CZMAs) are one of the oldest environmental regulatory bodies in India. On the basis of an order of the Supreme Court in April 1996 (WP 664/1993) and under MoEF orders issued in 1998, these bodies were constituted in every coastal state and Union Territory and at the national level to take crucial decisions regarding the use of coastal lands and the management of coastal environments. They implement the 2011 Coastal Regulation Zone (CRZ) Notification that was first promulgated in 1991 and amended over 25 times. Though much has been written about the Notification, the performance of CZMAs and the institutional challenges to implementation have never been studied.

Detailed studies on the workings of institutions set up for environment regulation are essential if we are to address specific environmental challenges and reshape regulatory procedures and bodies to be effective in doing this. This report is the first systematic effort to study the structure and functioning of CZMAs and analyse their performance on the tasks of project appraisal, coastal zone mapping, actions against violations and conservation. The report has mainly relied on primary data that includes minutes of over 350 CZMA meetings between January 1999 and March 2014 and 39 interviews with sitting and ex-members of the CZMAs and staff, consultants and officers of the Ministry of Environment, Forests and Climate Change (MoEFCC) in charge of implementation of the CRZ Notification.

The report consists of five chapters and a set of five report cards that visually depict the comparative performance of the State CZMAs. A CD enclosed with the report provides spreadsheets with data from meetings' minutes of the nine SCZMAs regarding project appraisals, violations and regularisation.

Chapters and Main Findings

The first chapter on *Institutional Arrangements* describes the layers of institutions set up for the implementation of the CRZ Notification. Details of the composition, functioning, division of powers, funding and accountability of the National CZMA (NCZMA) and State CZMAs (SCZMAs) are discussed in this chapter. The status of the setting up of District Level Coastal Committees (DLCCs), the new institution formalized under the 2011 Notification, is also described along with their composition and functions. The chapter also looks into the interaction between these institutions and their interaction with the MoEFCC.

Main findings:

- Representation on the Authorities by government departments, academic institutions, Non Governmental Organisations and individuals adds up to 107 members across the nine SCZMAs as per the latest constitution orders issued in December 2014 (pg. 26-27). Including members of the NCZMA (pg. 22), the total comes to 119.
- The number of members of a CZMA vary between eight and 13. The recommended

composition for SCZMAs is to have representation of an NGO, four experts and five to six ex-officio members (pg. 25). All SCZMAs have one NGO representative each except Maharashtra, and the number of experts vary from one to five. The number of ex-officio members of the current SCZMAs vary from six to 12 (pg. 26-27). Presently, most of the members on the SCZMAs are from the state capitals, not all of which are coastal cities (pg. 57).

- A comparison of the composition of the SCZMAs across time highlights that the number of members has increased with each reconstitution. The increase has largely been related to bringing on board more government departments. However, no change has been observed in the total number of members after the CRZ Notification of 2011, except in the case of West Bengal. It should be noted though that several government departments became part of the SCZMAs only after the CRZ Notification, 2011 (pg. 28).
- Two states, Goa (as of November 2014) and Andhra Pradesh (as of May 2014) have not issued constitution orders for DLCCs (pg. 48).
- While Tamil Nadu has had DLCCs since 1999, the DLCCs do not have representation from local coastal communities despite this being a legal requirement (pg. 48).
- Different states have devised different mechanisms to arrange for funds for the functioning of their SCZMAs. Only since 2011 have the respective state governments been made responsible for providing funds to the SCZMAs (pg. 40).
- Most SCZMAs levy a project processing fee on proponents. It ranges between ₹ 10,000 (Goa) and ₹ 10 lakhs (Kerala and Tamil Nadu) (pg. 42).
- There are no guidelines for expenditure of funds and no monitoring has taken place (pg.42).
- As per available minutes of SCZMA meetings from 2010 and 2013, the discussion is skewed heavily in favour of project appraisals and least towards conservation. While discussion on project appraisals ranged between 90% (Odisha and Karnataka) and 46% (Goa) of the total agenda items discussed, the maximum discussion on conservation was found to be a mere 1.5% (Odisha) (pg. 36).
- Neither the CRZ Notification, nor the appointment orders for the CZMAs fix any frequency for the meetings. Till March 2014, the Goa CZMA met a 100 times while the Gujarat CZMA met 21 times (pg. 37-39).
- The Notification mandates SCZMAs to upload minutes of their meetings, decisions taken, clearance letters and list of violations on their websites. However, Andhra Pradesh, Goa and Tamil Nadu do not have independent SCZMA websites, making it hard to locate this information (pg.32).

The chapter on ***Zoning and Classification of Coastal Areas*** deals with guidelines and funds for the preparation of Coastal Zone Management Plans (CZMP), the main tool for CRZ implementation. It gives critical information about the schedule of revisions of the CZMPs from the time they were first finalised in 1996 upto 2011, the status of submission of the new CZMPs post the 2011 Notification, the involvement of DLCCs and local communities in the same and how proposals for reclassification are dealt with by the CRZ institutions.

Main findings:

- 46% of the agenda items in meetings of the NCZMA till June 2013 were to do with the reclassification of CRZ sub-zones, making it the most discussed topic by the NCZMA (pg. 24).
- Both the minutes of meetings and interviews with Authority members reveal that the task of demarcating the High Tide Line (HTL) and Low Tide Line (LTL) has proven to be time and cost intensive (pg. 71). As a result, CZMPs are almost always 'a working draft'.
- The old CZMPs that were approved in 1996 are being used even today by the states and UTs to identify violations and appraise proposals for projects to be located in the CRZ. This creates much confusion regarding siting, environmental and social impact assessments and actions against violations (pg. 75-76).
- In July 2011 the MoEF froze the existing CZMPs for all the states and UTs and stopped entertaining proposals for reclassifications unless an error is apparent on the record (pg. 75).

- States and UTs were given a time period of two years for preparing the CZMPs. However, as of December 2014 this deadline has been revised twice by the MoEF and the states are still in the process of finalising their CZMPs (pg. 66-68).

The chapter on **Project Appraisals** examines how proposals for siting of projects in the CRZ are examined by the SCZMAs, gives details about site visits, the role of DLCCs, local bodies, courts and other institutions, and deals with post-clearance monitoring and challenges pertaining to the same. The CRZ approval rates, types of projects, the CRZ sub-zone in which they are located and conditions on the basis of which clearance is granted have been analysed and quantified. The chapter also lays out the kind of information that the Authorities rely upon while appraising proposals.

Main findings:

- Since the time they were set up, the nine SCZMAs studied by this report have examined over 4,500 project proposals (pg. 88; 140-141).
- On an average, 15 projects (in which, at times, hundreds of small repair, reconstruction or individual housing needs are clubbed under one project head) are considered in a meeting lasting half a working day (pg. 84).
- The rate of approval for the projects in the CRZ across the nine coastal states is 80% (pg. 87; 140-141).
- As per minutes of SCZMAs' meetings between 1999 and March 2014, proposals for which site visits were conducted make for 8% of the total number of projects appraised by the SCZMAs (pg. 85).
- Delayed reconstitutions have affected project appraisals. For instance, the Odisha SCZMA was reconstituted only in March 2012 after its term got over in July 2011 (pg. 96).
- Karnataka and Tamil Nadu are two states that seek feedback from DLCCs on project proposals (pg. 85-56).
- Neither the Notification, nor the constitution orders prescribe any monitoring protocol for projects that are cleared, except the submission of half-yearly compliance reports by the project proponents. The compliance reports are not available on websites of any of the SCZMAs despite the Notification mandating the same (pg. 89).
- Interviews with SCZMA members reveal that lack of monitoring is the greatest binding constraint in the implementation of the Notification (pg. 150-151).
- Post-clearance monitoring is challenged by ambiguity in clearance conditions, inadequate manpower and funds and undefined roles for local bodies and local communities (pg. 101-104).

How do DLCCs, local level bodies and courts influence the compliance with the CRZ Notification? How do SCZMAs identify violations and verify those that are reported? What do orders/directions of the MoEF and NCZMA say about this, along with the action that is to be taken? The chapter on **Enforcement and Compliance** engages with these critical questions and provides empirical data on CRZ compliance from official data for the very first time.

Main findings:

- The CRZ Notification does not prescribe any procedures for identification, verification or taking action on violations (pg. 106).
- With respect to taking action on violations, state governments of Maharashtra, Gujarat and West Bengal have empowered their DLCCs to remove illegal structures. Gujarat and Maharashtra also enable them to levy penalties (pg. 106).
- The National Green Tribunal has been engaged with cases pertaining to the Goa CZMA in particular. In a judgment dated April 11, 2013, it outlined a procedure for the Goa CZMA to identify violations (pg. 171). In pursuance to a direction from the NGT, in its 100th meeting in March 2014, the Goa CZMA finalised a procedure for verifying and acting on violations (pg. 114).

- The number of cases of violations, as discussed in minutes of SCZMAs' meetings between 1999 and March 2014, vary from 680 in Goa to 12 in Andhra Pradesh (pg. 110).

The chapter on **Conservation** delves into whether or not conservation is a function of the CZMAs, if conservation is a condition on the basis of which clearance for a project is granted, what constitutes the terms 'areas requiring special consideration', 'economically important stretches', ecologically sensitive areas' and 'Critically Vulnerable Coastal Areas (CVCAs)', and if any have been notified till date. The chapter analyses whether SCZMA meetings have discussions about the prevention of erosion and other complex coastal problems and awareness and capacity building activities for coastal conservation.

Main findings:

- Meeting minutes of 2010 and 2013 reveal that only Goa and Odisha discussed conservation in their meetings in the mentioned years. In these, conservation makes up for less than 2% of the total agenda items discussed (pg. 123).
- No CVCA has been notified till date even though it is a mandatory requirement under the CRZ Notification, 2011 (pg. 125).
- As of December 2014, the MoEF has not issued any guidelines for identification, planning, notification and implementation with regard to CVCAs (pg. 126).
- Most of the conservation measures of the SCZMAs are focussed on mangroves. Other ecosystems and habitats that are unique to coastal areas do not get considered even though they have highest protection as CRZ I areas in the Notification (pg. 127).
- Five of the 12 SCZMA members who answered the question on conservation in the interviews conducted in 2012 stated that conservation is not a function of the Authority (pg. 123).

Recommendations for better coastal regulation:

Based on this study of CZMAs, the following improvements to the legal clauses, procedures and practices are critical for better regulation of coastal land use and ecosystems.

- Defining the ultimate outcomes of the CRZ Notification
- Clarifying of roles and powers of CRZ authorities
- Participatory planning and Coastal Zone Management
- Tackling capacity, coordination and resource constraints
- Improving monitoring, compliance and enforcement
- Improving access to information and transparency

Most important among these recommendations is the need for clear outcomes and indicators so that CZMAs can work deliberately towards better coastal environments rather engage in routinised procedures of the CRZ Notification. Implementation of CRZ so far has no doubt resulted in outputs such as setting up of administrative structures, creation of maps, appraisal of project approvals or identifying violations, but it is impossible to say what all this has meant in qualitative terms to the environment and people living in coastal areas. It is therefore crucial to create enabling conditions for the Authorities delegated to achieve these objectives.

The coastline of India, which stretches over 7,500 km, contains some of India's largest cities and infrastructure. It needs careful regulation for competing uses such as housing, industry, and livelihoods while also maintaining the ecological viability of these niche spaces. It is of utmost importance to adopt novel methods of participatory planning, implementation and monitoring of coastal spaces to ensure that regulation is a continuous and public process and not a sporadic one dependent on experts alone.