

## **Decoding the *Final Frontier***

### **A close look at the Recommendations of the Swaminathan Committee II**

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#### ***Final Frontier*—exceeding expectations**

That the CMZ notification would be dropped and the MoEF will organise five consultations with the fishing communities across the coast, was the agreement reached when a NFF delegation met Jairam Ramesh, the new Minister for Environment and Forests, on 2<sup>nd</sup> July 2009. Since there was yet another Swaminathan Committee to go into this contentious issue, and had been appointed just a fortnight earlier, there was intense speculation on what the Committee was expected to do. Many of us believed that the Minister had jumped the gun and the Committee's job would be to go through the motions and formally recommend what the Minister had already agreed. Even the 11<sup>th</sup> July consultation of the Committee with fishing community representatives and NGOs was poorly attended as most saw it as an anti-climax.

However, the Committee has sprung a real surprise. Its report of 16<sup>th</sup> July 2009, titled *Final Frontier*, does not merely deliver on the promise that Jairam Ramesh made, but goes much beyond it. It has strongly endorsed many of the demands and ideas that the fishing community and environmentalists had made during the anti-CMZ struggle in the past three years. It has set a new broad based agenda for conservation of the coast and the protection of fishing community habitat and livelihoods. It has also opened up the issue of fishermen rights that are not connected with the CRZ (or the EPA, which is the mother of the CRZ), but are connected with the Wild Life Protection Act and the Forest Conservation Act.

While one can quibble about some of them, the recommendations are generally in tune with the demands of all those who fought the CMZ. However, the Committee goes further into exploring how these recommendations could be implemented. It is this part of the report that needs more study and discussion. Fortunately, this Swaminathan Report is lucid and much easier to comprehend than the first Swaminathan report<sup>1</sup>. If possible, translation into all coastal languages would be a worthwhile venture.

#### **Significance of the *Final Frontier***

While there are many points in the report that are debatable (and I shall be debating them in this note), the report as a whole has great significance. These are some of the significant features of the report.

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<sup>1</sup> It is rumoured that some people actually managed to read the first Swaminathan report fully and also understand it!

### *Fishing community brought to centre stage*

The Committee may be stating the obvious when it says, "...the coastal areas are the habitat of the fishing communities". However, this obvious fact has been so far disregarded in not only the CMZ draft notification but also in the original CRZ notification of 1991. The CRZ notification only talked about the rights of "coastal communities" and that too in the preamble only. With 3202 fishing villages spread over the 6000 km of the coastline of the Indian peninsula, fishing communities occupy at least half of the coast line. That any new use of the coastal space is likely to run into a conflict with fishing community interests is never considered while plans are made and approved. The *Final Frontier* forcefully brings fishing communities to the centre stage of any regime to regulate or manage the coast.

### *Recognising the rights of the fishing community*

The three year struggle against the CMZ has thrown up the idea that fishing communities' rights to the coast should be guaranteed through appropriate legislation. The 2006 Forest Rights Act also provided an inspiration to seek similar rights. The Parliamentary Committee report on the CMZ also stressed this demand. Dr.Swaminathan himself had written in favour of this in The Hindu. The *Final Frontier* strongly endorses this demand and gives the fishing community an additional weapon in its fight for protecting its rights to the coast.

### *Conservation back on the agenda*

The talk of "management", which started with the first Swaminathan Committee report in 2005 and then went one step ahead with the CMZ draft notification, had tended to put conservation of the coast as something subordinate to the "development" needs of all and sundry. At best, conservation was seen as something that would be taken care off by adopting proper "management". The *Final Frontier* signals the realisation that this is unlikely to happen without a direct conservation focus and proper enforcement.

### *Taking sides on controversial issues*

The Committee could have stuck to its limited mandate related to the CRZ-CMZ issues. Having set itself the twin goals of coast conservation and livelihood protection, it has ventured much beyond the CRZ-CMZ ambit. The inclusion of a box item on Jambudwip, borrowed from *Down to Earth*, is remarkable in that it is critical of how the Forest Conservation Act of 1980 has been applied to throw fishermen out of their livelihood. The Committee in this instance is taking on not just the MoEF but also the CEC, a creature of the Supreme Court.

The Committee has come out clearly in favour of the fishing community on a number of ongoing controversial projects—Orissa turtle conservation and "large developmental activities" at Versova, Machlipatnam and Mundra. That all these projects have the blessings of the MoEF is worth mentioning. The turtle issue is related to the use of the Wildlife Protection Act and not the CRZ. Thus the *Final Frontier* is remarkable in that it has taken the side of fishing community on

controversial issues and is perhaps the most “political” of all reports given by any Committee chaired by Dr.Swaminathan.

### *A people’s victory*

While the Committee members deserve all the credit for the report, it is undeniable that the report is the result of the sustained struggle of the fishing communities with the support of environmentalists over the last three years. While “expert” committees have their own autonomy, their composition and overall orientation is ultimately determined by the needs of the concerned ministry at that point in time. The shelves of the various ministries are full of reports that are gathering dust as these reports failed to cater to the ministries’ needs.

When the first Swaminathan Committee was formed, the “need of the hour” for the MoEF was to find a way of opening up the coast to “development”. Though the Committee itself might have been under the illusion of having propounding “modern”, “scientific” and “participatory” approaches to coastal zone management, the final report provided all the loopholes for the Ministry to cater to the interests of corporate investors. The Committee provided a grand vision behind which the MoEF could hide its real intentions. Fortunately, the fishing community leadership and the environmental groups saw through this game and acted in time to stymie the ministry.

The three year struggle against the CMZ consolidated the entire coast against the CMZ, influenced public opinion and finally created political pressure on the Ministry. The submissions of the State Governments and the report of the Maithreyan Committee, all in favour of the fishing communities, are pointers to this pressure. The results of the CEE consultations, mandated by the Ministry itself, could not also be ignored. So, the new committee was set up to get the Ministry out of the cul-de-sac it found itself in. For Dr.Swaminathan, the new committee provided an opportunity to win back at least some of the goodwill he had lost with the fishing communities.

However, one must give credit to the new Minister for having gone beyond a face saving solution and for showing the willingness to make a fresh start. He has clearly given the Committee the confidence to say things that would be unpopular in his own ministry. The Committee has also, as already explained, gone beyond the call of duty to take positions on many controversial issues.

### *Who represents what interest?*

The appendices in the report are extremely interesting documents that reveal the different interests that are trying to influence the coastal regulatory regime in the country. In particular, it is interesting to analyse what the different levels of Govt and the different ministries are saying<sup>2</sup>. What comes out strongly is the unanimity in at the level of State Govts in supporting the stand of the fishing community and the rejection

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<sup>2</sup> See Annexure III of *Final Frontier*

of the CMZ<sup>3</sup>. This is clearly an indicator that the struggles and lobbying were effective at state levels and local politicians are more responsive to such struggles<sup>4</sup>. The responses of the Central ministries are a lot more interesting. A wide range of ministries have responded. Not one ministry seems to be fishermen friendly. The biggest shock is the response of the Ministry of Agriculture. Even though Sharad Pawar is the best friend, in Delhi, of the traditional fishermen, his ministry's response is nothing less than a betrayal of the cause of the marine fishing community. *The MoA has suggested that sandy beaches, sand dunes, mud flats and coastal freshwater bodies be removed from the list of Ecologically Sensitive Areas*<sup>5</sup>. MoA has not said one word in support of the fishing community demands but appears to have been very anxious that aquaculture and mariculture should not be affected by the CMZ.

While some ministries made some neutral scientific points, most seemed to be interested in protecting their special interests than national interest. The Planning Commission threw up a big surprise in seeking protection for boating activities for tourists—an entirely trivial concern for a body that plans for all the people in this country. The Ministry of Civil Aviation was predictable in that it wanted no restriction on airports in the coastal areas. Like the dog that did not bark in the Sherlock Holmes story, the Ministry of Commerce had nothing to say. The MoC's contribution to the destruction of the coastal ecology is legendary. Throughout the 90s it promoted the anarchic growth of shrimp culture. In the last few years, it has been sanctioning SEZs all along the coast with little concern for the ecology.

It is interesting to note that the Committee only tabulated the responses of the central ministries. It did not accept any of the demands made by them. It shows how out-of-sync the central ministries are with the *aam aadmi*. It also shows how much the current report goes against the grain in Delhi and what future troubles await us in implementing the Committee's recommendations.

### **Analysing the Recommendations**

As mentioned earlier, while the Committee's recommendations, with some exceptions, are acceptable, the finer details require debate and a detailed critique. This is attempted in the rest of this note.

#### ***Back to the CRZ 1991—what does this mean?***

That the Committee has recommended the retention of CRZ 1991 and drop the CMZ notification is an endorsement of the position of the anti-CMZ campaign. However, this raises many new questions and issues.

1. What is the status of the 25 amendments made after 1991? The demand from the fishworkers and the environmentalists has been a return to the “original” 1991 notification, which means without all the subsequent amendments.

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<sup>3</sup> The TN Govt's response is missing. We have the copy of the TN CM's letter to the PM advising against the CMZ. We have also seen the TN Environment Department's response that was also pro-fishermen.

<sup>4</sup> This does not mean that the State Govt. have more coast friendly policies!

<sup>5</sup> Could this be a typographical error?

2. Since we are told that many of the amendments are related to special problems faced by the islands and to take care of community needs (for example, medical facilities in the Sundarbans), should one distinguish between “good” amendments and “bad” amendments?

***Further amendments to the CRZ—implications***

The Committee recommends that the CRZ notification should be further amended to incorporate clauses that will strengthen the enforcement and ease the housing problems of the fishing community. However, this raises some fundamental issues about the amendment process itself.

1. The amendment process itself has been controversial in addition to the actual amendments made to the CRZ. That the Ministry can make any amendment at anytime is seen as a major danger of the notification process. There is need at this point to sort out this issue before committing to any new amendments. If there are to be more amendments, who will decide and how? What safeguards will be there to ensure that coastal environment and livelihood security remain the guiding principles for future amendments?
2. It is a bit ironical that the anti-CMZ movement is against the amendment process and yet the demands of the fishing communities and environmentalists can be met by only amending the CRZ again. Do we see this as a one-time process?<sup>6</sup>

***Better enforcement through use of technology, strengthening institutions and legal reform***

The committee has suggested a number of things to improve the enforcement of the CRZ. These include:

- (i) use of satellite and information technology for mapping and monitoring coastal developments,
- (ii) CZMAs to focus on monitoring and enforcement while Environment Departments could focus on clearances,
- (iii) strengthening scientific capability of the CZMAs,
- (iv) web based information on all clearances, especially state clearances that are not yet on the web,
- (v) amendment of the EPA to make the punishments for violations more severe.

While these recommendations are to be welcomed, there are some additional issues that crop up.

1. If the State Department of Environments or State Appraisal Committees take up the responsibility for the CRZ clearances, what is to ensure that they will do a proper job, given that the bureaucracy is subject to the usual pressures? While taking away the power to issue clearances from the CZMAs, what safeguard is there to ensure that the clearances are as per the spirit and letter of the law?

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<sup>6</sup> The need to make CRZ into an act of Parliament rather than a mere notification needs serious consideration. If so, will this also ensure the legal protection to fishing community interests?

2. During my two year stint as member of the Kerala CZMA, I realised that only 10% of the constructions on the coast actually came up to the authority seeking permission. The rest of the constructions took place without anybody taking notice and with the connivance of local Panchayats, which are ready to provide certificates that an offending construction is pre-1991. Those that came up for permission were often Govt projects or interventions by large corporations who cannot easily evade notice in Kerala. All other constructions that came up for permission were the result of complaints by business rivals. Thus the SCZMAs need a machinery or mechanism to ensure that all constructions are properly monitored. The use of satellite technology suggested by the Committee is of great significance in this context.
3. This brings us to the composition of the CZMAs and their appointment. While some of the CZMAs have good independent members, the fishing community interests are not normally represented in the CZMAs. It is likely that my two-year term is one of the rare instances of a fishworker organisation being formally represented in such bodies<sup>7</sup>. I do not think a replacement from the fishing community or any of their organisations has been found after my term has expired. This is indicative of the total lack of power the major stakeholders on the coast have in such bodies.
4. The actual power of the SCZMAs to act against violations is not clear despite the Committee mentioning the powers they have derived from the EPA. These powers remain on paper as the SCZMAs seem to lack any machinery to enforce its will. During my term as member of the Kerala CZMA, the Authority took a dramatic and brave decision to act against all the violations in the world famous Kovalam resort. However, nothing happened as we were totally dependent on the State Govt and District Collector to take action<sup>8</sup>. It is not clear to me as to what sort of powers or machinery is needed for the SCZMAs to be effective. I think a detailed study of the SCZMAs is required before any prescription can be given for strengthening them. The Committee recommendations seem somewhat superficial and weak in this regard.
5. Another serious problem is that of financial and human resources. Unless the SCZMAs are provided with adequate budgets and human resources (technical and administrative), they will be ineffective. If the MoEF really believes in strengthening the SCZMAs, it will have to find funds for this.
6. The possibility of local communities being given a formal role in monitoring the CRZ compliance needs consideration. Fishing villages have their own traditional governance systems in most places and these institutions could be given the responsibility to report violations. Where such institutions are not available, special CRZ vigilance committees could be formed. Formalising the

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<sup>7</sup> I am stating this carefully as I am not from the fishing community, but am part of fishworker organisations and often represent them. However, I think that my appointment in the KCZMA was under the NGO category rather than a fishworker organisation category.

<sup>8</sup> Despite its limitations, I believe that the Kerala CZMA is one of the rare CZMAs in the country that actually takes itself seriously and works with commitment. It is normally headed by a reputed scientist (also the head of the State Committee for Science, Technology and Environment) and enjoys fair amount of autonomy.

“whistle blower” role of the local fishing communities may bring down monitoring costs and get greater support for enforcement.

7. Another option to be looked at is the possibility of district level vigilance and monitoring committees under the District Collector’s chairmanship with adequate presence of fishing community representatives and environmentalists. The power of enforcement that lies with the District Collectors could then be better leveraged.
8. The Committee has rightly recognised the importance of transparency with regard to clearances and the availability of information in the public domain. It also suggests the use of satellite and IT for enforcement. A major problem with the ability of fishing communities, or civil society in general, to understand what is happening and to be vigilant is the limited access to information, despite the RTI. For one, the State CZMPs are not easily available. Which areas actually come under CRZ-I at the ground level is not known. The actual location of many approved projects is difficult to understand without appropriate maps with the CRZ lines superimposed. The MoEF will have to ensure that public access is available to such documents and maps. Secrecy shrouding the DPRs (Detailed Project Reports) is another serious hurdle for communities to know what actually is being planned in their areas. Where there are mangroves or other vegetation on the coast, the working plan of the Forest Division is another document that requires easier public access.

#### ***Protecting the fisher families—housing and livelihoods***

Though the Committee talks of the need for a legislation to protect the rights of the fishing communities, its immediate recommendation is to amend the CRZ so that the problems facing fishing community can be addressed. It recommends an amendment to the provisions in CRZ-III suggesting higher FSI (floor space index) with a word of caution that the ownership should remain with the fisherfolk. The Committee also recommends that the list of permissible activities in the CRZ II and III areas should include activities like fish drying, auction, net mending, etc., something that the CRZ notification is silent about.

There are a number of issues that arise from these recommendations.

1. One is not clear about the need to look at only the CRZ III housing issues. The housing issue for fishermen is even more serious in CRZ-II areas where fishing villages have been gobbled up by urbanisation and they are being gradually squeezed out of their beaches. The lack of clear information on CRZ-I locations makes one wonder whether any fishing villages are in CRZ-I areas or are proximate enough to be affected vis-à-vis housing.
2. The CRZ regime is not very amenable to a regime of rights. It deals with the housing issue (not necessarily fishermen housing) in the CRZ area with a “quota” approach. It prescribes limits to the number of houses, floor space index and number of storeys. The Committee also talks the same language and only recommends a higher quota that needs to be negotiated. Only it is now

making the beneficiary of the quota system much clearer—the fisher families and not some vague category called “coastal community”.

3. So, the fishing communities need to decide: Are we looking for some temporary relief from a CRZ amendment while waiting for a comprehensive legislation on our rights? Or are we expecting to get at least some of the rights in the CRZ itself?
4. Even the approach of adding to the list of permissible activities to protect fishing livelihoods need to be questioned. It sounds very condescending that the 60 year old Indian state will permit fishermen to beach their boats, auction their fish, mend their nets and dry their fish—activities that they have been pursuing for more than 2000 years<sup>9</sup>. *We are really talking of customary rights and not “permissible activities”*. Of course, when one enters into modern facilities like ice plants, cold storage, etc., there may be some justification to think in terms of permissions.
5. The use of coastal space by fishermen is not just restricted to housing and livelihoods. Fishing is a way of life and a fishing village has many types of spaces in it. A tentative classification of the spaces would be as follows: (i) residential spaces, (ii) common livelihood spaces (for boat parking, fish auction, net mending, fish drying, etc.), (iii) spaces for livelihood support facilities (boat yard, fish godowns, motor repair centre, ice plant or storage, cooperative office, etc.), which are often privately owned spaces, (iv) spaces for social infrastructure (education, water supply, sanitation, roads, etc.), (v) spaces for socio-cultural aspects (places of worship, kalyana-mandap, burial ground, etc.) and (vi) commercial spaces (shops). Unless we see the fishing village as a full fledged and self contained system, it will be difficult to do justice to the needs of the fishing communities.
6. It is important to recognise that in some parts of the coast, the fishing hamlet itself is in the interior and the coastal space is only used for livelihood needs including temporary structures for stay during the fishing season. The *bandars* of Kutch are in existence from August to May while Jambudwip had a transient fishing village for five months every year. Coastal spaces used by such fishing communities are more vulnerable to alienation than beach based fishing villages. The take over of 40 kms of coastline for the Mundra Port and SEZ is a classic example of how it is easy to make claims that there are no habitations or even fishing activities when land is allocated by the Govt for mega projects.
7. It is therefore clear that one needs to go beyond increasing the FSI or adding to the list of permissible activities if one wishes to protect the interests of the fishing communities. We need a rights regime that covers all the 3202 fishing villages identified on the Indian mainland by the marine fisheries census of the CMFRI in 2005. Whether this can be tackled in the CRZ regime or should we wait for an entirely new legislation is the big question.

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<sup>9</sup> Some of the fishing communities of Tamil Nadu we know today were already in business during the Sangam era, 2000 years back. There is of course earlier evidences in the Vedas and the Indus Valley artefacts, but whether any of today’s communities can trace their origins that much back is debatable.

8. One way of tackling it in the CRZ regime could be based on the idea of a separate zone for fishing villages that came up during the CMZ debates. Why not classify all marine fishing villages and fish landing sites under CRZ-V<sup>10</sup> and develop a separate regime to protect, manage and regulate them<sup>11</sup>?

On the livelihood side, the report has mentioned the Orissa turtle case and the Jambudwip case. However, it has not proposed any specific solutions except for the exhortation that such things should not happen in the future. It is important that we demand of review of both these cases by the Ministry and to bring about suitable changes in the WPA and FCA that will ensure that fishing rights are not affected by arbitrary use of these laws.

#### ***A legislation for rights of fisherfolk***

As mentioned, the idea of legislation for the rights of the fisherfolk has received a boost from the Committee. This will be whole heartedly welcomed by the entire fishing community on the coast. We have already discussed some of the points this legislation needs to cover. What is important at this moment is: who will take this idea forward? The Committee has suggested that this be done by the “relevant Union ministry”. Will the MoEF use this as an excuse wriggle out of this commitment? Is it the job of the Ministry of Agriculture where fisheries as a whole (marine, inland, culture fisheries, capture fisheries, etc.) is just one-third of a department (Dept of Animal Husbandry, Dairying and Fisheries) in a huge ministry with innumerable departments?

Obviously, this was beyond the scope of the committee to work on. Perhaps, we need the Minister of Environment to apply his mind on this issue and suggest the way forward. It is also something that needs to be taken up at the Prime Minister’s level and cabinet level before the idea can move forward. Since the idea was formally endorsed first in the Maithreyan committee report, perhaps we should get a resolution introduced into parliament asking the Govt to take up the drafting of a new legislation.

A road map is required for the proposed legislation to become a reality. Fishing community organisations like the NFF may have to develop this.

#### ***Builders’ profits vs eco-system loss***

It appears that old dwellings within the 500 m zone in Bombay cannot be rebuilt or renovated as the builders do not have an incentive to build within the existing FSI specifications in the CRZ. It is also said that there are serious disputes about the pre-1991 structure that is closest to the sea and hence becomes the seaward limit to new constructions. The Committee seems to have been under pressure to include a

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<sup>10</sup> Maybe CRZ-IV, if the islands have a separate IPZ.

<sup>11</sup> It needs to be pointed out that the CRZ only deals with the area 500m landward of the HTL. Hence, fishing villages that are only partially inside the CRZ, cannot be given a special status by the CRZ for their entire territory. The proposed regime will apply on to that part of the village that falls within the CRZ. In cases where the village is away from the coast, the areas used by the village on the coast for livelihood activities could get protection under CRZ.

recommendation on this issue. Not convinced that concessions should be given for the sake of the Bombay builders, the Committee has nevertheless recommended that the issue should be resolved and even suggested very specific exemptions at the level of individual buildings rather than at a general level.

There seems little justification for giving exemptions to Bombay, even if it is for only specific buildings. If the builders have to necessarily build and they need their profit, let the Maharashtra Govt provide the necessary incentives from its own tax income instead of making the coastal eco-system, and those dependent on the coastal eco-systems, pay for it.

### ***Proliferation of Ports***

Till recently, ports were a public sector preserve and their growth was entirely dependent on the availability of budgetary support. However, the opening of the port sector to private investment has changed the picture dramatically. Some new ports may be essential given the increase in foreign trade as a result of the rapid growth of our economy. However, the way new ports are being sanctioned defies all logic and has become a fad. If possessing a Mercedes Benz or a BMW car would have been a status symbol for the captains of industry in the “licence-permit raj”, owning a port has become the new status symbol in the era of liberalisation. The State Governments are competing with each other to invite investments in new ports.

The Committee has come out strongly against this proliferation of ports along the coast. It has

- (i) proposed a moratorium on expansion of existing ports and the initiation of new ports till a proper assessment is made of the cumulative effects of the coast
- (ii) recommended that the seaward side of the port infrastructure be also subject to CRZ clearance as the current regime can only look into the port infrastructure on the landward side and
- (iii) asked the MoEF to review the EIA amendment of Jan 2009 which is liberal in allowing port expansion without environmental clearance under certain conditions.

The committee recommendations are welcome. However, I would suggest that the study on cumulative impact of ports be broadened to develop guidelines on future port development including where to establish and how many more can be established, taking into account both ecological and social factors.

Another associated issue that needs to be added to the agenda is the review and regulation of the shore protection measures using “hard” options like seawalls and groynes. The unscientific implementation of such measures without considering the impacts on the rest of the coast is causing havoc to the shoreline. Further, there is also no cost-benefit analysis for these structures.

### ***Tighter standards for discharge of effluents***

The Committee has gone into the issue of marine pollution caused by the disposal of untreated waste from land. It strongly recommends that standards for effluent disposal should be revised and made tighter. It also recommends strong monitoring with public data access to quality of sea water.

Lack of enforcement is the bane of all regulations and this is true of marine pollution as well. The State Pollution Control Boards are generally in poor shape and are unable to perform effectively in executing their mandate. The MoEF needs to go deeper into institutional problems that affect enforcement and help all State Pollution Control Boards to come up to scratch. Otherwise, increasing the standards for discharge of effluents will not help.

Given that enforcement is a general problem of governance that ails our entire Govt system, it is a moot point as to whether it can be addressed with specific reference to pollution control. One needs to think of alternative mechanisms. Some ideas that could be considered are:

- (i) make pollution related offences non bail-able and stringent,
- (ii) amend laws such that affected groups like fishermen could go to court and get compensation for losses from those who discharge effluents,
- (iii) provide assistance to citizens and affected groups to collect samples for testing and get results from suitable labs,
- (iv) provide legal assistance to affected groups to sue the polluters.

### ***IPZ for island territories***

The Committee has recommended that the Island territories of Andaman & Nicobar and the Lakshadweep should be taken out of the CRZ regime and have a separate regime of their own called the Island Protection Zone notification. The logic for this is the entirely different set of conditions prevailing in the islands including the size of many islands that makes nonsense of the 500 m coastal zone. The Committee also suggests that any change of regime for the islands need to be implemented only after deliberations with the island administration and its people.

The anti-CMZ campaign was largely a mainland phenomenon with virtually no participation or representation of island communities. This means that even in civil society movements, the islands are missed out. A separate initiative to reach out to the island communities to understand their views on the CRZ is urgently required. Hope this takes place sooner than later. It is interesting to note that the CEE mandate for consultations includes Pondicherry but not Port Blair or Agatti.

However, the need for a separate notification is not clear given that CRZ-IV deals exclusively with islands. Why not use this provision better in the CRZ itself?

### ***Critically Vulnerable Coastal Areas***

It has been proposed that certain areas like large marine parks, sanctuaries and national parks along the coastline need to be given a higher level of protection and this can be done by designating these as Critically Vulnerable Coastal Areas. The

Committee makes it clear that this is not its suggestion but that it has come from the Ministry. It has not taken any position on this proposal except add a word of caution that this needs to be considered carefully taking into account both conservation and livelihood impacts.

The CVCA seems to be yet another Ministry coinage coming in the wake of the Eco-sensitive areas and Areas of Particular Concern in the CMZ notification. Unless a more comprehensive note is put up by the Ministry, it is difficult to take any position on this, except to reject it. CRZ-I classification already provides the highest level of protection any eco-system can achieve. It is difficult to imagine how CVCA can do more than CRZ-I.

### ***Mangrove protection***

The Committee stresses the importance of mangrove protection. It notes that while the CRZ provides all mangroves protection irrespective of their density, state Governments tend to recognise mangroves only when the density and height is above a certain cut off value. It also notes that the mapping of the mangroves and the declaration of mangrove as forests is incomplete. It recommends a nation wide mapping of both existing and potential mangrove areas. It therefore visualises not the mere protection of existing mangroves but also the development of sites suitable for mangroves. It also suggests an afforestation plan that includes restoration of degraded mangroves.

While the recommendations related to mangroves are to be welcomed, it is worth mentioning that there are some other coastal eco-systems that are also in need of similar attention. They are rarely talked about due to a lower level of awareness about their benefits, despite being protected by CRZ-I status. These include sand dunes and the inter-tidal zone. On the east coast, *sand dunes* are still a major feature and provide protection to the coast in a manner that is second to none including mangroves. However, sand dunes are being damaged and even eliminated gradually. Not sure whether they are well mapped and whether any plans exist to protect them. Sand dune development can also not be ruled out<sup>12</sup>.

Another eco-system that needs conservation is the *tropical dry ever green forests* on the south east coast. This is one of the lesser known eco-systems that provide valuable eco-system services including coastal protection<sup>13</sup>.

The *inter-tidal zone* assumes huge importance in the northern latitudes of Maharashtra, Gujarat, Bengal and Orissa. In Mundra and Kandla taluks of Kutch, the inter-tidal zone can be as wide as 7-12 km. It is rich in fishery and a large population subsists by just fishing in the inter-tidal zone. Development of ports that automatically destroy the inter-tidal zone needs to be questioned. The scientific literature and the study of these eco-systems in India are also weak.

There is need for mapping and documentation of a number of ecologically important areas of the coast including mangroves. While mangroves are at least part of the

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<sup>12</sup> The tsunami affected South Poigainallur in Nagapattinam comes to mind where a farming community has been "growing" a giant sand dune for a long time using ingenious no-cost methods.

<sup>13</sup> Auroville has done a lot of work on this and details can be obtained from the [www.trinet.in](http://www.trinet.in) website.

Forest Dept mandate, the sand dunes and inter-tidal zones are ignored for lack of patrons.

*Including the sea in the CRZ regime*

This idea comes from the old idea of ORZ (ocean regulation zone) and the recent CMZ notification. To regulate the seaward side of the CRZ from anarchic development, the Committee recommends the amendment of the CRZ to include the sea in its purview. It also recommends safeguards such that the fishing livelihoods are not affected by this. It clearly states that the purpose of the regulation should not be to regulate fishing or to open up the sea to industrial exploitation—both being fears expressed by the fishing communities.

I was one of those who objected to the inclusion of the seaward side in the CMZ. However, it was a reaction to the tone of the CMZ notification which seemed to be all about opening up the coast to outsiders. In that “management” framework, including the sea meant legal access to corporations to use the sea and sea bed. Now that we are talking of a regulatory framework rather than a management framework, bringing the sea into the ambit of CRZ or a CRZ type regulation makes sense—provided we are accepting the concept of further amendments to the CRZ as the way forward.

If the sea has to be included, there are a number of issues to be sorted out.

1. *What part of the sea or ocean should be covered under the regulation?* If it will be part of the coastal regulation will it not be more meaningful to cover only the near shore part (2-3 nautical miles) that will contain various coastal structures and will ensure that we have control over projects that have a link with the shore? Or should we go in for the entire territorial sea as proposed in the CMZ? Since the territorial sea is not an ecological category but is just a legal or administrative category, why not go whole hog and include the entire continental shelf area?
2. *What should be the classification of the sea in terms of zonation?* The CMZ made it very confusing by saying that the sea will be part of CMZ-III. Attaching the sea to any land based classification may create a number of avoidable confusions. It may be much better to treat the sea as a category in itself. However, will all parts of the sea enjoy the same level of protection? What about corals, sea grass beds, reefs, fish breeding spots, etc? Will there be an equivalent to the CRZ-I in the sea? If we have the sea as a separate zone and with further sub zones, does it still make sense to include it in the CRZ notification?
3. *What will be regulations for the sea?* While some of the eco-sensitive areas mentioned above need special protection, what about the rest of the sea? Will we be able to regulate hydrocarbon extraction which is so vital for national energy security? Will we be able to regulate mining of minerals that may be of great national security importance? Will we be able to regulate grandiose

projects like Setu Samudram and Kalpasar<sup>14</sup>, in which some state Govts and senior politicians have staked the prestige? If not, then does it really make any sense to talk ambitiously of regulating the sea under the CRZ?<sup>15</sup>

### ***What about fisheries management?***

The Committee has categorically said that including the sea in the coastal regulatory regime should be with the clear understanding that there will be “no restriction to livelihoods of fishing communities”. While I fully endorse the Committee’s recommendation, it still needs some discussion. Saying that the CRZ regime should not put restriction fishing livelihoods does not mean that one is taking a position that fishing should be an unregulated activity. It is just that one recognises that fishing regulations are better done through other instruments and institutional arrangements.

### *The fishery crisis*

There are many issues with respect to fisheries management in India. The coastal waters are already over-fished and we have huge overcapacity in our mechanised fleet and even the artisanal fleet in some areas. Despite the marine fisheries regulation acts of the State Govt.s, the marine fishery in India is largely an open access affair. While the State Govts are unable to manage the coastal fishery, the GoI is happily allowing foreign vessels to harvest resources in the deep sea without any benefit to the nation through the “letter of permit” scheme. All these have both environmental and social consequences.

On the environmental side, we are clearly destroying our natural resources and compromising on the livelihoods of future generations of fishermen as well as the interest of future generations of consumers. On the social side, there is an inequitable distribution of the access to fish resources with the more powerful elements in the fishing monopolising the produce at the cost of the ordinary fisherman.

### *Who should regulate the fishery?*

Fishing therefore needs to be properly regulated with a view to protect the resources and ensure better distribution of the benefits of the fishery to the ordinary fisherman. It is largely a livelihood sector and attempts to make it an investor oriented activity will harm the social fabric of the fishing communities.

However, it is important to realise that this is a sectoral problem that requires a sectoral solution. *The CRZ is essentially an instrument that handles inter-sectoral problems and should remain so, even when extended to the sea.* Management of the fishery is best done through fisheries instruments and institutions than purely environmental agencies or instruments.

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<sup>14</sup> For those who have not heard about it, *Kalpasar*, literally meaning a dream project, is intended to build a wall through the Gulf of Cambay that will divide it into two parts—one, a huge fresh water reservoir and the other, just sea. If it is approved, it will be India’s most expensive project ever.

<sup>15</sup> It is not an argument against inclusion of the sea in a CRZ regime, but a reminder of the kind of forces one will be fighting while regulating the sea.

### *Punishing the victims*

Here it is important to understand the issues relating to the use of the Wildlife Protection Act to regulate fisheries. While this Act has the provision to protect fish species along with the tiger, its application to fisheries requires great caution. It is difficult to protect individual fish species without a proper management of the fisheries as a whole. Unless there is a clear resolution to the fishery issues like open access, over capacity and skewed distribution of the access and catches, ad-hoc measures meant to protect individual species like the shark or the turtle will not work or will seriously harm the most vulnerable groups in the fishery. The Orissa turtle case is a clear instance of punishing the small fishermen who are already victims of anarchic fisheries development that has affected their livelihoods.

### *Ensuring coherence in policies rather than policing*

Fisheries management is a serious challenge and needs to be squarely faced by the fisheries sector and all the relevant institutions including the state fisheries departments. If the MoEF is serious about protecting fish species, it is better off dialoguing with the concerned ministries and working on coherence in the policies of the different ministries and State Govts, rather than come down with a heavy hand on the poor fishermen in the name of protecting endangered species<sup>16</sup>.

### *Towards co-management*

There is world-wide recognition that fisheries cannot be managed by top-down policies or by the State without the fishermen themselves taking a big role in the management. Making stronger laws is not going to solve the problem and we need a new management regime wherein fishing communities work with the fisheries departments on mutually agreed goals to manage fisheries. This is what goes by the label of “co-management” in international fisheries circles.

### *Strengthening research and regulatory capacity*

As one reaches towards the end of the *Final Frontier*, a sense of *déjà vu* prevails. Are we back to the CMZ? The collapse of the CMZ meant that some of the institutions proposed under it are now in limbo. These include the National Board for Sustainable Coastal Management (mentioned specifically) and the National Institute for Sustainable Coastal Zone Management (not mentioned specifically). While these institutions were proposed in the CMZ notification as part of the architecture essential for integrated coastal zone management, now they are being justified for supporting regulation and policy making.

While there may be a genuine need for new institutions that work exclusively on coastal issues, the promptness with which old ideas are repackaged makes one smell a rat. Here are some of the questions that the ministry needs to answer fast if current trust between the Minister and the NFF/NCPC has to be retained.

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<sup>16</sup> Environmental protection, whether in the sea, coast or forest, is unlikely to be successful without coherence in the policies of all the Central Ministries and State Govts rather than one ministry working overtime as an environmental policeman. It is not a surprise that unable to play this unrealistic role, the policeman acts tough with the weak while cringing before the powerful.

1. Did we not hear that the World Bank is funding some of the institutions to be set up to implement the CMZ? What exactly is the deal with the World Bank? How dependent is it on implementing the first Swaminathan report and the CMZ? Is the funding flexible or tied to specific outputs and goals that may not materialise if the CMZ is really dropped?
2. Is the Ministry hoping to show a CRZ face to the fishermen and a CMZ face to the Bank?
3. If the new institutions are not really linked to CMZ implementation, what exactly will be their mandate? Is a concept note available for discussion?
4. If the funds are available from the Bank, is it best utilised for adding to the list of central scientific institutions that do nothing for the fishermen? Or is it better used to strengthen mechanisms to enforce CRZ like the SCZMAs, Pollution Control Boards, etc.?
5. The National Board composition is top heavy with just a token presence of fishing community and fishworker organisation representatives. More ministries are already seeking representation that will make it even more top heavy. How will such a body do justice to coastal protection and uphold the rights of the fishermen?
6. Why this hurry? Why not discuss institutional arrangements after there is more clarity on how the CRZ is going to be amended and what sort of governance, administration, enforcement and research will be needed?

#### *Sea level rise and the vulnerability line*

The sense of *déjà vu* deepens as one reaches the last recommendation of the Committee. It argues for the demarcation of the hazard or vulnerability line on the grounds that it will be useful for the communities to develop coping strategies against sea level rise. This is nothing but the good old “set back” line in the CMZ which I characterised as the “Laxman Rekha” that aims to keep out the fishermen from his homeland while newcomers get a red carpet welcome. Drawing this line is also a World Bank project, I believe. This once again raises questions.

1. Has the Committee forgotten that the HTL is still to be mapped for the entire coast? Actually, the HTL been properly mapped in very stretches. At the moment, HTL mapping is done for every project by the project promoter by paying for the services of select scientific institutions. There is a need for the Govt to invest in drawing the HTL properly and put the information in the public domain. This measure will curb many of the violations that take place.
2. Why not use the World Bank money for drawing up the so called “vulnerability line” to draw up the HTL for the entire coast line of India?

## **Overcoming the trust deficit**

One gets the feeling at the end of the report that it is Business As Usual at MoEF while Jairam Ramesh romances the fishing community with 10 consultations and wears down their resistance.

The vulnerability line is a good idea. So is a National Board. So is a National Institute for the coastal zone. Unfortunately, these ideas are all tainted by association with the CMZ. The fishing communities suspect a backdoor entry of CMZ under the CRZ label. The trust levels are quite low despite the recent breakthrough in relationships engineered by the new Minister. One cordial meeting cannot erase a decade of bullying of the fishing communities by the MoEF. The Shark Ban of 2001, the Jambudwip eviction of 2002, the continuing nightmare of the Orissa turtle conservation, the ban on sea cucumber in the Gulf of Mannar, the imposition of marine protected areas,... The list is long.

So, the relationship needs to be built from scratch. Let the proper enforcement of the CRZ lay the foundations of a strong relationship between the MoEF and the fishing communities. Then we can build a grand superstructure on top of it, when the time is right. The MoEF needs to prove itself before its ideas are taken seriously.

## **Ram Rajya instead of Laxman Rekha?**

The present opening of the MoEF doors to the fishing community is historic and represents a great opportunity to develop a new regime to conserve the coastal environment along with the livelihoods of the fishing communities. For long, the MoEF had treated the fishers as the problem for the environment. The anti-CMZ movement has shown that the fishing communities are one of the few political constituencies in favour of the environment. If such constituencies are not strengthened, the MoEF will find that the political will needed to protect the environment will be inadequate to resist the developmental pressures that assault our fragile environment. Instead of setting our own national agenda for conservation, we will only be responding to international pressures to protect the environment.

The fishing communities are hopeful that they have avoided the tyranny of the Laxman Rekha and can look forward to a (Jai)Ram Rajya based on openness, dialogue and participatory policy making that will protect the environment and the fishing communities.

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