

Constitution of India and Environmental Governance:

Administrative and Adjudicatory Process

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Lecture - 36

Specific Ecosystems and their Management - Regulation of Coastal Areas

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**8. SPECIFIC ECO-SYSTEMS AND THEIR
MANAGEMENT**

8.A.COASTAL ENVIRONMENT

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The discourse in the 8th module would be on Specific Ecosystems and their Management. These would include the coast, ecologically sensitive zones, wetlands, water bodies, and water governance. The legal inquiry essentially would be about a struggle to conserve, protect, and retain the distinctive identity of these ecosystems on the one side. As against the relentless human efforts in developing them at the expense of the very conservation ethic of these resources.

The issue before us now is to examine how does the law affect a balancing act between the two and this makes it a very fascinating study. We start with the coastal ecosystem. Perhaps this is one ecosystem which arguably has kept the lawmaker busy and go into a kind of an overdrive of making law in the last three decade's time. And the more and more changes that came to the law, one could really discern that there was very little change from the business as usual model as was

prevalent earlier and facilitating the same even after these changes.

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COASTAL CONTOURS OF INDIA



I. SIGNIFICANCE



- INDIAN COAST STRETCHES TO ABOUT 7500KMs – A LITTLE LESS THAN A SIXTH OF THE TOTAL LAND AREA- HOUSES A FOURTH OF INDIAN POPULATION – BREEDING GROUND AND HOME FOR A WIDE VARIETY OF FLORA AND FAUNA- DOTTED BY 240 ODD CITIES-HUB OF INTENSE ECONOMIC ACTIVITY – FRAGILE AND SENSITIVE ECO-SYSTEM – SOURCE OF FOOD – PERFORMS A WIDE VARIETY OF ECOLOGICAL FUNCTIONS (- STORING AND CYCLING NUTRIENTS, REGULATING WATER BALANCES, BUFFERING LAND AND PROTECTING IT FROM EROSION)
- CONCERNS AND THREATS :- ECOLOGICAL DESTRUCTION (-INCLUDING SUBMERGENCE), HUMAN RIGHTS DEPRIVATION AND ECONOMIC RUINATION THAT RESULT FROM - HUMAN AND NATURAL CAUSES: POLLUTION (-FROM LAND AND SEA); DEGRADATION (-MINING, SILTATION, AQUA-CULTURE, PORTS, HARBOURS); EROSION; EXPOSURE TO VAGARIES OF NATURE (-CYCLONE, FLOODS)



As one looks at the coastal map of India, a very impressive one which is a very long coastline that we have in this peninsula of India having about 7500 kilometers of stretch which is actually looking into the breadth as well that would come with that as would constitute the coastal zone. It is about a sixth of the total land area of India and it is home for one-fourth of Indian population.

And this is one region which is the breeding ground and the habitat for a wide variety of flora and fauna. And it has dotted with over 240 odd cities, all major cities of India most of them are there in this place. It is a hub of intense economic activity and it is a very fragile ecosystem.

It is a source of food for the local community and to the large population all over India. And it performs a wide variety of ecological functions of storing and cycling nutrients, regulating water balances, acting as a buffer, and protecting them from erosion.

The real concerns about the coastal area is the relentless ecological destruction that occurs both from human agencies and from natural calamities even leading to their submergence. And this would actually result in deprivation of the communities of people's rights over them. And also would cause economic ruination that results from the devastation caused by that.

There is pollution from land to the sea, sea to the land, and a degradation occurring on account of mining activity, extensive one at that, filtration, aquaculture, ports, harbours what have you; there is a constant erosion of the coastal line and exposure to the vagaries of nature. These are the threats.

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II. LEGISLATIVE EVOLUTION

- 1972: STOCKHOLM CONFERENCE- OBLIGATION OF STATES TO SECURE COASTS FROM MARINE POLLUTION ; 1982: UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS) – IDEA OF INTEGRATED COASTAL ZONE MANAGEMENT(ICZM)
- 1981: PM'S LETTER TO COASTAL STATES –KEEP BEACHES CLEAR OF ALL DESTRUCTIVE ACTIVITIES UPTO 500 MTs.
- 1982-83: ENVIRONMENTAL GUIDELINES FOR BEACHES – OBLIGATION OF STATES TO PREPARE STATUS REPORT FOLLOWED BY A MASTER PLAN FOR CONSERVATION, PRESERVATION AND DEVELOPMENT
- 1986: PERMISSION TO SET UP TOURISM RESORTS WITH IN 200-500Mts. OF HIGH TIDE LINE (HTL)
- 1991: COASTAL REGULATION ZONE (CRZ) NOTIFICATION.
- CRZ NOTN., 2011
- CRZ NOTN., 2019




So, how does the law try to deal with these is a subject of our inquiry now. If you look at the legislative evolution of the law concerning the coast it takes us back to the Stockholm conference of 1972 in which the states were obliged to secure the coast from marine pollution, and one year,

or a decade after the Stockholm Conference we had the United Nations Convention on the Law of the Sea which came up with this grand eloquent idea of integrating the management of the coastal area and the management of the marine area abetting to it called as the Integrated Coastal Zone Management, ICZM. In fact, that is ideal as a kind of a blueprint of an action plan that each and every member country of the Law of the Sea Convention ought to get implemented.

For nearly about a decade after the Stockholm conference, India did not do much about it and the only development that occurred was sometime in 1981 when the prime minister of that time Mrs. Indira Gandhi visited the Goan coast and when she took a stroll there on this beach when she found there was so much of filth, so much of degradation, she was so very much upset.

Going back to Delhi, she shot off letters to the chief secretaries of all the coastal states asking them to do something about it as to keep our coast clean and clear of all destructive activities at least up to a maximum distance of 500 meters from the coast.

A set of guidelines were evolved a couple of years later and these required the states to prepare a status report followed by a master plan for conservation, preservation, and development; a kind of a directive coming from the centre no law as yet. And in 1986, a little bit of an administrative regulatory measure permission to set up tourism resorts within 200 to 500 meters of the high-tide line was allowed and these were piecemeal rules and regulations evolved at the local level by the state governments. The centre did not come up with any specific comprehensive law concerning the coast for a pretty long period of time.

And it was only in the year 1991, the Government of India came up with the Coastal Regulation Zone Notification. And this went on for about two decades with so many amendments and with the increasing need to revise this law. The law was once again reworked and the Coastal Zone Notification came up in the year 2011 and that was in operation till just last year, the year 2019, when the entire thing was further revised and a new set of regulations were evolved and brought into application in the year 2019.

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III. CRZ FRAME OF 2011 NOTIFICATION



A. BACKGROUND:

- **CRZ RULES GOVERN HUMAN AND INDUSTRIAL ACTIVITIES CLOSE TO COASTLINE- TO PROTECT THE ECOSYSTEM NEAR THE SEA – RESTRICT CERTAIN KINDS OF ACTIVITIES- THAT ADVERSELY AFFECT THE REGION LIKE, LARGE CONSTRUCTIONS, SETTING UP OF NEW INDUSTRIES, STORAGE OR DISPOSAL OF HAZARDOUS MATERIALS, MINING, RECLAMATION AND BUILDING – WITHIN A CERTAIN DISTANCE FROM THE COASTLINE**
- **CRZ NOTN., FIRST ISSUED IN 1991 BY MoEFCC, UNDER EPA, 1986 - IN JUST 12-13 YEARS OF THE MAKING OF THE LAW , ABOUT 25 AMENDMENTS EFFECTED, TO REDUCE THE RIGOUR OF THE LAW SO AS TO MAKE IT INDUSTRY FRIENDLY -HOTEL AND TOURISM INDUSTRY, GAINED CONSIDERABLE CONCESSIONS – COURTS CAME DOWN HEAVILY UPON THE GOVT. FOR DILUTIONS – ONE OF THE EARLY CASES, S.JAGANNATHAN v. UOI (1996), (AQUA-CULTURE CASE-) DESERVES SPECIAL MENTION THAT, WHILE CRITIQUIING THE LESS THAN SERIOUS**



So, what we have now is a framework of law in operation since 2019. But what we could see is the law that we have now has a lot to borrow from the law that was made in the year 2011. In fact, a substantial portion of it is retained and the law that was made in the year 1991, many of the rudimentary basic aspects of that are still retained in the new law as well.

And so, before we get into the discussion on the 2019 law, we need to have a peep into the 2011 Notification because that would actually give us a clear idea as to what are the additions, changes, and modifications that have come into the law in year 2019.

The background for the 2011 Notification was the requirement that the 1991 law laid down a set of rules to govern human and industrial activities very close to the coastal area mainly to protect the ecosystem near the sea. This is the basic theme, both under the 1991 law and also in the 2011 law.

So, the idea was to restrict some of the developmental activities which would affect the integrity of that entire region. So huge constructions, polluting activities, mining activities, and things which would be destructive of the fragility of the coastal ecosystem within a certain distance of the coastline; that is the actual basic idea paved for the making of this notification.

As was mentioned earlier, the CRZ notification was first issued in the year 1991 by the Ministry of Environment, Forest, Climate Change under the Environment Protection Act of 1986. As you know that you have specific rules in that regard, and in just about 12 to 13 years of making this law in 1991, the law underwent 25-plus amendments and the idea was essentially the law is so tough and we needed to reduce the rigor of the law so as to make it more industry-friendly; hotel and tourism industry got a lot of concessions through that.

But what we should notice, right from 1991 to 2011, over a period of two decades when these amendments were coming to dilute the law and the rigor of the law, the courts of law took exception to such measures on the part of the government and there are instances when the courts of law have even told the government that if you are not too serious about law-making and implementation of the same of whatever that you have prescribed then it is better you have to do away with the law, or once you make the law you see to it that it is implemented both in its letter and spirit.

So, with the result that there has been a lot of churning occurring over a long period of time just to give you a simple example, there is one of those early cases decided by the Supreme Court, it is also famously known as the Aquaculture case; S. Jagannathan versus Union of India decided by the Supreme Court of India.

This case requires a special mention because this is a case which dealt with the harmful effects of intensive aqua farming or the prawn culture farming that was occurring on all the coastal areas of eastern and the western coastline of India.

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IMPLEMENTATION OF THE LAW BY THE GOVT., REQUIRED IT TO PROHIBIT PRAWN-FARMING TO PROTECT AND SECURE THE FRAGILE AND ECO-SENSITIVE ZONE – IRONICALLY, OWING TO LOBBYING BY VERY POWERFUL GROUPS, PRAWN FARMS CONTINUED TO FLOURISH IN MANY PLACES! ; STATES, WHICH HAD THE PRIMARY OBLIGATION OF SUBMITTING COASTAL ZONE MANAGEMENT PLANS (CZMP), TO THE CENTRE, FOR ITS CONSIDERATION AND EFFECTIVE IMPLEMENTATION, HARDLY COMPLIED WITH THE REQUIREMENT – IN ADDITION TO THESE, A FEW MORE SHORTCOMINGS, - LIKE, UNIFORM REGULATIONS FOR THE ENTIRE INDIAN COASTLINE, WITHOUT TAKING INTO ACCOUNT THE DIVERSITY IN LIFE-FORMS, DEMOGRAPHIC PATTERNS, NATURAL RESOURCES, ETC.; ABSENCE OF NO CLEAR PROCEDURE FOR OBTAINING CRZ CLEARANCE; ABSENCE OF POST CLEARANCE MONITORING; MEASURES/ RULES TO CHECK POLLUTION EMANATING FROM LAND-BASED ACTIVITIES, NOT INCLUDED ; HARDSHIP OF TRADITIONAL COMMUNITIES NOT FACTORED IN ETC.- ARE ALSO CITED FOR THE POOR AND INEFFECTIVE WORKING OF THE NOTIFICATION



A lot of scientific studies were carried out when a public interest litigation was made and the court after having looked into the scientific reports made available, required it came up with a set of guidelines. Guidelines as to how to manage our coastline in accordance with the CRZ law and here was the court, in a way, giving administrative instruction to the state that look you have made this law, you need have to really take it seriously to prohibit prawn farming to protect and secure the fragile and ecosystem.

And despite this kind of an intervention by the court, not just in one case like this, many other cases where there were cases in which when just on the coastline and even getting into the sea, there were major highways or construction were planned and to that, the court took very serious note of it and came with a set of guidelines as to the kind of safeguard measures that should be taken to preserve, conserve, protect the fragile ecosystem.

But despite that because of the lobbying by very powerful groups, prawn farming continued, many other developmental activities continued, and this happened because of one of the major requirements of the law that was in operation from 1991 was that each and every state, the coastal state that was required to prepare what is called as a Coastal Zone Management Plan on what to allow and what not to allow, dividing the coastal area into several zones.

Intensive activity which is already there to have a lot of safeguard measures against it; where there is least, where there is some scope for developmental activity, development with certain kinds of conditions and a kind of a plan on to have been submitted by each and every state got the approval from the center before they could operationalize that.

As it so happened, in the two decades of working of the Coastal Zone Regulation law of 1991, states hardly submitted any kind of as CZMP to the Centre for its consideration and its effective implementation.

And so, the law was very poorly implemented. There were few other reasons as to why this law was almost a non-starter because the law that was made in 1991, it was almost like a one size fits all kind of a thing that you had so many states on the coast and each one having different kind of requirements and different kind of an ecological condition but one uniform law was made and that uniformity actually prevented the diversity of life forms and demographic patterns, natural resources and the requirements of each and every coastal state and so states were less than enthusiastic in implementing it for the simple reason that they were far removed from the ground realities.

There was also a problem of absence of a clear procedure for obtaining the CRZ clearance. Okay, we would submit the CZMP and to get the clearances for developmental activities what kind of procedures we must follow, all powers were concentrated with the center, and the states needed to really come up with inputs on which the center would take a decision. And so, it became a bit of a problem that the voice of the states it appears was not heard properly and this was actually made use of as kind of a cleavage to be developed between the center and state relations.

And after having given the clearance, whether one confirmed to the terms and conditions on which the clearance was given there was no monitoring of that. So post-clearance monitoring was absent, pollution emanating from the land-based activities were not included under this law, hardship of traditional communities were not factored in. These are also cited as additional reasons as to why the law was very poorly and it effectively worked.

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- CRZ REVIEW REPORT OF M.S.SWAMINATHAN COMMITTEE, 2005 LED TO CIRCULATION OF A NEW DRAFT ON MAY 1, 2008, THE AMENDED VERSION OF IT, EFFECTED ON MAY 9, 2008, GOT THE GOVT. NOD, BUT WAS NOT IMPLEMENTED - FINALLY, IN 2011, THE NEW SET OF REGULATIONS, REPLACING THAT OF 1991, CAME INTO FORCE

• **OBJECTIVES OF CRZ, 2011:**
TO CONSERVE AND PROTECT COASTAL STRETCHES; TO ENSURE LIVELIHOOD SECURITY TO THE FISHING AND OTHER LOCAL COMMUNITIES; TO PROMOTE DEVELOPMENT IN A SUSTAINABLE MANNER BASED ON SCIENTIFIC PRINCIPLES, TAKING INTO ACCOUNT NATURAL HAZARDS AND SEA-LEVEL RISE; TO DECLARE THE COASTAL STRETCHES AND THE TERRITORIAL SEA/WATERS (TS/TW) AS CRZ; RESTRICT THE SETTING UP AND EXPANSION OF ANY INDUSTRY, OPERATIONS OR PROCESSES AND MANUFACTURE OR HANDLING OR STORAGE OR DISPOSAL OF HAZARDOUS SUBSTANCES AS SPECIFIED UNDER THE RELEVANT LAW MADE FOR THE PURPOSE.

- **NATURE AND EXTENT OF CRZ:** IT WAS A STRETCH OF COASTAL AREA EXTENDING FROM THE HIGHTIDE LINE (HTL) TO 500mts., TOWARDS THE LAND



AND FROM THE HTL TO LOW-TIDE LINE (LTL), TOWARDS THE SEA, CONTEMPLATED UNDER THE 1991 NOTN. - THIS GOT EXTENDED TO THE OUTER LIMITS OF THE TERRITORIAL SEA (TS), FROM THE LTL, UNDER THE 2011 NOTN.

- **CLASSIFICATION:** - CATEGORIZATION INTO 4 ZONES, WITH CERTAIN MODIFICATIONS EFFECTED TO THE NOTN. OF 1991, AS BELOW:
CRZ-I: ECOLOGICALLY SENSITIVE AREAS LIKE, MANGROVES, CORAL REEFS, BIOSPHERE RESERVES, ETC. - NO NEW CONSTRUCTIONS PERMITTED EXCEPT, PROJECTS RELATING TO ATOMIC ENERGY; TRANS-HARBOUR SEA LINK AND ROADS WITHOUT AFFECTING THE TIDAL FLOW OF WATER, BETWEEN HTL & LTL ETC. - BETWEEN THE HTL & LTL, IN AREAS WHICH ARE NOT ECOLOGICALLY SENSITIVE, PERMITTED ACTIVITIES INCLUDE, EXPLORATION FOR AND EXTRACTION OF NATURAL GAS; CONSTRUCTION OF BASIC AMENITIES LIKE, SCHOOLS, ROADS ETC., FOR TRADITIONAL INHABITANTS; SALT HARVESTING BY SOLAR EVAPORATION OF SEA WATER; DESALINATION PLANTS; STORAGE OF NON-HAZARDOUS CARGO LIKE, EDIBLE OIL, FERTILIZERS, WITH IN NOTIFIED PORTS



A committee was constituted in the 2003, headed by M. S. Swaminathan and over a period of two years it worked and submitted a report in 2005, and it led to the drafting of another revised law in the year 2008. And this revised one was further amended within a week even before it could actually see the light of the day, while it was still under circulation and it took about six months' time before consultations were carried out.

Mainly the fisheries communities had a lot of objections to it and so, to accommodate them more consultations were held. And sometime around 2009, 2010 it almost became a very clear law to be taken to the cabinet for approval. The government approved it but it was never implemented.

In the year 2011, the new set of regulations replacing the 1991 one, 1991 CRZ law came into force. So, what we have and what we implemented in the last 8, 9 years has been the CRZ law of 2011. And what are its objectives?

Its objectives are very clear. Conserve and protect coastal stretches. While conserving you need have to really ensure the livelihood requirements of the local community, the fishing and other communities, promote development in a sustainable manner but it should be based on scientific principles.

And while you base this developmental activity you need have to ensure that natural hazards and sea level rises are also factored in, to declare the coastal stretches in the territorial seas and waters as CRZ which was not done earlier. Restrict the setting up and expansion of any industry operation, or processes and manufacture, or handling of storage of hazardous substances need have to be under very strict supervision and follow the relevant laws made for that purpose.

Under this new law, you have an expanded definition and description of CRZ than was done under the 1991 law. So, what is a coastal zone? Under this law, it is a stretch of coastal area extending from the high-tide line, HTL for short, to 500 meters towards the land, and from the high-tide line to the low-tide line toward the sea; that was how it was contemplated under this 1991 notification.

And from this bandwidth, from the high-tide line and low-tide line to the 500 meters towards the land, which is that particular Coastal Regulation Zone under the 1994 Notification got extended to the outer limits of the territorial sea from the low-tide line under the 2011 Notification.

In the footnote to this slide, a brief description of the low-tide line and high-tide line and the territories are given. In short, the low-tide line or LDL and high-tide line actually relate to the level of the waves during the spring tide or during the full moon.

There is a direct relationship and during the full moon the sea level would rise and the highest

level it would reach is what is referred to as the high-tide line. It is an imaginary line on the coast, those who are familiar with the coast would be able to note that there is a kind of a demarcation that comes at the top of the coast and that is the high-tide line and that occurs during the spring tide.

And when the waves recede back to the sea during that spring tide, the tide that goes to the lowest level, there is also an imaginary line; it is not actually drawn but that is how scientifically it has been worked out that that is where exactly the low-tide line would exist. And that is the high tide and low-tide line very highly echo sensitive region and the measurement is always done from there.

From the low-tide line, you measure the territorial feet towards the sea up to a nautical mile of 12 nautical miles. Horizontal to the sea, you measure 12 nautical miles and that is what is referred to the territorial sea. That stretch, the outer limit of it is a territorial sea. So, from the territorial sea, including low-tide line and the high-tide line, 500 meters towards the land actually would constitute the Coastal Regulation Zone.

So, this is the area which comes under regulation under this law. And the coast, the stretch that has been mentioned now is classified into four categories: CRZ 1, CRZ 2, CRZ 3, and CRZ4. In very simple non-legal language these four zones are created with the objective of differentiating different areas of the coast based upon, number one, intensity of the activities of the coastal area; number two, relative stretches of less activity in the coastal area; and number three, areas which are highly echo sensitive; and number four, certain specialized zones which do not allow for developmental activity.

Or to put it in simple terms CRZ-1 refers to those areas which are ecologically sensitive, highly ecological sensitive and so, almost no development. CRZ-2 refers to areas which are highly intense industrialized areas which actually are closest to the cities and so, highest level of restrictions for further development.

CRZ-3 are primarily rural or semi-rural areas and you permit certain developmental activities

there. CRZ-4 are certain very specialized areas which require special attention of care and protection for which you create a special zone of control and limitations of activities. Let us get into the details of it.

CRZ-1, ecologically sensitive areas like mangroves, coral reefs, biosphere reserves; no new constructions permitted except projects relating to atomic energy, trans-harbour sea link, and roads without affecting the tidal flow of water between high-tide line and low-tide line, etc. So the idea is essentially to ensure that this area is almost a no-development zone, except for those defense purposes or for atomic energy you give certain concessions. And these are the areas which are the breeding grounds of life and life forms, have mangroves and coral reefs. These are very vital and important for the conservation ecosystem and so have very limited activities.

And at the same time, provision has been made for allowing for the traditional rights of the communities of people like their fishing rights and things like that, and even for some of those activities like salt harvesting through solar evaporation of seawater, desalination of plants, storage of non-hazardous cargo substances within notified ports. Very highly limited developmental activity.

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- **CRZ-II** : AREAS WHICH ARE DEVELOPED UP TO THE SHORELINE AND FALLING WITHIN MUNICIPAL LIMITS; INCLUDES VILLAGES AND TOWNS THAT ARE ALREADY WELL-DEVELOPED – BUILDINGS, ACTIVITIES LIKE, DESALINATION PLANTS AND THOSE THAT SATISFY GUIDELINES, ON LANDWARD SIDE OF THE HAZARD LINE, PERMITTED
- **CRZ-III**: AREAS THAT ARE RELATIVELY UNDISTURBED, NOT FALLING WITHIN I & II ZONES, INCLUDING RURAL AND URBAN AREAS THAT ARE NOT SUBSTANTIALLY DEVELOPED – NO DEVELOPMENT ZONE FOR 200mts. FROM HTL, WHERE NO CONSTRUCTIONS ARE PERMITTED – CERTAIN ACTIVITIES LIKE, AGRICULTURE, FORESTRY, PROJECTS OF ATOMIC ENERGY, MINING OF RARE MINERALS, SALT MANUFACTURE, REGASIFICATION OF PETROLEUM PRODUCTS, NON-CONVENTIONAL ENERGY SOURCES AND CERTAIN PUBLIC FACILITIES, MAY BE PERMITTED – BETWEEN 200MTS. & 500 Mts. OF HTL, CONSTRUCTION OF HOUSES FOR LOCAL COMMUNITIES AND TOURISM PROJECTS, PERMISSIBLE



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CRZ-IV: AQUATIC AREA FROM LTL UPTO THE OUTER LIMIT OF T.S, INCLUDING THE AREA OF THE TIDAL INFLUENCED WATER BODY- NO RESTRICTIONS OF FISHING ON TRADITIONAL COMMUNITIES – DUMPING OF UNTREATED SEWAGE OR SOLID WASTE PROHIBITED

- A SEPARATE NOTIFICATION FOR THE PROTECTION OF ANDAMAN & NICOBAR AND LAKSHADWEEP, ALSO ISSUED, BY TAKING THEM OUT FROM CRZ-IV (- THAT WAS UNDER THE PREVIOUS NOTIFICATION)

*** SPECIFIC PROCEDURES PROVIDED FOR OBTAINING CLEARANCE UNDER CRZ, 2011- CLEARANCE VALID FOR A PERIOD OF 5 YEARS**

*** ECOLOGICALLY SENSITIVE AREAS LIKE, SUNDERBANS, GULF OF KHAMAT, BHITTARKARNIKA ETC., GIVEN SPECIAL PROTECTION BY DECLARING THEM AS CRITICALLY VULNERABLE COASTAL AREAS – FOR EACH ONE OF THEM, THE NOTIFICATION MANDATED PREPARATION OF AN INTEGRATED MANAGEMENT PLAN, AFTER CONSULTATION WITH THE LOCAL COMMUNITIES – BEACHES LIKE, AGONDA, GALGIBA ETC., DESIGNATED AS TURTLE NESTING SITES, WITH PROTECTION UNDER THE WILDLIFE PROTECTION ACT, 1972 – ALL THESE AREAS ARE NO DEVELOPMENT ZONES**



CRZ-4, as was mentioned, these are very special areas. These are the areas which are between the low-tide line, LTL, after the territorial sea, including the areas of tidal influence water body. As far as the traditional communities are concerned, this is where exactly they live and their livelihood is dependent on that. No restrictions are imposed.

But here, clear restrictions are imposed for any kind of activity. These are actually no-development zones. Dumping of untreated sewage or solid waste is totally prohibited and made punishable. Actually, CRZ-4, as has been mentioned in the 2011 notification is quite different from CRZ-4 that was there in the 1991 law. And CRZ-4 was essentially meant for archipelagos and islands around India; mainland India like Andaman Nicobar and Lakshadweep islands.

Now, under this 2011 law from the CRZ-4, this area is taken out and it is only restricted to the territorial sea and the low tide zone. And there is a separate notification, other than these four zones has been made for the protection of Andaman and Nicobar and Lakshadweep and that has been issued along with this.

So, any understanding of the Coastal Regulation Zone law need have as a supplement, a separate notification that is there for Andaman and Nicobar, which is a very highly specialized area because it is an archipelagic region, a cluster of islands which requires special attention, both from ecological angle, from the traditional communities interest angle, and also from

difference and strategic reasons because they are the outer limits of India. Very close to the territories of neighbouring countries.

And so, a very special protection zone has been created for them exclusively, which was not there under the 1991 notification. Specific procedures are provided for obtaining clearances under this law. Clearance is valid only for five years. Ecological sensitive areas are named here like Sundarbans, Gulf of Khambhat, Bhitarkanika National Park area, and are given special protection and they are considered as critically vulnerable coastal areas.

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* **SHAILESH NAYAK COMMITTEE: -THE REVISED LAW FACED TEETHING TROUBLES OF IMPLEMENTATION, OWING TO THE RELENTLESS PRESSURE AND LOBBYING BY THE INDUSTRY ACTIVE IN THE REGION (-FOR FURTHER RELAXATION OF THE NORMS-), A NUMBER ISSUES RAISED BY THE COASTAL STATES ABOUT THEIR PROBLEMS OF IMPLEMENTATION , PROCEDURAL DIFFICULTIES AND ISSUES OVER CZMP REQUIREMENTS, A COMMITTEE HEADED BY Dr.SHAILESH NAYAK, SECY. MINISTRY OF EARTH SCIENCES, CONSTITUTED IN 2014- ITS RECOMMENDATIONS INCLUDED, MEASURES FOR RELAXATION IN SOME OF THE PROVISIONS GIVING A BOOST TO TOURISM, PORT CONSTRUCTION AND REAL ESTATE BUSINESS; DECENTRALIZATION OF FUNCTIONS BY RETENTITION OF POWERS WITH THE CENTRAL GOVT. ONLY TO THE EXTENT OF ACTIVITIES THAT REQUIRED ENVIRONMENTAL CLEARANCE, LEAVING THE REST TO THE EXCLUSIVE AMBIT OF STATE AND LOCAL PLANNING BODIES TO MANAGE- FOLLOWING WHICH, A DRAFT LAW TO REPLACE THE 2011 NOTN. CIRCULATED IN 2018, CULMINATED IN A NEW NOTN., IN 2019.**



And for each one of them, certain special do's and don'ts and guidelines are prescribed. And there is an integrated management plan has been worked out. And this is being done with consultation with the local communities and certain beaches which are designated as turtle nesting sites or wildlife protection areas; they are put under no development zones.

So, these were some of the changes that were brought to the 1991 notification. So, at one level, focused attention for certain areas which deserve conservation and for which a set of elaborate guidelines evolved.

And certain areas where you can come up with relaxation; to overcome the critique that was

there for the 1991 Notification that you have come up with a uniform law, well, for certain areas, we come up with certain specific regulations so as to fit into the local requirements at the same time, meet industrial demands; that was how it was worked out.

But still, although this law was brought into application from 2011, within 4, 5 years there is a lot of opposition to that, not because the conservationist did not want but because the propellants of developmental activities, they have felt that even this law is highly restrictive and we do need more relaxation because more than 60 percent of Indian economy is dependent on the development of the coastal area and if you come up with so much of restrictions then there will not be economic development at all.

And at the same time, the tough obligation that the government faced was how do we conserve against this greater demand for the development in this area. And so, they constituted a committee, a former secretary to the Department of Earth Sciences, the Ministry of Earth Sciences, Shailesh Nayak; under his Chairmanship, a committee was constituted to come up with a new law to address all those issues raised by the coastal states about the problems of implementation, the procedural difficulties, and issues over the CZMP requirements.

And this, it came up with a recommendation coming up with a host of relaxation in some of the provisions to give a boost to tourism, port construction, and real estate business, decentralization of functions by retention of powers with the central government only to the extent of activities that required environmental clearance.

So, there was a process with decentralization that all the powers are not vested in the Centre, it was shared with the states now. And exclusive ambit of the state was very much there in most of the activities for local planning and management, following which they drafted a law to replace the 2011 Notification, circulated in 2018, and that culminated in a new Notification in 2019.

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IV. CRZ NOTN, 2019



- **CHANGES EFFECTED: TWO SEPARATE CATEGORIES FOR CRZ-III(RURAL) AREAS:**
- **CRZ-III A: THESE ARE DENSELY POPULATED RURAL AREAS- NO DEVELOPMENT ZONE (NDZ) OF 50Mts., FROM HTL, AS AGAINST 200Mts. UNDER THE PREVIOUS NOTN.**
- **CRZ-III B : THE REST OF THE RURAL AREAS, IN WHICH 200Mts. OF NDZ RETAINED**
- **NDZ OF 20Mts., FOR ALL ISLANDS CLOSE TO MAIN COAST AND FOR ALL BACKWATER ISLANDS IN THE MAIN LAND.**
- **TOURISM INFRASTRUCTURE LIKE SHACKS, TOILET BLOCKS, CHANGE ROOMS, DRINKING WATER FACILITIES, ETC., PERMITTED IN COASTAL AREAS, ESPECIALLY IN BEACHES.**
- **TREATMENT FACILITIES PERMITTED IN CRZ-I B AREA SUBJECT TO NECESSARY SAFEGUARDS.**



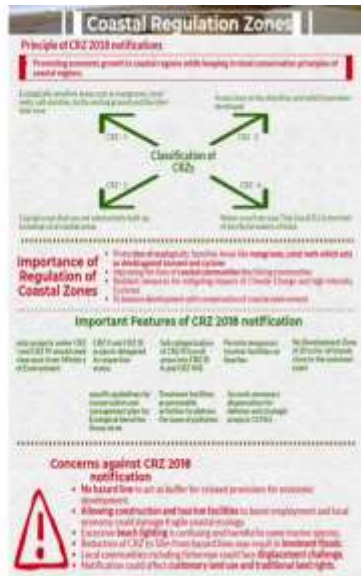
We confine to only the changes that are affected to the 2011 law because by and large, the same scheme was adopted but certain changes were affected for making relaxation to the norms that were evolved and also the zones that were created.

Like for example, the CRZ-3, the rural areas for which this particular zone was created, two subcategories were created; it was called CRZ-3A and these were referred to as densely populated rural areas. And in this area, we will restrict the no-development zone to only 50 meters from the high-tide line as against the 200 meters that is prescribed under the 2011 Notification.

Then in CRZ-3B, we will retain the 200 meters no-development zone because this is, these areas are relatively less developed and so we can allow it to have that kind of laxity in that. No-development zone of 20 meters for all islands were added close to the main coast and for all backwater islands in the mainland. This was not there in the 2011 notification.

Tourism infrastructure like shacks, toilet blocks, change rooms, etc. were permitted in the coastal areas especially the beaches, which was not there earlier under the 2011 law. Treatment facility is permitted in CRZ area. Number one; B-area are subject to necessary safeguards for now.

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Very briefly, the entire thing can be encapsulated in a graphic form in this as to the classification that has been made, the importance of regulation of the coastal zone, the features of the 2018 notification which became the 2019 notification when it was approved and brought into application, and the concerns that was expressed when the draft was circulated in 2018 and as is still a concern that is remaining is what has been put in that one page, one slide chart.

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- **CRITIQUE AND CONCLUSIONS:**
- **AMENDMENTS AND REVISIONS EFFECTED TO THE LAW BETWEEN 1991 AND 2019, HAVE BEEN, PRIMARILY, TO PROMOTE DEVELOPMENTAL ACTIVITIES – LARGE SCALE CONSTRUCTION ACTIVITY IN CRZ AREA- BOUND TO HAVE HUGE IMPLICATIONS ON THE ENVIRONMENT**
- **WHILE BEING CONSIDERATE ABOUT GRANTING ADDITIONAL RIGHTS TO LOCAL, TRADITIONAL AND FISHERIES COMMUNITIES, KEPT THE AREA WIDE OPEN FOR OTHER FORMS OF DEVELOPMENT, ADDING TO THE EXISTING STRESS ON THE FRAGILE ECOSYSTEM**
- **THERE IS A COMPLETE LACK OF APPRECIATION FOR THE CONCEPT OF COASTAL ZONES AS COMMONS, THAT SHOULD REMAIN ACCESSIBLE FOR EVERYONE'S RESPONSIBLE USE AND ENJOYMENT.**
- **NON-INCLUSION OF SAFEGUARDS AGAINST ADVERSE IMPACTS OF CLIMATE CHANGE, HAS MADE THE REGION MORE VULNERABLE THAN EARLIER TO THE VAGARIES OF NATURE**



In terms of the critique and the conclusions that one can draw as to this law is as one would examine from 1991 to 2019 those changes, revisions, and amendments that came they have been primarily to promote developmental activities.

Large-scale construction activity in the CRZ area have been permitted through these relaxations. The danger is that these are going to have huge implications on environmental conservation. Additional rights for the local communities have been achieved through these changes that is a very salutary feature and it should be recorded here that this is one of the positive features of both the 2011 and 2019 Notification.

But while giving these rights to these people and recognizing them, wide areas within these particular areas where these communities of people live and use for livelihood are kept open for other forms of developmental activity and that adds to the congestion. Congestion of activities and the stress on the fragile ecosystem. There is a complete lack of appreciation in all these notifications against the very idea that coastal areas are common property. They are commons that should remain accessible for everyone's responsible use and enjoyment.

Because of having allowed so many kind of activities, including private beaches to come into existence, the access of the common man to the coast, to that extent has been reduced and the idea of commons for the coastal zone has been followed its breach than its observance because of these regulations.

The other major lacuna that you would see in all these three sets of regulations, including the 2019 one is non-inclusion of safeguard measures that are required against the adverse impact of the climatic changes on the region because the coastal area have become most vulnerable than they were earlier to the vagaries of nature natural changes.

And without a demarcation of a hazard line, this was what was stressed all the while that you should have a hazard line to which nobody should come and no developmental activity should take place because this is the most crucial, sensitive, and very fragile area. Because this is the one which has been exposed to all kinds of calamities of nature and there has to be a buffer to be created but the hazard line has not been drawn properly.

And because of relaxation of provisions for economic development, the coast has become

unstable. There has been a greater thrust on construction and tourism facilities to increase employment opportunities and local economy to boost that this has been done but without sufficient environment to safeguards, this is going to affect the fragile coastal ecology.

The goal of the United Nation's Convention on Law of the Sea for the development of the ICZM, the Integrated Coastal Zone Management, both on the coastal side and also on the marine side has remained a pipe dream even with the making of these laws over a three-decade's period. From this, we come to a conclusion of our discussion on the first part of this module.

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