

Policy Brief on Governance and Integrated Coastal Management

INDIA



The Republic of India has 17,181 km of coastline and an estimated coastal population of approximately 295 million people, which is 26 percent of the country's total estimated population of 1.136 billion people. India claims an Exclusive Economic Zone of 1.6 million km² – which is equivalent to approximately half of its land area¹. Its coastal areas include 5,790 km² of coral reefs and 6,700 km² of mangroves – 8 percent of the total area of mangroves in Asia. Over the past 30 years, India has lost approximately 12 percent of its mangroves due to human pressures on coastal areas².

¹ Fisheries Centre, University of British Columbia, Sea Around Us Project at: www.seaaroundus.org/eez/eez.aspx

² Food & Agriculture Organization of the United Nations (FAO), 2007. The World's Mangroves, 1980-2005. FAO Forestry Paper No. 153, Rome, Italy. 78 p.

What Is Governance in the Context of Integrated Coastal Management?

Governance, in the context of integrated coastal management (ICM), includes the laws and other norms, institutions, and processes through which power and responsibility are exercised to make and implement decisions affecting the available social, cultural, natural, technical, and financial and other economic resources available for development.

What Is the “Coastal Zone” of India?

The Coastal Regulation Zone Notification of 1999, which is the legal basis for coastal management in the country, defines the Coastal Regulation Zone (CRZ) very narrowly as the land between the high tide line (HTL) and the low tide line (LTL) and coastal land at a

landward distance of 500m from the HTL. The HTL is defined as the line on the land up to which the highest water line reaches during the spring tide. Coastal and marine waters are not included in this definition.

Is There a Clear Mandate for Integrated Coastal Management in India?

While some attempt has been made to create national and state authorities with a legal mandate for coastal management, their effectiveness in delivering integrated coastal management is limited.

Because of the narrow definition of the coastal zone, the authorities that implement the CRZ Notification deal only with coastal land development from the low tide mark to the HTL and 500m beyond that. The CRZ Notification does not govern the effects of development on coastal waters.

In addition to the CRZ Notification, a large number of environmental laws govern the coastal zone. These laws and regulations tend to be enforced in isolation, with little or no overall or comprehensive view of how enforcement of one law affects enforcement of other laws, or of the cumulative effects on management of the coastal zone, including coastal and marine waters.

Many different ministries, departments and enforcement agencies are mandated to protect different aspects of the coastal environment – erosion, pollution control and infrastructure development including ports and harbors – which often leads to jurisdictional overlaps, conflicts, and confusion.

Major gaps exist in the responsibility for coastal waters between the national government and state governments. The National Coastal Zone Management Authority (under the Ministry of Environment and Forests) has a mandate to improve the quality of the coastal environment and abate coastal pollution, while two other national institutions – the Department of Ocean Development (under the Ministry of Earth Sciences) and the Coastal Protection and Development Advisory Committee (under the Ministry of Water Resources) – have responsibilities for specific ICM issues. State coastal zone management authorities are delegated the task of developing coastal management plans to protect the environment and, together with State Pollution Control Boards, to enforce coastal regulations. The responsibility to exploit coastal resources lies mostly with the national government, except for fisheries, which

is shared between national and state governments.

Most of the institutions with powers and responsibilities for managing different activities in the coastal zone operate independently, without regard to the powers and responsibilities exercised by other institutions with a mandate for other aspects of coastal management. None of the institutions with responsibility for coastal management has a clear mandate to provide a coordinated response to coastal management development and problems.

Are Public Officials Accountable for Their Coastal Management Decisions?

The CRZ Notification does not hold public officials accountable for their decisions. The Environmental Protection Act 1986 allows for the prosecution of specified government officials in limited circumstances, but this has not yet been applied in the context of a violation of the CRZ Notification.



Does the Public Participate in Coastal Management Decision-Making?

Neither the Constitution nor the CRZ Notification guarantees the right to public participation in the context of coastal management. Other laws that govern specific aspects of coastal management provide for varying levels of public participation in decision-making processes and management.

In practice, there is minimal public participation in coastal management. There is little or no funding for public participation and institutions such as the State Pollution Control Boards simply do not have the resources and manpower to ensure that this is effectively done. The state Coastal Zone Management Authorities do not have sufficient funding for participatory approaches to coastal management, and have not framed rules for handling complaints in relation to coastal problems. Consequently, people living in the coastal zone are not aware of the role they could play in coastal management, nor are they consulted about overall development plans or specific developments. As a result, most coastal communities perceive that coastal laws and other regulations are not applied and enforced fairly or equally for all actors.



Is Information about Coastal Management Decisions Easily Available to the Public?

While many national ministries have dedicated websites for information dissemination, the National Coastal Zone Management Authority does not.

The Constitution of India and the Right to Information Act (2005) provide a general guarantee of access to and dissemination of information that would include a right to information concerning the coastal zone and activities in it. Wide discretion exists with regard to withholding information about coastal management.

The Right to Information Act 2005 has been used to obtain information regarding environmental clearances in several states, and to attempt to increase public participation in the environmental impact assessment process. But in spite of various programs educating people about their rights to information, widespread ignorance remains, outside of the NGO community and activist groups.

Do All Citizens Have Access to Justice in the Context of Coastal Management?

Public interest litigation as it has developed in India over the past 25 years allows concerned individuals and organisations to take to the courts cases which are deemed to be in the public interest. The Constitution of India guarantees the right to free legal aid. Courts may refer civil cases for arbitration.

The Environmental Protection Act allows an individual to make a complaint that a government authority has not followed the provisions of a Notification under the Act. In the context of coastal management, this means that an individual has standing to make a complaint to a Coastal Zone Management Authority that there has been a violation of the CRZ Notification or a Coastal Zone Management Plan. In practice, complaints tend to be registered by community organizations, NGOs and groups, rather than by individuals. Few of these become formal complaints brought against such authorities in courts.

Policy Issues and Recommendations

- The definition of the coastal zone excludes coastal waters. Sustainable management of the resources of coastal waters is as important for national development as sustainable management of coastal land. Integrated coastal management requires attention to both land and water resources.

The definition of the coastal zone should be expanded to include coastal waters and the Ocean Regulation Zone Concept should be revisited.



- The independent operation of multiple policies, laws and regulations, and institutions governing various aspects of coastal management has led to confusion, conflicts and a lack of enforcement of existing law that interferes with the sustainable management and development of the coastal zone.

An overarching national policy for ICM should be developed and adopted as the framework for integrating single-sector policies, laws and institutions that govern different aspects of coastal management. An approach to developing such a policy should also take into account that India is a highly spiritual and culturally rich country; thus reference to the mythological linkage between the coast and the ocean that is part of the beliefs of many Indians could be used to illustrate the need for, and underpin, the policy framework. Upadhyay, S., 2004. Traditional linkages to species—an effective marine protected area management strategy in India (unpublished manuscript).

- While many national and state institutions have mandates for some aspect of coastal management, no authority at any level has a

clear mandate for ensuring that the actions and responses of all institutions are integrated.

A clear legal mandate for integrated coastal management should be established and the relationships of all governmental authorities with responsibility for aspects of ICM should be defined within that mandate.

- There is no legal requirement, and only isolated instances in practice, for public participation and dissemination of information regarding laws and regulations, decision-making processes, and management of the coastal zone. This contributes to a perception that the coastal zone is neither sustainably nor equitably managed.

There should be adequate budgetary allocations at both national and state levels to support public participation in and dissemination of information about integrated coastal management.

- For the majority of traditional coastal communities, simply informing them of their rights and providing them with information will not be sufficient to ensure their full engagement in ICM.

The historic rights of traditional fishers to fisheries resources should be secured and sustainable traditional fishing methods should be promoted.

Acknowledgment

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