

Policy Brief on Governance and Integrated Coastal Management

Sri Lanka



The Democratic Socialist Republic of Sri Lanka is an island nation situated in the Indian Ocean, southeast of India. It has a population of approximately 20 million people. Its estimated coastal population is about 6.4 million people, 32 percent of the total population – living along the 1,340 km of its coastline. Sri Lanka claims an Exclusive Economic Zone (EEZ) of 533,000 km² — eight times larger than its land area¹. Its coastal areas include 680 km² of coral reefs and 89 km² of mangroves. Over the past 30 years approximately 8 percent of its mangroves have been lost 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” in Sri Lanka?

The Coast Conservation Act No. 57 of 1981 (CCA) and its 1998 amendment provide the legal foundation for coastal management in Sri Lanka. The CCA defines the coastal zone to include coastal land and coastal waters, including the area lying 300m landward of the Mean High Water Line and up to two kilometers seaward. Where another water

body – for example, a bay or estuary – is permanently or seasonally connected to the sea, the landward limit is extended to two kilometers as measured perpendicularly to the straight baseline drawn between the two entrance points. The CCA also defines the “foreshore” as the area between the Mean High Water and the Mean Low Water mark.

What Authorities Exist for Coastal Management in Sri Lanka?

A Coast Conservation Division was established within the Ministry of Fisheries in 1978 and upgraded to become the Coast Conservation Department (CCD) in 1984. The Coast Conservation Advisory Council (CCAC) studies coastal management problems and advises the Minister.

Although the CCD has the overall and widest management mandate with regard to the coastal zone, and despite the fact that an impending amendment to the CCA will further broaden its scope, it is by no means the only agency with a mandate over the management of both natural resources as well as human activities in the coastal zone. This is inevitable in the context of the sector-based legal and institutional framework that operates in the country as a whole.

The Department of Wildlife and Conservation designates and manages protected areas, including marine protected areas; the Forest Department manages forests, including mangroves; the Ministry of Fisheries and Ocean Resources manages fisheries; and the National Aquaculture Development Authority promotes development of aquaculture including the conversion of mangroves and other natural areas for prawn culture. The involvement of the Irrigation Department in developing agriculture, including extraction and diversion of water, makes it another key player, as is the Central Environmental Authority through its authority to regulate all developmental activities outside the coastal zone. In urban areas, the Urban Development Authority exerts considerable influence over land use and environment.

The manner in which these, and several other departments and authorities cooperate will always determine how successful ICM will be in Sri Lanka.

The CCA requires the coastal zone to be surveyed and a Coastal Zone Management Plan (CZMP) to be developed based on the survey results. The first CZMP was approved by the Council of Cabinet Ministers in 1990 and was revised in 1997 and then again in 2004.

Coastal 2000, a 1992 evaluation of ICM and special area management (SAM) planning experiences in the country³, identified constraints in the original approaches promoted in the 1990 CZMP. Those constraints included: single agency approaches to deal with multi-sectoral problems, e.g., water pollution and habitat degradation; the narrow definition of the coastal zone that does not recognize the links between broader ecosystems and the coastal zone; and insufficient involvement of local stakeholders in planning and implementation. Coastal 2000 adopted a holistic, devolved and participatory approach to coastal management in Sri Lanka. It called for expanding the geographical area covered by the coastal zone and for including provincial, district and local government bodies, research institutions, and NGOs in ICM.

The proposed amendment to the CCA would extend its long title to include “and Coastal Resource Management” to expand its current focus on ensuring the physical integrity of the coastline, especially erosion management which has dominated the CCD’s agenda since its inception, to a broader perspective that would integrate conservation with resource use to achieve sustainable management.

Are Public Officials Accountable for Their Coastal Management Decisions?

The Constitution and the Bribery or Corruption Act provide legal grounds for individuals to hold public servants accountable, but no disclosure policy is in effect and no sanctions exist within governmental institutions for holding their officials accountable for their decisions.



³ Coast Conservation Department. 1992. *Coastal 2000: A Resource Management Strategy for Sri Lanka's Coastal Region*

Does the Public Participate in Coastal Management Decision-Making?

Public participation in coastal management decision-making is limited to specific aspects of natural resource planning and review processes and not to community participation in decision-making at the local level. Procedural rules governing the time allowed for providing comments and the treatment of such comments leaves very little scope in practice for an effective public voice in decision-making.

The provisions that mandate public participation in planning processes that apply to the coastal zone relate to the review of the CZMP and environmental impact assessment (EIA) procedures for reviewing applications to commence developmental activities in the coastal zone and elsewhere. Project evaluation processes are provided for under the CCA.

The predominant participatory ICM process in the coastal zone is the SAM planning process, where participation has occurred to varying degrees and is subject to numerous challenges. All SAM processes have been project funded to date, with the funds managed by the CCD as the project implementing agency.

While stakeholder participation through a community coordinating committee (CCC) lies at the centre of the SAM concept, there is currently no legal basis for implementing the SAM planning process and guaranteeing the legal legitimacy of the resulting SAM Plan. This will change if Parliament adopts the proposed amendment to the CCA that will give the CDD the power basis to declare Special Management Areas within or adjacent to the coastal zone.



Maduganga Ramsar Site, Sri Lanka © M. Epps MFF Secretariat

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

There is no legislation which provides for freedom of information. According to the Law Commission Report on Freedom of Information, "...all information in the possession of the government is secret unless there is good reason to allow public access." In the absence of explicit legal provisions, the Supreme Court of Sri Lanka has held that the Constitution does guarantee a right to information.

General awareness of rights to information is low. Information on repositories of information within the government service is poor, making it quite a daunting and potentially expensive task for a lay person. The CCD is a notable exception – its process for reviewing draft Coastal Zone Management Plans and EIAs specifies when and from where these documents can be accessed.

Information technology is improving, but the impact of improved access is limited by the fact that little information is available in the languages predominantly spoken in Sri Lanka, other than English. Information available on the CCD website is patchy. Although permit guidelines and the application form are available, other key documents such as the CCA and CZMP 2004 are missing. There is also no information with regard to past, ongoing or planned projects.

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

Public interest litigation, based on fundamental rights and nuisance petitions, is an option for aggrieved citizens. Their standing to sue was established through case law. Legal aid schemes are available in Sri Lanka but are under-resourced and are not comprehensive. The complexity and duration of court procedures and the cost of the process are not within the means of most people.

Administrative remedies under the CCA are available for developers appealing a refusal to grant a permit. The National Environment Act allows citizens to challenge a project approval decision, but successful use of this option is however impeded by the politicization of the process and the lack of independence of the bureaucracy from political interference. Public awareness of these options is lacking.

Policy Issues and Recommendations

▪ There is a mismatch between the CCD's mission for coastal management, the multiplicity of jurisdictions upon which the CCD is dependant to carry out this mandate, and other jurisdictions that act contrary to it. The multiplicity of sectors operating in the coastal zone and the overlapping mandates of state agencies and local government authorities leads to ineffective ICM. The lack of a clear, coordinated ICM process contributes to, and is compounded by, a lack of enforcement of existing laws and regulations.

▫ *The CCD's mandate for integrated coastal management should be reinforced by clearly establishing the relationships of all government authorities with responsibilities for aspects of ICM and defining their mandates in the coastal zone within the context of the CCD's overall role.*

▫ *The sectoral structure should be streamlined by consolidating closely related sectors and harmonizing sectoral responsibilities in line with key social, economic, and environmental objectives.*

▫ *Effective devolution of powers and functions to Provincial and lower levels of local government should be accompanied by adequate technical, financial and appropriate human resources.*

▫ *Ensure long term sustainability of the SAM process by developing clear guidelines and operating procedures for CCC functioning to promote transparency and equity amongst CCC members during SAM plan preparation and implementation.*

▪ As noted in Coastal 2000, the definition of the coastal zone provides an inadequate geographical reach as a starting point for truly integrated coastal management. A threat analysis and an institutional platform for controlling externalities originating upstream are critical to successful ICM.

▫ *The current definition of the coastal zone should be expanded to include coastal watersheds or river basin systems.*

▫ *The feasibility of adopting a basin-scale geographical template for ICM should be assessed.*

▪ The existing legal framework recognizes only public and private property; it does not recognize communal property, which is the basis for customary property rights in much of the coastal zone. Non-recognition of customary tenure creates obstacles to negotiating and implementing ICM and to enabling coastal communities to share in benefits from investments such as eco-tourism.

▫ *Collective tenure should be recognized.*

▪ Experience with implementation of ICM approaches indicates two principal shortcomings: 1) the failure to pay adequate attention to the local political economy when attempting to establish integrated and participatory management frameworks at the local level; and 2) differences between the CZMP 2004 and the opinion of ICM practitioners with regard to the degree of influence local groups should be allowed to have in ICM.

▫ *Conduct a strategic review of CCD staffing and ensure that the traditional engineering and biophysical orientation of CCD staff is complemented by personnel with the expertise to manage participatory social processes.*

▫ *Develop guidelines for the recruitment and selection of CCD and project personnel for future ICM initiatives that incorporates both the required technical and social skills.*

▪ The coastal management agenda has broadened from an initial focus on erosion control and other engineering interventions and CCD's capacity for ICM has evolved significantly since the early days of ICM activities over 15 years ago. Years of first-hand field and administrative experience have given CCD officials significant awareness of the issues and challenges. This provides a good platform to promote attention to some elements of governance in the context of ICM that are currently lacking in Sri Lanka.

▫ *On the basis of the right to information recognized by the Supreme Court, institutional mechanisms for facilitating access to information on ICM and coastal resources should be established and made accessible particularly to the people living in coastal communities.*

▫ *Mechanisms for monitoring and evaluation of ICM and for making the results generally available should be established.*

Acknowledgement

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