

EQUATIONS comments to the Pre Draft Coastal Regulation Zone Notification 2010

EQUATIONS
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While we continue to identify various instances of CRZ violations by the tourism industry across the country, the Ministry of Environment and Forests (MoEF) in April 2010, issued another Pre Draft Coastal Regulation Zone Notification 2010 to amend the Coastal Regulation Zone (CRZ) Notification 1991. MoEF continues to take the notification route in spite of a longstanding demand by coastal communities, movements and civil society organisations for a comprehensive legislation to regulate the coast. A democratic system of governance calls for a regulatory mechanism through legislation for the significant and extensive coastline of India.

This brief paper is our comments related to tourism and the Pre Draft Coastal Regulation Zone Notification 2010. Our covering letter to Minister Jairam Ramesh is also uploaded.

Why we must have a Law:

While various instances of CRZ violations by tourism industry continue to be identified across the country, MoEF has issued another Pre Draft Coastal Regulation Zone Notification 2010, (referred as pre draft) to amend the CRZ Notification 1991, in April 2010. In spite of longstanding demand by coastal communities, movements and civil society organisations for legislation to regulate the coast, MoEF continues to take the Notification route. Over the years there have been growing concerns that the 'notification' character of the CRZ notification makes it nebulous in nature. This has resulted in the demand for comprehensive legislation for coastal regulation. The MoEF argues that there is no difference between a notification that has been passed under legislation (in the present case the Environment Protection Act, 1986) and legislation per se. But legal experts have very clearly pointed out that a notification is conceived, drafted and brought into operation by the executives in the government, which to a large extent cannot be influenced by important stakeholders particularly affected people and civil society. Legislation on the other hand calls for a debate in the Parliament and thus can be lobbied, advocated and influenced. For example: of the 21 amendments that were brought in CRZ Notification, all of which diluted the regulatory nature of the notification, only 3 were offered for public comments before finalisation. A democratic system of governance calls for a regulatory mechanism through legislation for the coast, given the significance of India's coastline and its extensive nature.

Our demand for a separate legislation thus continues. Even in the public consultations with fisher folks, coastal communities and CSOs, conducted by the MoEF in 2009 in coastal states this demand was reiterated. We hope the MoEF will abandon the 'notification route' that has permitted the dilution of the CRZ Notification 1991 through amendments, and bring in a CRZ Bill.

Presented below are our other comments on the pre draft CRZ Notification 2010 in the context of tourism.

The pre draft notification has retained some of the positive regulatory provisions from the CRZ Notification 1991 that regulated tourism activities on the coast. Such as prohibition on land reclamation in CRZ areas for tourism purposes and regulation on discharge of untreated waste, sewage from tourism establishments.

The pre draft has taken into consideration certain concerns raised by fishing communities by providing facilities such as fish drying yards, auction halls, net mending yards, traditional boat building yards, ice crushing units, fish curing units etc. However along with voices raised by the coastal groups like National Coastal Protection Campaign, we note that the pre draft Notification only provides certain concessions to the fishing communities and does not talk about the rights of the coastal communities. There has been a consistent demand to recognise and define the rights of coastal communities. Formal recognition of the rights of the coastal communities to spaces in the CRZ required for their lives and livelihood would be essential. The pre draft Notification predominantly refers to the requirements of the fishing communities. The Notification should also recognize and define the rights of other communities including traditional inhabitants of coastal areas, such as, farmers, and those engaged in ancillary activities but are dependent on the coast.

1. SEZs continue to be permitted in CRZ areas

Provision of pre-draft Notification 2010: *Non-polluting industries in the field of Information Technology and other service industries in the CRZ of Special Economic Zone (SEZ)¹. Specified activities/facilities in SEZ subject to one time approval by Government of India in the MoEF to such activities based on Master Plan of SEZ, special distribution of projects to be located in CRZ and such other information as may be required for the purpose².*

¹Comment, Para 3.1 (i) c in the pre draft Notification continues to permit seemingly 'non polluting' industries like Information Technology and tourism – service industries in SEZs in CRZ zones. MoEF should revoke this provision which was brought in the CRZ Notification 1991 through the amendment No. SO 550 E dated 21 May 2002. It allowed resource intensive and negatively impacting activities like tourism to come up in CRZ areas on the assumption that these are non polluting.

EQUATIONS research over the years shows that most of the Special Tourism Zones (STZ) which is based on the model of SEZs, are targeted in coastal areas. The concept of STZ, when introduced in the National Tourism Policy 1992, had primarily identified coastal areas like Sindhudurg in Maharashtra, Bekal in Kerala, Diu, Mamallapuram in Tamil Nadu etc. The STZ idea that was floated again by Ministry of Tourism (MoT) in 2007 specifically mentioned that STZ are to be located "in tourist destination, cities, along the coast line". Tourism industry has been a prime player in pushing models of SEZ/STZ in the coast. For example, Subhash Chandra promoted Essel Group was developing a 1,000-hectare specific tourism and entertainment special economic zone at coastal villages of Gorai-Manori-Uttan region, near Essel's existing amusement park at Mumbai. It is only the struggle of the local communities that stopped the Essel group from undertaking the project. Local communities pointed out that the project would result in loss of their traditional livelihoods and homes. Their past experience had shown that development in the area had resulted in increased salinization of the fields, destruction of breeding grounds for marine life, depletion of the ground water table, etc.

The SEZ model completely bypasses the rights of the Local Self Governing Institutions (LSGIs) and ignores the impacts of such forms of development on the lives and livelihoods of local communities. Implementation of the SEZ Act (2005) in the country continues to raise serious concerns about the phenomenon of centralization of powers on the pretext of development. Many SEZs have been covers for massive real estate and de facto land grab operations. The pre draft notification should not allow construction of SEZ/STZ on the coast.

² Comment, Para 4.1 (vi): The special relaxation granted to SEZs under Para 4.1 (vi) of the pre draft Notification should be revoked. The provision provided in Para 4 .2 (vi) with respect to validity of the project clearance states that 'the clearance accorded to the projects under CRZ notification shall be valid for the period of five years from date of issue of the clearance.' The proposal for one time approval for SEZs is untenable. If SEZ continue to be permitted in CRZ areas, the land grabbing for unregulated commercial activities will continue to increase in CRZ areas. The fragile ecology and traditional livelihoods of coastal communities will continue to be destroyed.

a. *No development zone remains redundant for tourism in SEZs in CRZ III*

Provision of pre-draft Notification 2010: *The No Development Zone shall not be applicable in such area falling within any notified port limits or any notified Special Economic Zones.³ In notified Special Economic Zone construction of non polluting industries in the field of Information Technology and other service industries, desalination plants, beach resorts and related recreational facilities essential for promotion of Special Economic Zone as approved in its Master Plan by SEZ Authority may be permitted.*

³Comment, Para 8 (ii) (III) A (i), B (xi) – When the government is undertaking such an exercise of redrafting regulatory provisions to safeguard the coast, it is condemnable that MoEF continues to retain a provision of this nature, which allows ingress of industries like Infotech and tourism under the garb of development of non polluting industries.

2. Exclusion of Andaman and Nicobar, Lakshadweep islands from the CRZ notification relaxes coastal regulations in the island states.

Provision of pre-draft Notification 2010: *The Central Government, with a view of providing livelihood security to the local communities, promote conservation and protection of coastal stretches, its unique environment and its marine area and to promote development through sustainable manner based on scientific principles taking into account the dangers of natural hazards in the coastal areas, sea level rise due to global warming, hereby, declare the coastal stretches of the country and the water area upto territorial water limit except the islands of Andaman and Nicobar and Lakshadweep and the marine areas surrounding these islands upto its territorial limit as Coastal Regulation Zone(CRZ)⁴.*

⁴Comment, Para 1: We strongly object to the exclusion of Andaman & Nicobar and Lakshadweep islands from the ambit of CRZ Notification. The classification of CRZ -IV in CRZ Notification 1991 is unique to the islands and was specifically drafted keeping in consideration the unusual, fragile and rare ecosystem.

We presume that the MoEF's decision to delink the islands from the CRZ notification is taken from the Final Frontier Report, prepared under the chairmanship of Swaminathan Committee, in 2009. We believe this is a retrograde step. Review of the Island Protection Zone (IPZ) Notification reveals that it does not address issues of existing CRZ violations but proposes to use the integrated coastal zone management plan as the basis for permitting or prohibiting developmental activities. Unlike the CRZ Notification 1991, the IPZ Notification contains no regulations, specifically for tourism, which is significantly affecting the coast due to non existent waste and sewage disposal methods and management practices. Further it appears to be an attempt to push in the provisions of lapsed CMZ Notification that had proposed to regulate developmental activities in the islands through an integrated coastal zone management plan (ICZMP). Our key concerns regarding CMZ notification were that the ICZMP may become the criteria for permitting activities which are prohibited in CRZ-IV, instead of regulating them. This is because MoEF had reduced the NDZ from 200m to 50 m for tourism development in 13 islands in Andaman & Nicobar and Lakshadweep Islands, based on its ICZMP study for identification of NDZ . This reduction in NDZ was made through an amendment of CRZ notification no. SO 838 E, dated 24 July 2003. This reduction of NDZ to 50 m is against the directive of the Supreme Court in 2002 for the Andamans that prohibits development of tourism within 50 m of the HTL. The reduction in NDZ was based on the recommendations of the Shekhar Singh Committee report that saw prohibitions on tourism development upto 200m from HTL as a constraint to development of tourism in the islands.

This exclusion will legitimise all existing CRZ violations in the coastal areas of the islands. EQUATIONS research¹ undertaken in 2008, in the Andaman Islands, shows that tourism development has been undertaken in near total contravention of the CRZ Notification 1991. One of the key findings of the research is that majority of the tourism establishments are found within the NDZ and it is almost impossible to find tourism establishments within the prescribed zone of 200-500 m from the HTL. For example all resorts in Havelock and Neil Island including the Dolphin resort, which is permanent structure owned by Information, Publicity and Tourism Department of Andaman and Nicobar, violates the CRZ Notification 1991. Another example of non compliance to CRZ is that of Peerless resort in Corbyn's Cove located in south of Port Blair. This resort has put up permanent structures like restaurants, washing and changing rooms for tourists and is located so close to the HTL that sand that accumulates on the road and inside the resort premises has to be cleared periodically.

The MoEF argues that separation of the Islands of Andaman & Nicobar and Lakshadweep from CRZ Notification will help reduce livelihood problems of island dwellers. Our interpretation² of CRZ Notification 1991 is that the Notification is not an obstacle for communities to continue pursuing traditional livelihoods. However the CRZ Notification does ensure that the coast is protected through regulation of certain kinds of developments, tourism being one of them.

1 EQUATIONS et.all (2008), "Rethink Tourism in the Andamans- Towards Building a Base for Sustainable Tourism". <<http://www.equitabletourism.org/stage/readfull.php?AID=647>>

2 Corrigendum : The paragraph above is a replacement of the following paragraph in an earlier version of this paper: The MoEF argues that by separation of the islands of Andaman & Nicobar and Lakshadweep will help to reduce livelihood problems of island dwellers that they presently face due to demarcation of the entire islands as CRZ IV. Our interpretation of CRZ Notification 1991 shows that CRZ IV areas can be re-classified as CRZ I, II or III with prior approval of MoEF under the provisions of Section 6 (2) the CRZ Notification 1991. This would protect the coast from unregulated developmental activities like tourism and continue to take care of the problems faced by the Islands dwellers.

We recommend that the provision related to CRZ IV in CRZ Notification 1991 be retained and add additional stringent provision by revoking the amendment made under S.O 838 (E), 24 July 2003 to CRZ Notification 1991, that reduced the NDZ in the islands from 200mts to 50 mts.

This move has also not taken into consideration the additional vulnerability faced by the islands in the context of climate change – and in fact pushes for even greater destruction and vulnerability.

3. Construction and township projects in CRZ areas will be cleared under the process of EIA notification, 2006.

Provision of pre-draft Notification 2010: All construction and township projects more than 20,000sq.m shall be approved in accordance with EIA Notification, 2006. In case of projects less than 20,000 sq. m shall be approved by the concerned planning authorities in accordance with this notification after obtaining recommendations from the concerned Coastal Zone Management Authority (CZMA)⁵.

^{/5}Comment: Para 4.1 (ix) in the pre draft Notification requires township and construction projects in CRZ areas to take clearance from the MoEF under the provisions stipulated in the EIA notification 2006. It is a welcome move that all construction projects, irrespective of the investment involved, are being proposed to be regulated. The decision to make EIA studies mandatory for projects in CRZ areas is a positive one that has been along standing demand of the CSOs and was also recommended by Swaminathan Committee report in 2005. For all projects a comprehensive EIA report instead of a rapid EIA report should be mandatory for clearance under CRZ. It is also essential to include social impact assessment of the projects, which the pre draft notification is silent about.

The proposal of granting approval to construction and township projects of more than 20,000 sq.m under EIA Notification 2006, however, is a sham. MoEF continues to ignore the inherent problems in the EIA Notification 2006. Under the EIA Notification 2006, construction projects having a built up area between 20,000 sq.m to 1,50,000 sq.m and township projects having a built up area of more than 1,50,000sq.m or covering more than 50 ha, if classified as B1 project, requires mandatory EIA studies and public hearings. B2 projects are exempted from both these processes. It is evident in MoEF's response to our RTI application that the exemption of EIA studies and public hearings is attracting classification of tourism projects as B2. Our RTI application reveals that out of a sample of 22 tourism projects cleared by the MoEF in 2008, 13 were categorized as B2 just because their built up area was in the range of 20,000 sq. m to 1,50,000 sq.m. Only 3 were categorized as B1, since their built up area was more than 1,50,000 sq.m and or they covered more than 50 ha. These three B1 tourism projects included township projects and hotel and building complexes. Out of the 13 projects cleared as B2, two were amusement parks and some included 5 star hotel projects.

However, MoEF's response to RTI application filed by EQUATIONS reveals that, it has not yet issued any guidelines for classification of project as B1 or B2. MoEF is simply using the criteria stipulated for building & construction and township & area development projects as the parameter for categorizing projects into B1 or B2. A majority of the environment clearance letters do not mention the category (B1/B2), under which clearance has been granted. Hence the process and criteria for granting environmental clearances is not transparent and completely depends on the whims and fancies of the clearance authority. Obviously such non-transparent processes can be influenced by vested interests of those seeking quick clearances.

The above provision with respect to EIA Notification 2006 continues to be used to grant environmental clearance to tourism projects under category B2 and allows infrastructure and resources like water, energy intensive projects like 5 star hotels, amusement parks and thus escapes both publicly available EIA reports and public hearings. MoEF should also clarify if 20,000 sq.m in the pre draft Notification refers to the total area covered by the project or it is the built up area.

We demand that mandatory EIA studies and public hearing, for any development undertaken in CRZ areas is undertaken as was also recommended by the Swaminathan Committee report (2005). However to make the regulatory process true to letter and spirit, it is essential to simultaneously amend (strengthen) the EIA Notification 2006.

Provision of pre-draft Notification 2010: *All projects attracting this notification shall be accorded clearance as per the following procedure. The project authorities shall submit the following application seeking prior clearance from CRZ Notification to the concerned CZMA⁶:-Form-1; Rapid EIA Report including marine and terrestrial EIA. Comprehensive EIA for port and foreshore requiring projects as per guidelines issued by MoEF from time to time; Disaster Management Report and Risk Management Report ; CRZ map indicating HTL and LTL demarcated by an authorized agency (1:4000 scale); Project layout superimposed on the CRZ map; The CRZ map shall cover 7km radius around the project site. The CRZ map shall indicate the CRZ-I, II, III and IV areas; No Objection Certificate from the concerned Pollution Control Boards/Committees for the projects which envisage discharge of effluents, solid wastes, sewage etc⁷*

⁶Comment, Para 4.2 (i): The decision to list down specific information and documents from applicants seeking CRZ clearance is a positive one. It does not leave space for the applicant to decide on the quantity and quality of information to be submitted for a CRZ clearance. This creates a possibility for a transparent process for clearance. We recommend that, all these applications and reports should be submitted to the Local Self Governing Institutions and made publicly available prior to the public hearing. The same should also be made accessible on the websites of concerned CZMA and MoEF.

⁷Comment, Para 4.2 (i) (g): Apart from pollution control boards, NOC should also be sought from LSGIs.

4. Permitted and prohibited activities in CRZ areas

a. *Tourism continues to be permitted in ecologically fragile CRZ-III zone:*

Provision of pre-draft Notification 2010: *Development of vacant plot between 200 and 500 mts of HTL is designated areas⁸ of CRZ-III with (prior approval of MoEF permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in the guidelines at Annexure-III.*

⁸Comment MoEF continues to not define the term "designated areas" thereby allowing for subjective interpretations. This would make possible the converting of coastal zones into SEZs / STZs and bringing the administration of areas under development authorities. All these models have led to reversal of the process of decentralisation of power in contradiction to the 73rd and 74th Amendment of the Constitution. There is every possibility of governments, both central and state, to exploit this provision in their relentless drive for acquisition of land to facilitate new infrastructure and industrial development and facilitate the interest of the investors.

For example, in January 2009, the Supreme Court ordered the Goa State Government to take steps to demolish certain illegal structures made on land that the Court said, violated the terms of the Land Acquisition Act. The ruling related specifically to the Cidade de Goa hotel at Dona Paula in North Goa. The ruling said portions of the hotel needed to be knocked down. But hours before the election dates were announced, the state government passed an ordinance amending the century-old Land Acquisition Act, saving the hotel the need to demolish parts ! The ordinance was then questioned by the civil society. They alleged that for years the Cidade de Goa management blocked the customary road, thereby denying access to the public beach in front of the hotel premises and the same was being regularised by the government. They also pointed out to the fact that while hotels were permitted to flout the CRZ regulation, the houses of local coastal communities were evicted from Baina and houses standing for centuries were demolished for flouting CRZ.

In, Para 8 (ii) (III) B (i) : It is of concern that tourism continues to be allowed in vacant plots between 200 & 500m in CRZ III. This provision has been misused by tourism establishments to convert and privatise common property resources and agricultural land for tourism purposes. For example, again from Goa, the Heritage Village Club Resort owned by M/S Select Holiday Resorts Pvt Ltd., had commenced construction of the resort in Arossim beach in Cansaulim Panchayat. It is located within NDZ and has made construction within and beyond 200 m of HTL. The construction did not leave enough space for access to the beaches as prescribed in the CRZ Notification. Instead of the prescribed 20 m, less than 10m space was left for public to access the beach. The Heritage Village Club resort

was also observed to have placed desk chairs for its guests on the NDZ and security guards were placed to drive away local people from traversing those areas, even for access to the coast³.

b. *Ground water withdrawal permitted only for local communities within 200 m of HTL.*

Provision of pre-draft Notification 2010: *Drawal of groundwater and construction of mechanisms therefore, within 200mts of HTL except in the areas which are inhabited by the local communities.*⁹

⁹Comment, Para 3.1 (xii): This is a progressive point. However this may be misused for allowing extraction of water for tourism establishments located within the NDZ and in areas which are inhabited by local communities. Thus it is important to add the following text to this provision 'and for their use. For any other use approval of LSGIs should be mandatory'.

5. Areas under special consideration

We endorse the concern raised by CSOs that special consideration granted to Greater Mumbai, Navi Mumbai, Goa, Kerala and the Sunderbans in the pre draft Notification will open the flood gates for large scale infrastructure development in the areas.

a. *CRZ areas in Greater Mumbai and Navi Mumbai*

Provision of pre-draft Notification 2010: *All open plots within CRZ-II shall be categorized as CRZ-III, i.e., no development zone*¹⁰

¹⁰ Comment, Para 8 (ii) (V) (1) (iv): In regard to reclassification of CRZ -II areas as CRZ -III, in greater Mumbai and Navi Mumbai, it is a good provision that will regulate the growth of tourism establishments from opening up new projects in vacant plots within CRZ II areas.

Under the justification of increased connectivity, a spree of new airports and airport expansions are planned. There is a direct link between construction of airports and opening of new areas for tourism. Such decisions are not only boosted by the aviation industry but also policy decisions like positioning and maintaining tourism development as a 'National Priority Activity' as was state in the 10th Five Year Plan and reiterated in the 11th Five Year Plan by the Planning Commission. It says that the Vision Document prepared by Ministry of Tourism envisages target of 10 million international tourist arrivals by 2010. This target is proposed to be achieved through diversification of principal source market which includes improvement of infrastructure facilities like airports, roads and civic amenities. It also suggests that the infrastructure facilities at the airports would be developed to meet the rising air traffic requirements.

It is of concern that inspite of restrictions on new constructions in CRZ I areas, a massive infrastructure heavy so called 'green' airport is being allowed in an ecologically sensitive CRZ I area like Navi Mumbai.

b. *CRZ for islands in backwaters of Kerala*

Provision of pre-draft Notification 2010: *The islands within the backwaters shall have 50mts CRZ area from the High Tide Line on the landward side. Within 50mts from the HTL existing dwelling units of local communities can be repaired or reconstructed. No new constructions shall be carried out*¹¹. *Beyond 50mts from the HTL on the landward side, dwelling units of local communities can be constructed with the permission of the local panchayat.*

¹¹Comment, Para 8 (ii) (V) (2) (ii) to (iv): The provision to allow reconstruction of dwelling units for local communities within 50 m from HTL, in islands in backwaters of Kerala and construction with approval of the LSGIs beyond 50 m, is a welcome move. It is not clear, if this particular provision will restrict constructions for other purposes like beyond 50m upto 200 m. It is critical that MoEF clearly states that construction of tourism establishments will not be permitted till 200 mts, as is applicable in CRZ III. It is critical that MoEF clarifies that for all other coastal areas in Kerala, the regulatory provisions of the CRZ Notification 1991 relating to CRZ I, II and III will

3 EQUATIONS (2008), "Coastal Regulation in India- Why Do We Need A New Notification?", Pg 11.
<http://www.equitabletourism.org/stage/readfull.php?AID=451>>

remain applicable. All developmental activities will be permitted in adherence with the same.

c. CRZ for Sunderbans and other ecologically sensitive areas

Provision of pre-draft Notification 2010: The entire Sunderbans Bio-sphere and other identified ecologically important areas such as Gulf of Khambat and Gulf of Kutchchh in Gujarat, Malvan, Vasasi- Manori in Maharashtra, Achra-Ratnagiri, Karwar and Coondapur in Karnataka, Vembanad in Kerala, Bhaitarkanika in Orissa, Coringam, East Godavari and Krishna in Andhra Pradesh shall be declared as Critically Vulnerable Coastal Areas (CVCA)¹².

^{/12} Comment, Para 8 (ii) (V) (4) (a): The process and criteria for identification of the 12 areas as ecologically sensitive to be declared as CVCA is not clear. The list is not comprehensive and does not include heritage sites, where tourism has come in e.g. Mammallapuram, Tamil Nadu. It is also critical to state the authorities to be involved in the identification of CVCA at the Central and State level, the basis for identifying areas for CVCA should be mentioned. Moreover MoEF in consultation with local communities must prepare the list of activities which needs to be prohibited / permitted in CVCAs to regulate impacts of unregulated development. The following safeguards will prevent central or state governments from pushing in projects of the nature of Integrated Sahara Tourism Circuit that was proposed as a joint venture between Sahara India Pariwar's sub agency the Sahara India Tourism Development Corporation Ltd. and the Government of West Bengal, which was stalled due to resistance from local communities and CSOs⁴.

Para 8 (ii) (V) (4) (b) provides for an integrated management plan to be drawn up within a period of one year from the date of issue of the pre draft Notification for Sunderbans Biosphere Reserve. The need for differentiating in particular the integrated management plan for Sunderbans is not clear. We suggest that the integrated management plan for Sunderbans Biosphere Reserve should be a part of the CZMP and developed in accordance with the approved CZMP and there by ensure public participation and transparency.

6. Enforcing the CRZ notification

Provision of pre-draft Notification 2010: The State/UT CZMA shall identify the violations of CRZ Notification, 1991 within a period of three months from date of issue of this notification and take necessary action in accordance with the Environment (Protection) Act, 1986 within a period of six months from the date of issue of this notification¹³. All violations of the CRZ Notification, 1991 which have been identified shall be acted upon by the respective State/UT CZMAs within a period of six months¹⁴ from the date of issue of this notification. MoEF, NCZMA and State/UT CZMA is of the opinion that in view of the likelihood of a great injury to the coastal environment¹⁵, it is not expedient to provide an opportunity to file objections against the proposed directions, it may, for reasons to be recorded in writing, issue directions without providing such an opportunity .

^{/13 &14} Comment, Para 6.1 (a): The time frame of three months for identification of CRZ violations is insufficient and impractical and will lead many violations let off the hook under the guise of the lapse of the timeperiod. For so many years tourism industry has been violating the provisions of the existing CRZ Notification 1991, openly and with impunity. Hardly any action has been taken over the years against such violations. How does MoEF justify that it will be capable of taking action against all violations on the coast across the country. For example a media report from West Bengal states that in Mandarmani, a small village on the coast construction in violation of the CRZ Notification 1991 is rampant. More than 50 resorts have recently come up along a 6-kilometre stretch on the beach and the area is being promoted by the state government as a weekend getaway and an alternative to the more crowded Digha coast. In August 2008, the Calcutta High Court issued a directive that no future construction would be permitted at any place in Mandarmani that fell within the CRZ, but construction continues in violation of the court's order. The district authorities plead their inability to take any action with out active support from the state government.

This is only one example from part of this country's vast coastline. Such violations are rampant through out the coast. If past experience is anything to go by, and we presume that the MoEF has turned a new leaf with respect to

4 EQUATIONS et al. (2004), "Resisting the Sell-out of the Sunderban Biosphere Reserve: An investigation report" by PUBLIC, BEAG and EQUATIONS in 2004. <<http://www.equitabletourism.org/stage/readfull.php?AID=658>>

its intentions to deal severely with violations, we suggest more realistic timelines in order that its goal may be achieved.

^{/15}Comment, Para 6.2 (f): We understand that certain situations may cause damage to the coastal environment, at times are unpredictable like Tsunami. However, in order to prevent misuse of this provision by authorities like MoEF, NCZMA and State/UT CZMA, we recommend that the pre draft Notification should lay down the process through which it will be ensured that MoEF, NCZMA and State/UT CZMA will enlist such situations, which could cause great injury to the coastal environment, through public participation and debate.

7. Other comments

1. The guidelines given in Para 5.1 (ii), (v) of the pre draft Notification stating procedure for preparation of coastal zone management plan and its contents within one year from the date of issue of notification is a welcome move. The finalization of CZMP after public debate is a positive attempt to involve both LSGIs and local coastal communities, in regulating developmental activities on the coast. We recommend that the proposed revision of CZMPs after five years should also be subjected to public debate.
2. With regard to provisions of creating dedicated websites for making available 'the agendas, minutes, decision taken, clearance letters, violations, action taken, court cases etc., including the CZMPs' for improving transparency and public access to information on coastal issues, as mentioned in Para 4.2 vi) (a) of the pre draft, are welcome moves and they should be implemented in true spirit.
3. *As mentioned* in Para 2 (ii) in the pre draft Notification, we recommend that in addition to water bodies influenced by tidal effects from sea, like 'seas, bays, estuaries, creeks, backwaters, lagoons etc', it is important to retain other water bodies influences by tidal action like rivers which was covered under CRZ Notification 1991. It should also include the islands in backwaters. The pre draft Notification must also take into consideration violations where creation of artificial structures changes the salinity level. For example case study from Kerala shows that man made constructions like bunds have been made to stop the tidal flow and reclaim land from the sea. For example with respect to the Oberoi Hotels and Resorts being allowed to construct a resort in Pathiramanal island in Kerala, the court verdict pointed out that the island is not influenced by tidal action because of the Thaneermukkam bund in the Vembanad Lake. Because of the bund the salinity level of the land was less than the prescribed criteria of 5 ppt as mentioned in CRZ Notification 1991. Therefore the court permitted the construction.
4. With reference to Para 2 (iii) of the pre draft Notification, it is a recognition of the long standing demand of the CSOs that no construction is permitted on the seaward side of the hazard line since these are ecologically fragile areas and vulnerable to sea level rise. We recommend that to further safeguard the coastal zones from unregulated activities like tourism, mining and infrastructure development, the provisions of CRZ I, II and III should be adhered to while permitting activities based on the hazard line thus mapped. It will provide better framework for prohibiting activities on the coast. Otherwise there remains a possibility of creation of loopholes thus allowing vested interests to grab the coast for activities like tourism. It is also critical that MoEF gives a time frame for periodic review of hazard line in collaboration with the coastal communities and LSGIs.
5. *With respect to construction of public facilities for traditional inhabitants in biosphere reserves as provided in para 8 (ii) I (ii) (c)* of the pre draft Notification, it is welcome move that facilities (schools, dispensaries, community toilets etc.) for traditional inhabitants living in all biosphere reserves is now permitted and not just limited to Sunderbans Biosphere Reserve, as was the case earlier. It is also progressive that safety measures will be also provided to these facilities.
6. The provision with respect to discharge of untreated sewage, effluents or solid waste provided in para 8 (ii) (IV) (a, b) of the pre draft Notification should be applicable to all zones in CRZ including Andaman and Nicobar and Lakshadweep islands.
7. Para 8. (ii) II (i) of the pre draft Notification allows hazard line to become the criteria for allowing construction in CRZ -II zone. The pre draft Notification does not provide any definition of hazard zone. Permission for

constructions on the land ward side of the hazard line which is being demarcated, to identify coastal areas that are vulnerable to shore line changes and flooding due to sea level rise is questionable. There is a possibility that areas in CRZ II will be further opened up for constructions. In this case we suggest that laws applicable to CRZ -I,II, III and IV as provided in CRZ Notification 1991 be adhered to while permitting constructions in hazard zone. MoEF's recommendation to build safety measures for construction in hazard zone is unreasonable keeping in mind the fact that areas close to the hazard zone are already vulnerable to sea level rise. Experience from Tsunami in 2004 shows that construction of barriers like sea walls have not been useful in proving safety from natural calamities.

8. *With respect to identification of high, medium, low erosion sites, through scientific studies, para 3.1 (ix) (d) of the pre draft Notification continues to prohibit land reclamation for commercial activities like tourism. It is a progressive provision that provides for undertaking studies to determine the causes of coastal erosion. Tourism is one of the activities which has significant impacts on the coast and is known for its notoriety in altering the coast through construction, in violation of the CRZ Notification 1991. We recommend that similar studies be undertaken for tourism establishments on the coast. Moratorium should also be placed on tourism establishments in high erosion zones thus identified.*

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