

COASTAL ACTION NETWORK

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Advisory Committee

Justice V.R. Krishna Iyer,
Former Judge, Supreme Court of India.

Justice Rajindar Sachar,
Former Chief Justice, Delhi High Court.

Justice H. Suresh,
Former Judge, Mumbai High Court.

Justice Kuldip Singh,
Former Judge, Supreme Court of India.

Ms. Indira Jaisingh,
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Mr. Shyam Chainani,
*Bombay Environmental Action Group,
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Dr. V. Vasanthi Devi,
*Former Vice Chancellor,
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Former Chairperson, State
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Dr. Vandana Shiva,
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Mr. A. Sreenivasan,
*Former Joint Director of Fisheries,
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Ms. Norma Alvares,
Advocate, Goa.

Consultation Statement Enforcing & Strengthening the Coastal Regulation Zone (CRZ) Notification 1991

41 Delegates at the Consultation on Enforcing & Strengthening the Coastal Regulation Zone (CRZ) Notification 1991 organised by Coastal Action Network on 18th August 2009 call upon the Minister Shri.Jairam Ramesh and the MoEF to immediately repeal all the amendments to the 1991 CRZ Notification Notified by MoEF despite wide spread public opposition against each amendment especially from the fishing community, environment organisations and human rights NGOs working for the protection of the livelihood of the fishing community and fisheries resources. This is the first step that is urgently necessary to be able to enforce and strengthen CRZ 1991 Notification.

The delegates also condemned the practice of MoEF subcontracting the holding of important consultations to NGOs and especially in this particular case of organizing 5 Consultations with regard to conclusion of the **Final Frontier Report** of the Expert Committee on the Draft Coastal Zone Management Notification 2008 organised by the NGO CEE. We understand that this organisation has little or no credentials and expertise in protection of Coastal ecology, Ocean dynamics, and fisheries / marine resources and livelihood concerns of the fishing people and other coastal poor.

The delegates at the consultation unanimously condemned every assault on the 1991 Notification caused by successive amendments, amounting to 25. Reiterating its position that the CRZ Notification, 1991 which was the first legal instrument to recognise rights of fishing people, the threat of sea level rise and the need to preserve coastal ecology for future generations was constantly under threat from various powerful property lobbies including industry and infrastructure establishment, hotels and tourism, sand mining, real estate, etc., supported fully by the Ministry of Environment and Forests.

Members: Association of Deep Sea Going Artisanal Fishermen – Thoothur; Chennai & Thiruvallur District Kattumara Fishermen Association - Chennai; Democratic Fisheries & Allied Fisheries Sangam – Tuticorin; Environment Conservation Society - Muthupettai; Joint Action Committee against Silicon Sand Mining -Vanduvancherry; Kancheerapuram District Fishermen Co-ordination Committee; Killai Grama Meenvar Kuttammaippu; Makkal Vazhurimai Iyakkam – Pamban; National Union of Fishermen – Tuticorin; Federation of Tri-Sea Women’s Movement – Kanniyakumari; Pudukottai District Coastal Fishermen Federation; Fishermen Joint Action Committee - Pulicat; Ramnad District Fish Workers Trade Union - Ramnad; Tamil Nadu Fishworkers Union - Nagercoil; Thiruvarur District Meenpidi Thozhilalarkal Union; Vanga Kadal Meen Thozhilalar Sangam – Nagapattinam; Federation of Consumer Organisations of Tamil Nadu; Meenavar Viduthalai Vengaigal; A.Gandhimathi, Advocate, Madurai; D.Geetha, Advocate, Chennai; M. Sethu Ramlingam, Writer, Madurai; T.Mohan, Advocate, Chennai; Gilbert Rodrigo, Co Convenor, Tamil Nadu Campaign for the Protection of Water Resources; Center for Community Service – Tuticorin; Consumer Action Group - Chennai; Human Rights Advocacy & Research Foundation – Chennai; Legal Resources for Social Action-Chengalpattu; Neythal – Nagapattinam; People’s Watch, Tamil Nadu - Madurai; Rural Upliftment Centre- Nanguneri; SED – Kanniyakumari; Society for Integrated Rural Development - Madurai; Sneha- Nagapattinam; Tamil Nadu Environment Council -Dindigul; Tamil Nadu Rural Reconstruction Movement- Ramnad; Tamil Nadu Women’s Collective - Chennai.

Till today even minimum management systems as required under the 1991 Notification have not been implemented including Coastal management plans, approved maps, marking on the ground the Low Tide Line to High Tide Line, High Tide Line, 200 mts and 500 mts along the coast in several states and 100 mts on either side of rivers, lagoons, creeks and other coastal water bodies upto the point of tidal action. The State Coastal Zone Management Authorities have failed to prevent CRZ violations or take action against violators along the coast. The State's Department of Environment has remained a passive spectator to hundreds of violations.

MoEF and Shri.Jairam Ramesh should use the Two Hundred and Second Report on Coastal Management Programme of the Parliamentary Standing Committee on Science and Technology, Environment and Forests chaired by Dr.V.Mythreyan as an additional set of recommendations for enforcing and strengthening CRZ Notification 1991. Importantly the Report states, "The onus of failure lies on those who are the saviours. It is more the absence of firm resolve and strong will-power to enforce the regulation that has failed the notification rather than the notification itself – as is the case with most of the environmental legislation. CRZ rules are being observed more in the breach rather in adherence and this had the tacit support of the administration – Central or State or both. A number of violations of CRZ area have taken place. Destruction of sensitive ecology such as mangroves, coral reefs, breeding sites of endangered species, illegal constructions in 'No Development Zone' without adhering to the norms are some of the major violations of the notification". Yet, till today there is no comprehensive list of violations along the coast of Tamil Nadu or other coastal states which has been made public nor the measure taken to penalise the violators or prevent further violations.

The Parliamentary Committee Report also highlights that the "Non-demarcation of High Tide Line even after many years of CRZ notification coming into effect is yet another instance of laxity or lack of commitment on the part of Govt. to implement it. Similar is the case with preparation of Coastal Zone Management Plans as envisaged in the CRZ notification. No State Govt. has so far submitted the revised Coastal Zone Management Plan for the entire State as per the procedure laid down in the CRZ notification".

We condemn the mere exercise of constituting another 4 member committee headed by Dr.M.S. Swaminathan to examine the comments and criticism including detailed analysis received by the Ministry as to why the draft Coastal Management Zone Notification, 2008 should be withdrawn by MoEF. It is also stated that the other TOR for the committee was to advise on the policy and legal framework for Integrated Coastal Zone Management. The Ministry should reject this report as it argues in favour of including many parts from CMZ Notification 2008 into the new legal framework. Further it must be remembered that it is the same Dr.M.S.Swaminathan who presided over the committee to Review the Coastal Regulation Zone Notification 1991. Dr.Swaminathan was severely discredited for this report which lead ultimately to the framing of the anti - fishing people and coastal poor Draft CMZ Notification 2006, 2007 and 2008. On what basis does the MoEF again request the same Dr.M.S. Swaminathan to chair the expert committee which produced the report called Final Frontier together with two other Government Bureaucrats and the chief functionary of Delhi based NGO which is again chaired by Dr. M.S. Swaminathan.

The delegates unanimously rejected the **Final Frontier Report** as a mere eyewash by MoEF especially on the ground that in its deliberations it called for issuing all together a new Notification integrating the key features of CRZ 1991 and CMZ 2008. Instead of calling upon MoEF to withdraw all the amendments to the 1991 Notification which had weakened this law it preferred to incorporate amendments as recommended in the CRZ Notification 1991 as the basis for evolving an agenda to protect eco system and habitat of India coast for conservation and livelihood security.

This report states that “The livelihood needs of fisherfolk – activities concerning their occupation, namely fishing – are seen as left ambiguous in the 1991 CRZ Notification. As a result, on several occasions, fisherfolk communities have raised demands that their genuine needs have been ignored. In CMZ, 2008, an effort was made to correct this ambiguity by including the provision that there would be “no restriction in the fishing and fisheries related activities of local communities living in the area”. It is false to state that fish folk activities concerning their occupation was left ambiguous in 1991 CRZ Notification. Indeed what was prohibited or to be regulated in 1991 Notification had no significant control over lives of the fishing community. It is the Draft CMZ Notification 2008 which had categorically stated that areas of CRZ - III which is the home land of the fishing people and allied fish workers would be literally taken over for SEZ's, Chemical Industrial Estates, Tourism, etc., there by pushing traditional fishing people out of shore line fisheries.

Further the Expert Committee recommended that the CRZ Notification, 1991 should review the list of such activities and suggest their inclusion into the permissible list in Zones III and II. The list will have to be carefully evaluated to ensure that it does not lead to misuse. For instance, there is a case to be made for inclusion of ‘fish processing units’ in the permissible activities. However, it is also clear that such units could potentially be large, polluting and owned by non-fishers. Similarly the Report further states that it is legitimate in the No Development Zone of CRZ III (0-200 meters), for fishing community / coastal community to be permitted to engage in tourism related construction and activities under the ownership of fishing community. The delegates thoroughly rejected this recommendation by the committee as it could lead to proliferation of tourism units in existing dwelling units building of new resorts, farm houses, hotels, etc., by real estate and propertied interests thereby damaging the coast and already vulnerable livelihood of the fishing community. Best examples of this are the violations found in Mahabalipuram.

The Dr.M.S.Swaminathan report (Final Frontier) exposes its true intention and to which lobbies interest it is taking care of when it states “It is also imperative that state governments must review their policy for private-developer based building projects in CRZ areas. The government must consider public finance for housing so that this development can be used for meeting the needs of existing households, without compromising on ecological safety”. This recommendation will directly result in the total weakening of the 1991 CRZ Notification rather strengthening it and is meant to supports the real estate - builders lobby, infrastructure projects like power plans, ports and harbours, 6 lane highways, hotel and tourism industries, etc.,

Also the report recommends, “The CRZ 1991 should be modified to include the seaward side so that port projects are regulated in terms of their impacts on the sea and its land interface. In the CMZ 2008, an effort was made to regulate all activities related to the development of a port – including ancillary and road and transport-related activities – through an integrated port management plan. The CRZ 1991 should be amended to include this provision”. Again it recommends to include the opening up of the seaward side which was protected under the CRZ 1991 Notification. This once again proves the great love of M.S.Swaminathan for retaining the Draft CMZ 2008 Notification. In short, in the name of strengthening CRZ 1991 Notification the expert committee is at great pain to bring back Draft CMZ Notification 2008 through the back door by couching the report with pseudo phrases like “without compromising the sensitive ecology”, “resolve issues regarding development and redevelopment”, “introduce regulations to manage proliferation of ports.. by considering cumulative impacts”, “introduce higher standards for disposal of effluents into coastal waters”, “include the seaward side to ensure protection from current and future threats”, “introduce measure to greatly strengthen regulatory capacity at all levels”, “introduce policies to cope with and adapt to vulnerability of the coast ”, etc., etc.,

While 8 State Governments have rejected CMZ Notification 2008, the Final Frontier Report argues to include many parts of CMZ 2008 into CRZ 1991 as a new legal framework.

Hence the MoEF should reject this report and consider the Parliamentary Standing Committee Report as the basis for strengthening the CRZ Notification 1991.

The following Resolution / Recommendations taken in this Consultation for enforcing and strengthening CRZ Notification 1991

1. The Honourable Minister Shri.Jairam Ramesh is urged not to participate in the Consultation organised by Centre for Environmental Education (CEE), Bangalore which has been subcontracted by MoEF being held on 19th August 2009. This Consultation is being held on the basis of the Report (Final Frontier) produced by a 4 member expert committee chaired by Dr.M.S.Swaminathan (July 16th 2009). Instead we urged Minister to take steps first to implement the management and monitoring provision of the CRZ 1991 Notification by compelling MoEF to do so within a period of 3 months.
2. It is unanimously decided that Coastal Action Network will not participate in the Consultation facilitated by CEE to be held in Chennai on 19.08.2009 and called upon all fishing leaders, men and women, not to participate in the above mentioned Consultation.
3. A Delegation of fishing leaders and NGOs on behalf of Coastal Action Network (CAN) will meet the Minister of MoEF Shri.Jairam Ramesh and would attempt to submit the Memorandum containing its conclusions and recommendation of the Consultation.
4. As a precondition before any further dialogue with MoEF we demand the following
 - All constructions / encroachments along the coast after 1991 should be immediately removed / demolished and the violators penalised.
 - Violators of CRZ must be identified periodically along the coast, rivers and other coastal water bodies by the State and the Local Government and litigation filed by the State.
 - There must be a complete halt to all new construction of infrastructure projects, industries, hotels, mines, etc.,
 - Implement those recommendation of The Parliamentary Standing Committee on Science and Technology, Environment and Forests in its Two Hundred and Second Report on Coastal Management Programme chaired by Dr.V.Mythreyan, MP which are meant to strengthen the CRZ Notification 1991 including monitoring mechanisms and role of fishing people, allied fish workers and other coastal poor in the decision making and operation of management and control systems.
 - Repeal all amendments to the CRZ Notification 1991. Strengthen CRZ 1991 Notification in its original form and take further steps to enact a comprehensive coastal ecology and livelihood protection legislation only after encouraging a fishing people and allied fish worker to first put forward their views on law for protecting their homeland.
 - Line demarcation (HTL, LTL, 200mts, 500mts), finalisation of coastal management plans, approval of coastal management maps making public all violations along the coast of India should be done within 90 days. These Maps should be made available to all local panchayats. Decentralised governance and management measures (fishing people's views) should be the basis for such a process. Similarly Definitions should be clear and penalty clause in CRZ 1991 Notification should be strengthened.

Yours sincerely,

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