

# Why Do Institutions Shy Away from Action?

## Case of Coastal Zone Management Authorities

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Coastal zone management authorities—which were created for the implementation of Coastal Regulation Zone notifications to regulate the use of space for the entire coastline of India at the state level—are relinquishing their powers. Across coastal states, a particular diffidence is seen in taking cognisance of CRZ violations and addressing them. First, when does an institution refuse to use the powers assigned to it? Is it when the powers to enforce are not balanced by protection to them? Or is it when there is a lack of political will? Second, are the instances of inaction borne out of a fear of backlash or a sheer lack of leadership amongst the members to take bold decisions? The paper concludes with identifying a few of the factors that can make the institutions act.

Last year, a senior scientist from the Kerala Coastal Zone Management Authority (CZMA) shared with the media the inability of the Kerala CZMA (KCZMA) to act on violations of Coastal Regulation Zone (CRZ) notification, 2011 (MoEF 2011) unless a complaint is made in this regard (Giri 2016). His statement implied that the KCZMA is not empowered to take suo motu cognisance of violations. But the fact is that CRZ notification 2011 that the CZMAs draw their powers from, does not hinder coastal institutions from taking suo motu cognisance of violations. In particular, clause 3 of the order constituting the KCZMA empowers it to inquire into alleged violations and review cases of violations that it can take suo motu or on the basis of a complaint (MoEFCC 2016). Such orders issued by the MoEFCC<sup>1</sup> lay out the scope of the responsibilities of CZMAs and district level coastal committees (DLCCs) that includes planning for the coast, project appraisals, monitoring and enforcement.

Besides such specific orders, the other regulation that guide coastal regulatory institutions in general is the CRZ notification (CRZ notification means CRZ notification, 2011, unless stated otherwise) that regulates “development” of the 7,500 km long coastline of India. It divides the first 500 m of the coast<sup>2</sup> into CRZ I (ecologically sensitive areas), CRZ II (urban areas), CRZ III (rural areas), CRZ IV (water areas), and areas requiring special consideration (CRZ areas of Kerala and Goa, municipal areas of Greater Mumbai and critically vulnerable coastal areas) prescribes different regulations and restrictions for each. They range from restriction on setting up of new industries and reclamation of land (except for foreshore facilities), limits on building height and number of storeys in urban areas, restriction on withdrawing groundwater in first 200 m of CRZ, guidelines to be followed for building tourism structures in rural areas, restriction on development in the first 200 m of rural areas, etc. CRZ areas of Goa and Kerala got certain relaxations such as islands in backwaters of Kerala to have a CRZ of 50 m from the coast, permission to build foreshore facilities within this 50 m wide zone, permission to build temporary tourism structures in Goa, etc. Through its clause 6 (a) the notification empowers the CZMAs at the central and the state levels for its implementation. In its clause 6 (c), the notification makes the state coastal zone management authorities (SCZMAs) responsible for monitoring and enforcement, with “assistance” from duly constituted “district-level committees under the chairmanship of the district magistrate concerned containing at least three representatives of local traditional coastal

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communities including from fisherfolk” (MoEF 2011). Thus the mandate of the CZMAs is broad and generic (Menon et al 2015), with adequate power to permit and reject activities proposed within the juridical boundary in their command, besides taking action on violations of the notification and its own orders.

Despite such clear text in clause 3 of the order constituting it, the KCZMA’s diffidence to enforce the CRZ notification raises curiosity. Lack of willingness to act has been seen in the past in case of the Odisha CZMA as well when its erstwhile member (2008–11) shared in October 2014 that CZMAs do not have any authority to take action (Menon et al 2015). In fact, such a reluctance to enforce regulations is observed across the CZMAs. Taking CZMAs as an example, in this paper an attempt is made to address the following questions: why do institutions shy away from action or choose not to act, notwithstanding their mandate to do so or otherwise; what are the reasons for this inaction prevalent amongst regulatory institutions, and how can it be addressed? This paper draws from a study evaluating the performance of CZMAs and two decades of implementation of CRZ notification. The study was based on empirical analysis of the functioning of CZMAs through the reading of the minutes of their meetings, interviews with the CZMA members and tracking and analysing development around coastal governance in nine coastal states of India. The paper focuses on CZMAs of four states (SCZMAs, hereinafter): Goa, Gujarat, Kerala and Odisha. These four SCZMAs have been chosen to highlight the general patterns in practice of enforcement and regulation. To ensure that they represent the CZMAs in general, the selection has two SCZMAs—of Gujarat and Odisha—that were chosen for the Integrated Coastal Zone Management Project funded by the World Bank.<sup>3</sup> Two of them—Goa and Kerala—have enjoyed certain exemptions in the CRZ notification, 2011. Goa has had a deluge of project proposals mostly concerning repair and reconstruction of old houses that it had to appraise. Kerala has been grappling with a host of tourism and real estate projects proposed in its backwaters and the beaches. While Gujarat has fewer projects granted on its coast, these are huge projects spread over thousands of hectares of land for ports, thermal power plants, and industrial zones. The coast of Odisha, on the eastern side of the coast, though receives less project proposals, is climatically and ecologically highly vulnerable.

The paper begins by looking into the literature on implementation failure and institutional action and how they are embedded within the policy design. It draws from literature exploring different aspects of institutional functioning to understand how rules and powers influence institutional action. The next section provides a brief overview of performance of the four selected SCZMAs on aspects of enforcement of CRZ notifications. These two sections together set the stage for examining SCZMAs’ inaction in the subsequent sections. Then the paper places the performance of SCZMAs in the last two decades in the context of their history, origin, their relationship with other departments and institutions above and below them and the policy lacunae. This part of the paper

identifies factors that influence SCZMAs’ practice and analyses the consequent responses on the part of the four SCZMAs. Then the paper builds on the analysis to examine if SCZMAs are in a “compliance trap” and how inaction arising out of this trap gets expressed across SCZMAs, and suggests some ways of avoiding this trap.

### Design, Implementation Failure and Inaction

A vast amount of literature analyses institutional failure and places it within policy design. Mosse (2005) makes a distinction between a good policy and a policy that is implementable by highlighting the two ways through which a policy can be viewed: instrumental view to assess its efficacy in problem solving and critical view to bring to the surface the hidden purpose of bureaucratic power that is to maintain the status quo of power relations. He delinks policy from its implementation and brings in an intermediate step of interpretation. It is to drive home the point that more often than not policy failure is a failure of interpretation and not of implementation. As a conclusion, he offers that by forging a split between policy and political economy, the distance between policy and practice is actively maintained and reproduced. Escobar (1994) and Ferguson (1994) in their works argue that policy is inherently not designed to bring any change; it is to maintain and embolden the existing power structures. Each of these authors try to highlight that policy cannot be designed in a vacuum while being disconnected with the social, political and economic contexts. Hence, non-implementation, if viewed in the context of making any change, is not an anomaly but a part of the political economy of development. Does the reluctance of CZMAs to act emerge from this realisation that the policy will not permit any humungous changes, then why rock the boat at all? Does it imply that to bring meaningful change and in case of CZMAs to keep alive their motivation to act, should they be made part of the policy design?

Dubash (2005) by analysing the creation and working of electricity regulators, presents regulation as “an arena of social policy” and suggests a role for regulators in policy design. He suggests that if regulatory agencies are opened up (and not kept away from the socio-economic context) they can speak to existing social concerns and play a role in social policy.

Another perspective that researchers have tried exploring in the last decade is to try to understand institutions using a broader frame adopting an actor-centric approach. They define institutions as “permanently socially (re-)produced rules that enable, constrain, and give meaning to social practices and that comprise regulative, normative and cultural-cognitive elements” (Etzold et al 2012). Etzold et al (2012) reinstate three aspects of institutions’ being: rules, norms and cognitive patterns, and term them as “three pillars” to determine institutions and their assertiveness. On similar lines Kim (2008) highlights that political responsiveness and bureaucratic autonomy both come into play in policy implementation. Do these three pillars define the legitimacy of the CZMAs as well? If so, how have they affected the implementation of regulations as practised by CZMAs?

When speaking of striking a balance between conservation and development, Brown (2003) enlists a number of reasons why institutions do not fit the ecosystems, including the dynamics of ecosystems, uncertain future changes and different set of actors with varied interests and objectives. Lele et al (2010) also concede the challenge associated with seeking to strike a balance between sustainability, local livelihoods and developmental pressures in environmental governance, more so in context of India. While the works referred above point to the fact that institutional action and performance need to be viewed in a social and political context, and in cases of environmental governance the dynamic nature of the ecosystems, in the next section we will try and see if these inferences hold for coastal governance.

Even while we look at CZMAs through the broad frame of implementation failure, within this frame the paper would narrow down further to the factors leading to institutional action and explore reasons for inaction. In particular, where the cited works on implementation failure assume that institutions are meaning to exercise their powers and act as per their mandate, in case of CZMAs we are trying to understand reasons behind institutions' diffidence to act. Varone et al (2013) develop the concept of "functional regulatory space" to understand regulatory action. They advocate that the interdependencies required for "inter-policy coordination, the trans-territoriality of State action and multi-level governance" be acknowledged. Does such interdependency fully characterise "functional" CZMAs?

Can the CZMAs' inaction be traced into the fact that they have limited decision-making powers and are bound by rigid rules, which do not inspire free action? On this line, the analysis by Goodin (1986) on discretion would be useful. It states that discretion if exercised to achieve some commonly agreed goals it is considered positive; however when it is strictly bound by the rules it is a "residual concept" and viewed negatively as a "lacuna in a system of rules." Nevertheless, Goodin also highlights that excess of rules does not mean elimination of discretion. After all, rules require interpretation and any interpretation involves discretion (Baldwin 1986). Goodin argues that discretion only expands (and does not limit) with more specific laws. Do these inferences hold for CZMAs? What is their inaction borne out of?

### CZMA's Performance on Enforcement

CZMAs in the nine coastal states of India, drawing from the CRZ notification and their constitution orders are expected to identify violations and verify those and take actions against the ones that are established. While the CRZ notification, 2011 mandates that a list of violations reported/identified and action taken by the SCZMAs against those be uploaded on respective websites of SCZMAs, only a couple of authorities (Odisha and Karnataka) have been maintaining this. Even SCZMAs of these two states have not updated the information since 2014. Additionally, violations have not featured much in the agenda items of the meetings of these SCZMAs. Further, the number of violations identified compared to the number of projects that

have been granted seem minuscule. Table 1 lists the number of cases of violations as reported by the SCZMAs to the National Coastal Zone Management Authority (NCZMA) in its meeting in June 2013 and project proposals appraised by the SCZMAs till March 2014.

While the discrepancy across sources (Table 1) is a matter of concern, the point to be noted here is that these are only the violations identified; the number of violations on which action has been taken is much smaller. Reasons, as identified by Menon et al (2015), range from the usual paucity of resources: both financial and human, political interference, overload of proposals for appraisals, to lack of support from the local governments and other departments. However, there have been spurts of action after the issuance of CRZ notification, 2011 whenever the Ministry of Environment and Forests (MOEF) ordered the SCZMAs to report on violations and action taken on those. It is particularly important that this took place before the fresh planning exercise under the new notification began ostensibly to avoid regularisation of violations in the new management plan. However, neither the planning exercise has been completed as yet (despite the initial deadline being two years from the notification), nor has the identification of violations been taken seriously. In fact, this urgency that the MOEF thrust on the SCZMAs in the period from 2011 to 2014, does not seem to be there anymore. Besides those mentioned above, another challenge to enforcement has been the lack of clear methodology for verification of violations and taking action on those (Menon et al 2015).

**Table 1: Number of Cases of Violations and Project Proposals Examined by the SCZMAs**

	Goa	Gujarat	Kerala	Odisha
# Violations as reported to NCZMA in June 2013*	198	14	45	19
# Project proposals appraised till March 2014	1,297	76	571	178

\*An inconsistency in the number of violations as reported by the SCZMAs in response to RTI replies, to the NCZMA and on their websites (Menon et al 2015).

Source: Compiled from Menon et al (2015).

### What Has Caused CZMAs' Inaction?

Management of coastal areas presents a classic case of development geography that exhibits plurality of institutions: there are pollution control boards (PCBs), environment departments, urban planning bodies, fisheries departments and departments for ports, industries and mining, just to name a few. All these departments have their jurisdictions in the coastal stretches. Amongst these multitudes of institutions that govern different aspects of the coasts, the CZMAs are striving to gain regulatory legitimacy. When the CRZ notification was issued for the first time in 1991, it assigned the responsibility of its implementation to the respective PCBs. Realising that the PCBs have limited mandate when it comes to coastal governance, the Supreme Court ordered the creation of CZMAs in 1996 (Supreme Court of India 1996). Two years later, the MOEF constituted the first CZMAs in all the coastal states and union territories and also at the central level. Thus these coastal authorities were borne out of an "implementation deficit" and were introduced in a seemingly already "functional" state apparatus (Kapoor and Venkatram 2017). For them, regulatory legitimacy was not

easy to come by. Other state departments ignored their enforcement directions quite often (Goa is a glaring example), project proponents would bypass them and communicate directly with the ministry (Gujarat), decisions made by them were frequently challenged in courts (Goa and Kerala) and panchayats, municipal bodies and other local departments would violate the CRZ notification frequently (Goa and Tamil Nadu). Unclear planning processes, ambiguous terms, lack of methodology for identification of violations and the fact that largely ex officio members—who had their primary responsibilities in other departments and offices—constituted these authorities only exacerbated implementation woes (Menon et al 2015). Additionally, they are situated amidst the power tussle between the centre and the state governments: the notification gets its mandate from the centre but the aspirations of the state(s) are also to be considered while making decisions. Does the tension between state(s) and centre stymie CZMAS' performance or is it a lack of legitimacy and challenge of getting recognition in an already running set-up that is causing inaction? We will analyse what has influenced their practice and how have the four SCZMAS responded to these influences.

**Missing vision and mixed thinking on policy:** Among the three pillars of institutional functioning (Etzold et al 2012) rules are in abundance: the CRZ notification and the amendments to the original notification, periodic directives from the Ministry of Environment, Forest and Climate Change (MOEFCC) to the SCZMAS, coastal zone management plans (as reference for regulating development) and the constitution orders of the SCZMAS.

Cognitive patterns, on the other hand, on CRZ policy have been present but have constantly been changing as well. With the onset of the CRZ notification 2011 the message was that coastal governance should balance development, livelihoods of traditional coastal communities and conservation. At that point the policy was directed towards responding to these conflicting objectives. It took a big leap towards democratisation for coastal regulation for CRZ notification—through DLCCs—providing space for participation of coastal communities in decision-making for the coasts as referred earlier. Since 2014, the message has veered towards “ease of doing business,” “port-led development” and “make in India.” New cognitive patterns that espouse the idea of port-based development has made these institutions confused about their role whether they are to ensure coastal viability or they are to aid in development by fast-tracking project appraisals. As recently as in March 2017, the MOEFCC created a separate web portal for CRZ clearance to make it easy for project proponents to track the status of their proposals. It may seem to SCZMAS that of all the implementation tasks they are responsible for, political support exists only for fast-tracking appraisals. When such thinking is predominant, it is only obvious for SCZMAS to also divert their attention to appraisals while forgetting the rest of their responsibilities.

The third pillar of institutional identity, that is, the norms, are largely missing for the coast. Kohli and Menon (2016)

emphasise the importance of normative values that can help regulators and decision-makers make appropriate choices. But for most of the environmental legislations, including the CRZ notification, the normative values are missing. The regulators do not know what vision of the coast they are pursuing through their decisions (Menon et al 2015).

**Roles, regulations and tools turning obsolete:** While the CZMAS have been trying to establish their institutional legitimacy through locating clear directions regarding enforcement priorities, and the explanation and clarification on ambiguous terms from the MOEFCC, the tide has turned. Since the middle of 2014, steps taken by the central government have ensured that the CRZ notification, the coastal authorities and the tools in their arsenal become obsolete:

(i) Absence of policy support to the regulatory function of CZMAS: Continued attempts are being made to make the CRZ notification obsolete. Since 2014 there have been eight amendments to the CRZ notification. They have either opened the coast for more “development” or given greater decision-making powers to the state governments. Ironically, the challenges faced by the coastal institutions have not been addressed by these amendments. Above all, neither DLCCs nor the SCZMAS have been given the needed apparatus to ensure that they are able to implement the notification better. Even the regular directions that the MOEFCC used to send, asking them to identify violations and provide a list of those have been stopped. Although NCZMA that is responsible for the coordination of actions of the SCZMAS and provides them technical support and assistance, when necessary (Menon et al 2015), is still asking for updates from SCZMAS on identification of violations in its meetings, SCZMAS' performance have not got any better and they have tried bringing to light their challenges, with the NCZMA. However, it is anyone's guess as to how much of it is actually reaching the MOEFCC.

(ii) Regulators' challenges remained unaddressed: In June 2014, the ministry constituted a committee under the chairmanship of Shailesh Nayak, the then director of Ministry of Earth Sciences, with the mandate to review the notification to eliminate the hurdles faced by the state governments. The order constituting the committee did not mention any role for the coastal authorities in this process. The committee went by the text of the order, and did not consult the authorities regarding the challenges faced by them before suggesting changes to the notification. Although the order constituting the committee did mention that it could look into any other matter that it considers important, in the opinion of committee chairman (as shared with the author in a meeting in April 2016) it is rather a routine practice to add such a provision in every order. Therefore the committee only consulted the state governments while reviewing the CRZ notification and not the very institutions that are responsible for its implementation. Perhaps, the committee did not want to rock the boat too much (Kapoor 2016).

(iii) As per the notification, coastal states were expected to prepare coastal zone management plans within two years of the issue of notification. However, the plans are still in the

pipeline while the existing (nearly archaic) plans are still in use due to continuous extensions (Ray 2017).

Since the authorities credit their origin to an order of the Supreme Court, wiping them off with a sweep is not a possibility for the government and hence it seems components of institutions are being chipped off slowly, with one step at a time. This limited display of trust by the MOEFCC is certainly influencing the way institutions view themselves, their role and even their legitimacy.

### Putting the Leash on an Active Regulatory Institution

The Goa CZMA (GCZMA), to fast-track its work, had created a subcommittee based on its interpretation of its powers. The subcommittee was to meet up at shorter intervals to appraise projects concerning repairs and renovations and also to look into cases of violations in the CRZ areas. However, the NGT<sup>4</sup> (application number 62 of 2012 and appeal number 75 of 2012) opined that the GCZMA did not have the authority to constitute any subcommittee. There are many other occasions when decisions taken by CZMAs are challenged in court. For the large number of litigations filed against them, CZMAs in Goa and Kerala had to appoint legal counsels to be present in court hearings. A recent trend by the judiciary and the executive has been to permit structures built in violation of the CRZ notification in lieu of a monetary fine despite proven evidence of the violations. It has been seen in case of CRZ violations committed by the DLF in Chilavannur backwaters in Kerala. The High Court of Kerala, in December 2014, in response to a petition filed by A V Antony of Kochi, through a single judge's order, acknowledged the violations committed by the DLF and ordered the state government to demolish the buildings. The decision was based on a report prepared by a three-member committee of the KCZMA that had a mention of the CRZ violations by the DLF. In the same month, the builder appealed in the high court and the division bench of the high court issued a stay order on demolition. Later the court suo motu made the MOEFCC a party to the case. In June 2016, the MOEFCC submitted an affidavit on this appeal and claimed that the apartment was in compliance with the CRZ norms. In December 2016, deciding the matter, the division bench of the Kerala High Court directed against the demolition of 180 odd flats built by the DLF even though they had completely disregarded the notification. Once the violations committed by the company were verified and established, the court imposed a mere fine of ₹1 crore "as a compensation for environment damage" (Prasanna 2017; Hindu 2017).

Similar instances exist elsewhere too. After a number of complaints received against Adani Port and Special Economic Zone Limited in Mundra taluka of Kutch, Gujarat, the MOEF constituted a committee on 14 September 2012 to look into the violation of conditions of environment and CRZ clearance by the project. The committee, in its report acknowledged that there was "incontrovertible evidence of non-compliance" by the project (CPR–Namati 2016). However it suggested that the project be continued and among other things, it proposed a fine on the company. Based on the report, MOEF, in September 2013,

levied a fine of ₹200 crore on the Adani Group for environmental violations. Interestingly, in 2016 the MOEFCC reopened the matter and decided to look into all the recommendations of the committee before claiming that it never imposed the fine on the company (Press Trust of India 2016).

**Lack of leadership and assertiveness:** Most members of the CZMAs are the ex officio members and some are academicians. There is no community participation and minuscule representation of the non-governmental organisations. Thus, CZMAs remain part-time bodies even after 25 years of their existence. DLCCs which could have given them a ground presence, a wider reach, more human resources and hence a better institutional legitimacy have either not been constituted even after five years of the notification (for example, in Goa) or they exist only on paper (for example, in Gujarat) or their terms of reference remain undecided (for example, in Kerala and Odisha). Further, the decisions of CZMAs are incessantly questioned, challenged or ignored by the MOEFCC, state governments, courts and even the local bodies. As a result they act with caution. Even after nearly two decades of their making, they are yet to emerge out of their infancy. State's mistrust in them and a deliberate design to keep them out of policy space, lack of community support and diluted statutory powers have made the CZMAs wary of taking bold actions.

### Are SCZMAs in a 'Compliance Trap'?

Parker (2006) provides the concept of "compliance trap" which is linked to two other related concepts, "deterrence trap" and "responsive regulation." According to him, deterrence trap appears when the penalty is either not enough to deter non-compliance or they are so large that they far exceed the capacity of those violating; this gives birth to responsive regulation. In the framework associated with responsive regulation, the regulators use a mix of cooperative strategies and punitive strategies to extract compliance. It is this mixed use of strategies under responsive regulation that lead regulators into a compliance trap, Parker (2006) argued. It occurs only when regulators actively seek compliance. It is not observed when regulators seek only formalistic compliance or strict adherence to the rules: "it is a trap because, in the absence of external political support, there is nothing a regulator can do to escape. The regulator must either choose weakness (no compliance impact) or have weakness thrust upon it (lack of legitimacy leading to emasculation)" (Parker 2006: 593).

In case of coastal governance, the SCZMAs, given the lack of political support and a mandate that has its origin in the local demands are in a compliance trap. As noted earlier, there has been a discord regarding the interpretation of the law and compliance as viewed by different actors involved in compliance. The judiciary, the state, the regulatees and the local communities all hold different views about and have different expectations from the regulatory exercise. Stranded, the CZMAs decide to go soft on compliance to avoid receiving flak from certain actors with powers. They abide by popular interpretations and take soft, inconsequential decisions so as not to alter the status

quo but lead to mechanical compliance that is largely routine and perfunctory. Action on a large number of violations concerning small repairs and reconstructions by GCZMA fall in this category. Others chose to relinquish some of their powers voluntarily realising that action using those powers may not be received well by either the state or the people. Kerala's diffidence in taking suo motu cognisance of violations emanate from this fear too. SCZMAS (such as in Gujarat) defer their decisions till they receive a nod from the state. Analysis of minutes of the Gujarat CZMA show many cases where the SCZMA would not act on violations by big industrial projects. The Gujarat CZMA would take cognisance of violations but would drop these cases in between as it would seek certain clarifications from the MoEF to which MoEF would either not reply or would disclose to the CZMA that the concerned "illegal" activity got a direct clearance from the MoEF and hence is not a violation. Taking a cue from these cases, the SCZMA in turn would assume some form of communication that may have taken place between the project owner and the MoEF without it being involved. It accepted this bypassing by the MoEF and project owner. For instance, in a case of construction of a jetty without a CRZ clearance, the Gujarat CZMA asked the company to take up the matter with the MoEF and appraise it of the status. It would not be an error in reasoning to conclude the MoEF's response (or the lack thereof) to the Gujarat CZMA forced a redundancy on it. Eventually, it accepted its weak status. Odisha SCZMA on the other hand forwards the unpopular decisions to the district collector to take action on violations. As shared above, members of Odisha CZMA have said in public fora that they do not have powers to take action; they only take note of violations, verify those and forward those on to the concerned district collector for taking action. Admittedly it seems reasonable to forward the violations to the district collector as usually the collector is a part of the DLCC and if directed by the CZMAS, the collector is bound to take action. But this, in no way, absolves the CZMAS of their responsibility of CRZ implementation. If the collector does not act, they have the authority to take the matter into their hands. While regulation is all about delegation of authority (Dubash 2008), delegation by Odisha CZMA presents a scenario of an institution not having faith in its institutional legitimacy.

### Conclusion and Ways Forward

Shortfall in policy implementation, often, can be traced back to policy itself. The frameworks in which policies are designed do not offer much scope for change. Between policy and implementation lies interpretation, which decides the performance of policies in bringing change. Policies that are designed without factoring in different interpretations in the given social, political and economic context are bound to fail in their implementation. Thus, the framework of policy design can limit the scope for institutional action and practice. Functioning of institutions and how it shapes regulatory outcomes relies heavily on rules, norms, and popular opinions/cognitive patterns around policy at any given point in time. Absence of/uncertainty in any one of the three (rules, norms and cognitive patterns) can

have a bearing on implementation of a policy and decisions of an institution. In case of SCZMAS, abundance of rules, lack of a normative value for coast and constantly changing popular opinions and cognitive patterns around policy objectives have influenced their working. Attempts of the policymakers at turning the SCZMAS obsolete by diluting the CRZ notification, not involving SCZMAS in policy decisions and taking the state governments on board instead, besides constant backlash whenever the SCZMAS have tried to act have sent SCZMAS into a shell. Already part-time authorities with limited funds and resources at their disposal and most of which are overworked with the current government's push towards industrialisation and tourism feel daunted by such actions of the state and are struggling to keep pace. When apathy of policymakers combines with the typical constraints of resources and capacity, institutions face a compliance trap. They either retreat by themselves or are forced to withdraw. Thus, inaction arising out of compliance trap may get expressed in different ways: Relegating (Kerala) is one way of responding to compliance trap; other ways adopted by the CZMAS are inconsequential decisions (Goa), taking decisions only after taking the government on board (Gujarat) and delegation of authority to act to other institutions/offices (Odisha). We suggest following measures to avoid compliance trap:

**Policy embedded in socio-economic context:** The policy should aim towards a vision that is embedded in reality, not a set of fixed standards that are devoid of a context. Usually in the regulatory arena, institutions are only provided the norms for actions and timelines. For instance, in case of SCZMAS, there are norms for quorum maintenance in its meetings, maintenance of data on enforcement and compliance, notification of conservation areas and economically important areas. However they are not the normative values for a future for the coastal areas that they are regulating development on. In case of CZMAS it could be a vision for the coast, a vision that recognises the social, economic and political realities and needs of the region and various actors. It could have goals for communities' livelihoods, their participation in governance, for its biodiversity, for its ecological health and citizens' well-being.

**Involvement of citizens:** Citizens' involvement in shaping policy and decision-making will bring a larger mandate for the decisions taken by the SCZMAS. Citizens' participation will also ensure that the impact of decisions is diffused and SCZMAS are not held accountable for decisions without political support. Kellner (2009) by comparing the Nicaraguan environmental laws with the environmental laws of Germany and the United States arrives at the conclusion that citizen participation can offer a remedy to the problem of administration passivity. Dubash (2008) states that an effective responsive regulation practises regulatory "tripartism" where a third actor (other than the regulator and the regulated) acts as a "full-fledged" player in the enforcement of a regulation. Communities, citizens or public interest groups or any other non-state actors can be the third party. Involving citizens in regulatory

process can turn regulatory agencies into democratic spaces that are able to speak to the social policy (Dubash 2005) in a more assertive manner.

**Ensuring political support:** For Dubash and Rao (2008), state institutions give highly political decisions, decisions that may have huge political costs, a technical façade. They argue that institutions do not act because they are made to make the difficult choices that have political consequences. Experience of CZMAs demonstrates this pattern but it also shows that even if the choices and priorities are mandated for institutions by the policy, institutions may still not act. This inaction could be because they still remain the face of action. Even when priorities are clear, they still require using discretion to interpret a set

of rules and norms. The regulators can reconcile interpretations among various actors if they are involved in policy making. But if they are only made to implement a notification, which they cannot shape, which is not informed by their experience of implementing it, which is slowly turning into an ornamental piece devoid of any political ramifications and limited to only the technical standards and norms of conservation and ecology, we may either observe formalistic compliance by regulators or reluctance to use their powers. For institutions to hold their powers dear they need to have democratically crafted policies, which they can shape based on their experience of implementation, political and cultural support, and clear normative values for the future of the utilities they are expected to regulate.

NOTES

- 1 Since March 2014, the Ministry of Environment and Forests (MoEF) has been renamed as Ministry of Environment, Forest and Climate Change (MoEFCC).
- 2 It is defined as the land area between the high tide line (HTL) and low tide line (LTL), from HTL to 500 metres on the landward side along the seafront, between the hazard line (hazard line demarcates areas vulnerable to sea-rise and other climate change impacts) and 500 metre line on the landward side, from the HTL to 100 metres of width of the creek (whichever is less) on the landward side along the tidal influenced waterbodies connected to the sea and water area between the LTL and territorial limit (12 nautical miles).
- 3 The Integrated Coastal Zone Management Project (ICZMP) has been designed and implemented in three states (Gujarat, Odisha and West Bengal) as a pilot by the MoEF in collaboration with and financial support from the World Bank. The ICZMP has been proposed as an integrated approach to coordinate the activities of various government agencies and departments for the sustainable management and use of coastal resources while conserving the natural environment.
- 4 In April 2010, the National Green Tribunal (NGT) Act was passed with the idea of creating a special redressal mechanism for expeditious disposal of environmental cases. The NGT began hearing matters substantially only from middle of 2011 after the NGT rules were gazetted in April 2011. Any order issued under the CRZ notification can be taken before India's NGT seeking redressal. This can either be in the form of an appeal or an application seeking intervention on a substantial question related to the environment. This includes CRZ approvals granted or rejected by the MoEF or SCZMAs or notices and directions issued by them.

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