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COASTAL REGULATION AND FISHERFOLK RIGHTS IN KERALA

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ABSTRACT

This article examines the evolving legal framework governing coastal regulation in Kerala with specific emphasis on the livelihood and customary rights of traditional fishing communities. Kerala's coastline, while ecologically fragile and vulnerable to climate change, also functions as an essential socio-economic resource for thousands of fisherfolk. The study analyses the implementation of the Coastal Regulation Zone (CRZ) Notification issued under the Environment (Protection) Act, 1986, and highlights its dual role in environmental conservation and protection of livelihood rights. It identifies major legal issues such as displacement due to tourism and infrastructure projects, weak enforcement of CRZ norms, lack of participatory planning, and the growing impact of coastal erosion. Drawing on judicial decisions delivered by the Kerala High Court and the Supreme Court, the article demonstrates how constitutional principles including the right to life and the doctrine of public trust have been invoked in defence of coastal communities. The paper argues that effective coastal governance in Kerala must go beyond technocratic regulation and encompass a rights-based, participatory approach that integrates ecological sustainability with distributive justice.

Introduction

Kerala, located along the south-west coast of India, possesses a unique coastal ecosystem characterised by backwaters, wetlands, estuaries and sandy beaches. More than 220 fishing villages are situated along the State's 590 km coastline and nearly eight lakh people depend directly or indirectly on marine resources for their livelihood. The relationship between these communities and the coastal environment is not merely economic, but also historical and cultural the coast constitutes a commons that is shared, conserved and utilised through generational knowledge and customary practices.

However, in the past few decades the coastal areas of Kerala have undergone rapid transformation. Industrialisation, tourism infrastructure, port expansion, sand mining and real estate development have significantly altered the physical and social landscape of the coastline. In addition, climate change-induced

phenomena such as sea-level rise, coastal erosion and increased frequency of cyclones have resulted in the loss of coastal land and displacement of small fishing hamlets. These developments have given rise to serious legal and policy challenges, particularly in terms of regulating land-use in ecologically sensitive zones and securing the livelihood rights of traditional fisherfolk.

In this context, coastal regulation cannot be viewed purely as a matter of environmental policy. It involves competing claims over land and resources and raises fundamental questions of constitutional rights, distributive justice, and participatory governance. The legal framework must therefore strike a careful balance between developmental imperatives and the right of traditional communities to continue living with dignity in their ancestral habitats. The following sections examine the importance of coastal regulation, explore the major legal issues in the Kerala context, and

analyse the judicial approach to this evolving area of law.

Importance of Coastal Regulation

Coastal areas constitute highly sensitive ecological zones that perform a wide range of critical environmental functions – including shoreline protection, biodiversity conservation, carbon sequestration and regulation of hydrological cycles. In Kerala, the coastline acts as a natural buffer against cyclones and storm surges, while also supporting mangrove habitats and fish breeding grounds. Any unregulated development in these areas not only threatens the integrity of coastal ecosystems but also exposes coastal populations to heightened risks of erosion, flooding and salt-water intrusion.¹⁰⁶⁴

At the same time, the coast is an indispensable economic and cultural resource for thousands of traditional fishing families. Free access to sandy beaches and near-shore waters is essential for daily fishing activities, fish drying, and the repair and mooring of country crafts.¹⁰⁶⁵ Coastal regulation therefore serves a dual function – ecological protection on the one hand, and livelihood protection on the other. It operates as a legal mechanism to restrain indiscriminate construction, ensure proper land-use planning, and secure the survival of traditional coastal communities whose lives and identities are closely tied to the marine ecosystem.

In recognition of these imperatives, the Coastal Regulation Zone (CRZ) Notification, issued under Section 3 of the Environment (Protection) Act, 1986, prohibits or restricts certain categories of development in ecologically sensitive areas and requires the preparation of a Coastal Zone Management Plan (CZMP) for each coastal State.¹⁰⁶⁶ In Kerala, implementation of these norms is vital not only for protecting bio-diverse

coastal stretches such as mangrove forests and estuaries, but also for preventing large-scale displacement of fishing communities in the wake of tourism and infrastructure projects.¹⁰⁶⁷ Thus, coastal regulation becomes a key instrument for realising the constitutional mandate of sustainable development and ensuring that economic development does not take place at the expense of the rights and dignity of vulnerable coastal populations.

Major Legal Issues Involved

i. Displacement and Loss of Access

A major legal concern is the displacement of traditional fishing communities due to tourism, port expansion and infrastructure projects in CRZ-II and CRZ-III areas. In many instances, shoreline land that was historically used as a common property resource for beach landing, net drying and community gatherings has been leased to commercial entities without public consultation.¹⁰⁶⁸ Such encroachments deprive fisherfolk of access to vital livelihood spaces and effectively convert collectively held coastal land into private property. Although the CRZ Notification requires the protection of traditional access rights,¹⁰⁶⁹ State authorities have in several cases granted development permits without undertaking a socio-economic impact assessment.

ii. Weak Enforcement of CRZ Norms

The Kerala Coastal Zone Management Authority (KCZMA) is empowered to monitor and initiate action against violations of CRZ norms. However, field-level enforcement remains extremely weak due to lack of manpower, overlapping jurisdiction of multiple agencies and political interference.¹⁰⁷⁰ Even where illegal constructions have been identified, they are subsequently regularised or brought under “post-facto approval” schemes, thereby

¹⁰⁶⁴ Ministry of Environment, Forest & Climate Change, Government of India, Coastal Regulation Zone Notification (2019), available at <https://moef.gov.in> (last accessed 18 Aug. 2025).

¹⁰⁶⁵ P.S. Vijaya Kumar, Coastal Regulation and Dispossession of Traditional Fisherfolk in India, 55(2) Economic & Political Weekly 54 (2020).

¹⁰⁶⁶ Environment (Protection) Act, No. 29 of 1986, § 3 (India); Coastal Regulation Zone Notification, G.S.R. 37(E) (Feb. 19, 1991) (as amended).

¹⁰⁶⁷ Kerala Coastal Zone Management Authority, Annual Report (2023), <https://kczma.kerala.gov.in> (last accessed 18 Aug. 2025).

¹⁰⁶⁸ S. Ajithkumar & T. Shaji, Tourism Development and the Marginalisation of Fisherfolk in Coastal Kerala, 47 Journal of Rural Studies 38 (2022).

¹⁰⁶⁹ Coastal Regulation Zone Notification, Ministry of Environment & Forests (India), G.S.R. 37(E) (Feb. 19, 1991) (as amended).

¹⁰⁷⁰ Kerala Coastal Zone Management Authority, Status Report on CRZ Violations (2024), <https://kczma.kerala.gov.in> (last accessed 18 Aug. 2025).

undermining the regulatory framework. This has created a sense of legal uncertainty for traditional coastal users, who often find their customary activities criminalised while large-scale commercial projects escape liability.

iii. Lack of Participatory Decision-Making

The Coastal Zone Management Plan (CZMP) is the primary planning instrument under the CRZ framework. However, preparation of the CZMP in Kerala has generally followed a top-down approach, with limited or no consultation of fishing communities.¹⁰⁷¹ This violates the principle of “free, prior and informed consent” that is now widely recognised in environmental jurisprudence. The exclusion of fisherfolk from the decision-making process has resulted in plans that prioritise tourism and infrastructural development over the livelihood needs of coastal communities.

iv. Climate Change and Coastal Erosion

Coastal communities in Kerala face growing vulnerability due to sea-level rise, shoreline erosion and increased frequency of storm surges. According to official estimates, more than 63% of Kerala’s coast is eroding.¹⁰⁷² Yet, the existing legal framework does not provide dedicated mechanisms for relocation, rehabilitation or compensation of communities displaced by climate-related events. While the Disaster Management Act, 2005 provides a general framework for disaster response, it does not specifically recognise the rights of climate-displaced persons, leaving fisherfolk in a precarious legal position.

Judicial Approach

The judiciary in India, particularly the Kerala High Court and the Supreme Court, has played a pivotal role in defining the contours of coastal regulation and protecting the livelihood rights of fisherfolk. The courts have repeatedly affirmed that the regulation of coastal zones is not merely an administrative matter but is

inherently linked to the right to life and livelihood protected under Article 21 of the Constitution.

In K. Joseph Anthony v. State of Kerala, the Kerala High Court invalidated construction permits granted to private developers in an ecologically sensitive coastal zone and emphasised that the preservation of coastal ecology forms part of the constitutional right to life.¹⁰⁷³ The Court observed that unregulated development in coastal areas leads to irreversible ecological harm and disproportionately affects the livelihood of traditional fishing communities.

Similarly, in Aleena v. State of Kerala, the Court reiterated that any approval of coastal development projects must take into account the impact on traditional fisherfolk, and held that failure to do so amounts to a violation of their fundamental rights.¹⁰⁷⁴ The Court further declared that environmental protection and socioeconomic justice are not competing but complementary constitutional values, and that State authorities are under an obligation to balance the two while exercising regulatory functions.

The Supreme Court has also stressed the need for meaningful public participation in coastal planning processes. In Indian Council for Enviro-Legal Action v. Union of India, it held that improper implementation of CRZ norms and regularisation of illegal constructions amounts to a breach of public trust, and directed the authorities to strictly enforce the CRZ Notification without favour or discretion.¹⁰⁷⁵ In another significant judgment, T.N. Godavarman Thirumulpad v. Union of India, the Court recognised the importance of incorporating traditional knowledge and community involvement in environmental decision-making.¹⁰⁷⁶

¹⁰⁷¹ A. Narayanan, Participatory Coastal Governance in India: A Kerala Perspective, 36 Indian Journal of Public Administration 19 (2021).

¹⁰⁷² Government of Kerala, Impact of Climate Change on the Coastal Belt of Kerala (2023), <https://sdma.kerala.gov.in> (last accessed 18 Aug. 2025).

¹⁰⁷³ (2017) 2 KLT 1023 (Ker.).

¹⁰⁷⁴ 2019 (3) KHC 100 (Ker.).

¹⁰⁷⁵ (1996) 5 SCC 281.

¹⁰⁷⁶ (2012) 4 SCC 362.

These judicial pronouncements have contributed to the development of an important jurisprudential principle, namely that environmental sustainability, community participation and livelihood protection must be integrated into coastal regulatory mechanisms. The courts have consistently underscored that the coastal commons cannot be treated as a mere commodity for commercial exploitation, but must be preserved as a shared public resource in accordance with the doctrine of public trust.

Conclusion

The experience of Kerala clearly demonstrates that coastal governance is more than a technical exercise in environmental management; it is fundamentally about protecting the rights and well-being of coastal communities who have historically acted as custodians of the marine commons. While the Coastal Regulation Zone (CRZ) framework has established an important legal foundation for balancing conservation and development, its effectiveness ultimately depends on how it is implemented on the ground. The persistence of unauthorised constructions, the exclusion of fisherfolk from decision-making processes, and the displacement of traditional communities in the name of tourism and infrastructure point to serious gaps between legal provisions and practical realities.

Moreover, the pressures of climate change and coastal erosion have intensified the vulnerability of fishing communities and exposed the limitations of the current regulatory regime in addressing the needs of communities who are already on the margins. In this context, a purely top-down and technocratic approach to regulation is inadequate; what is required is a rights-based and participatory legal structure that recognises fisherfolk not merely as stakeholders, but as rights-holders with constitutionally protected claims to livelihood, habitat and cultural identity.

Going forward, the State must strengthen the enforcement of CRZ norms and ensure that

Coastal Zone Management Plans are prepared through inclusive and transparent processes. Equally important is the need to legally recognise and protect customary access rights of fishing communities over coastal land and resources. Finally, policy measures must be accompanied by climate-resilient rehabilitation schemes and adequate compensation mechanisms for communities affected by coastal erosion and extreme weather events.

Only by integrating environmental sustainability, social justice, and democratic participation can Kerala develop a coastal regulatory framework that is truly equitable and constitutionally legitimate.

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