Marine Protected Areas in India- Some Legal Concerns

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Marine Protected Area -Legal Options

- National Park
- Sanctuary- Post and Pre 1991
- Conservation Reserve- Government owns the land or the sea scape- Post 2002
- Community Reserve- Community owns the land-Post 2002
- Critical Wildlife Habitat (Out of PAs only) under FRA
- Critical Tiger Habitat (Could be PA+) under WLPA
- Community Forest Resource (under FRA)
Legal Status of MPAs

- Gujarat Marine Sanctuary: Preliminary notification was issued on 12.8.1980 and 20.7.1982 (Affidavit dated August 1997)
- Gahiramatha (Marine) WS: Notification u/s 26A has been issued. (Affidavit dated 5.11.1997)
- Gulf of Mannar Marine National Park: It is situated on a non reserve Forest Areas. Proclamation under Section 21 was issued (Affidavit dated 9.3.1998)
- Sunderban: Final notification was issued on 4.5.1984 for an area of 1330 sq. kms. situated on notified forest land
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- Jurisdictional overlaps of other legal instruments
  - Port - Indian Ports Act
  - Territorial Waters - MZI Act, 1976
  - Coastal Regulation Zone - EPA, CRZ Notification
  - Designated Area - MZI, 1976
  - Selected Waters - Indian Fisheries Act, 1897
  - Historic Waters - MZI, 1976
  - Prohibited Zone - Merchant Shipping Act, 1958
  - Private Waters - Indian Fisheries Act, 1897
  - Prohibited areas - OILPOL
  - Special Areas - MARPOL
  - ORZ??
  - BHS (Heritage Sites)
  - MFRAs
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- Criteria for designating MPAs – the legal mandate
- Settlement of rights and role of Chief Naval Hydrographer as well as the Collector of the concerned Coastal District and more importantly after taking adequate measures to protect the occupational interests of the local fishermen.
  (What does this mean operationally? Should be clarified in Rules!)
- Conservation of habitat, and conservation of species— the legal response
MPA- Fish and Fisher

- A ‘fisherman’, residing within 10 kilometers of a sanctuary or National Park, inadvertently enters on a boat, not used for commercial fishing, in the territorial waters in that sanctuary or National Park, a fishing tackle or net on such boat shall not be seized. (Section 50)
- Animals includes fish under WLPA (defn)
- SBWL- Director of Fisheries a member (statutory obligation)
- Fish found in a pond or water channel situate in the area of forest is forest produce [AIR 1981 All. 205]
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- Role of other agencies and legal implications- Coast Guard, Navy, Ministry of Shipping, Ministry of Agriculture, MPEDA, Min of Commerce,
- International law / obligations and weak legal response- (17-20 Instruments)
- New management initiatives with no legal sanctity ecodevelopment / BRCLIP?
- BHS and sea scapes? Under the BDAct
Co management - towards a new legal framework, exploring possibilities in conservation reserves / community reserves.

( However, the provisions of sub-section (2) of section 18 (area), sub-sections (2), (3) and (4) of section 27, (sections 30, 32 and clauses (b) and (c) of section 33 shall, as far as may be, apply in relation to a conservation reserve as they apply in relation to a sanctuary.

CRMC advises to CWLW to manage the CRs
Some Other Suggestions

- Clarity on institutional overlaps, powers and responsibilities

- Recognition of customary practice in formal law

- Linkage with mythology- Kurmavatar; odysey dance forms, kaccahapa asanas; turtle carries the earth on its carapace! Ashokan ambassdors?!
THANK YOU