

*Marine Conservation and Coastal Communities: Who Carries the Costs?  
A Study of Marine Protected Areas and Their Impact on Traditional Small-  
scale Fishing Communities in South Africa*

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## **Acronyms and Abbreviations**

ANC	African National Congress
CBC	community-based conservation
CBD	Convention on Biological Diversity
CBNRM	community-based natural resource management
DEAT	Department of Environmental Affairs and Tourism
EC	Eastern Cape
ECPB	Eastern Cape Parks Board
EKZNW	Ezemvelo KwaZulu Natal Wildlife
FAO	Food and Agricultural Organization of the United Nations
ICSF	International Collective in Support of Fishworkers
IWPA	iSimangaliso Wetland Park Authority
KZN	KwaZulu Natal
MCM	Marine and Coastal Management
MLRA	Marine Living Resources Act

MLT	Mkambati Land Trust
NEMA	National Environmental Management Act
NPAES	National Protected Area Expansion Strategy
NSBA	National Spatial Biodiversity Assessment
PA	protected area
PA PoW	Protected Areas Programme of Work (of the CBD)
RDP	Reconstruction and Development Plan
SANParks	South African National Parks Board
SFTG	Subsistence Fisheries Task Group
TAC	total allowable catch
TBNRM	transboundary natural resource management
TCAF	Tsitsikamma Community Angling Forum
UNCLOS	United Nations Convention on the Law of the Sea
WHCA	World Heritage Convention Act
WSSD	World Summit on Sustainable Development
WWF-SA	World Wide Fund for Nature-South Africa

## Executive Summary

Research conducted on five marine protected areas (MPAs) in South Africa indicates that traditional, small-scale fishing communities<sup>1</sup> living in, or adjacent to, MPAs are bearing the costs of marine conservation, with few benefits accruing to them. Each of the five case studies in this research highlights different key issues of concern.

The **Langebaan MPA** captures the contradictions inherent in claims that MPAs are a useful fisheries management tool and that the biological benefits of protected areas (PAs) will automatically ‘spill over’ into the adjacent communities. Further, it demonstrates that failure to include the local fishers in decisionmaking will undermine any attempts at implementing a sustainable management plan for the MPA.

The **Maputaland MPA** provides a stark example of an instance where ecotourism initiatives are not benefiting a local community but are further excluding the community and restricting their access to resources. The importance of an approach to participatory governance that empowers the fishers to participate effectively, not just instrumentally, is clearly demonstrated.

The **St Lucia MPA** highlights key issues related to approaches to co-management, the indivisibility of fishers’ rights from broader socioeconomic rights and the challenge of developing institutional arrangements that can accommodate the often competing objectives of MPAs.

The **Tsitsikamma MPA** has recently come under scrutiny as the traditional fishing communities living adjacent to the park, who used to fish in the park, brought an application to have the MPA re-opened for very restricted access to fishing, largely on grounds of cultural and traditional use, rather than for food-security reasons. After much debate amongst the scientific community, government and other stakeholders, the Minister took a decision not to open this no-take area. This case study brings under scrutiny the issue of the ‘value’ of different kinds of benefits – ecological, economic, social, spiritual and cultural – and the reductionist arguments that have prevailed during the public debate.

The **Mkambati Nature Reserve MPA** forms part of the Pondoland MPA. This case highlights the standoff between traditional authorities and the government over access to marine resources. The traditional harvesting ground of the Ndengane community has been

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<sup>1</sup> The term ‘small-scale fishing community’ used in this study refers to all those in the community who catch or harvest marine resources or are involved in pre- or post-harvesting activities at the local level.

declared a no-take zone since 1994. However, the Ndengane community continues to harvest and use the notion of *ukjola*<sup>2</sup> (Kepe, 1997). In most cases, the fishers are not

arrested as the civic organizations and tribal authorities tend to support *ukjola* as a process of legitimizing informal rights.

The findings from this research suggest that while South Africa has articulated its commitment to fulfilling international and related national obligations to ensure that local communities and indigenous people participate in the management of PAs, and share equitably in their benefits, MPAs lag behind their terrestrial counterparts in this regard. The integration of MPA legislation with fisheries management legislation in South Africa constrains interpretation of the broader social justice imperatives inherent in the Convention on Biological Diversity (CBD) Protected Areas Programme of Work (PA PoW), and a biological conservation-oriented fisheries science dominates the agendas of these PAs. The marginalization of the traditional small-scale sector within fisheries policy and management in South Africa in general spills over into the management of MPAs. Far from adopting a responsible, ‘enabling’ approach to traditional, small-scale fisheries, current management of marine resources in MPAs contributes to the further exclusion of these fishers, and undermines their traditional livelihoods.

The resilience of fishers to these impacts depends on a number of context-specific factors in each park. During the past year, the mobilization and organization of traditional fishers living in, and adjacent to, all five MPAs have increased. This has occurred as a result of spontaneous local responses to the MPA in two cases and, in the other three cases, in response to the social movement of fishers emerging around the demand for an equitable, participatory policy for the small-scale fisheries sector. Conflicts between park authorities and these communities are likely if the marginalization of these fishers is not addressed. There is an urgent need for the Department of Environmental Affairs and Tourism (DEAT) to review its policy and management of the marine component of its PAs, and put in place the necessary policy and institutional mechanisms that will ensure that the rights to effective participation in governance and equitable sharing in the benefits of MPAs are enjoyed by traditional fishing communities.

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<sup>2</sup> “This is a local term that refers to locally legitimized ‘stealing’ of a resource, based on historical claims to it, that predate the existing legislation” (Kepe, 1997:53).

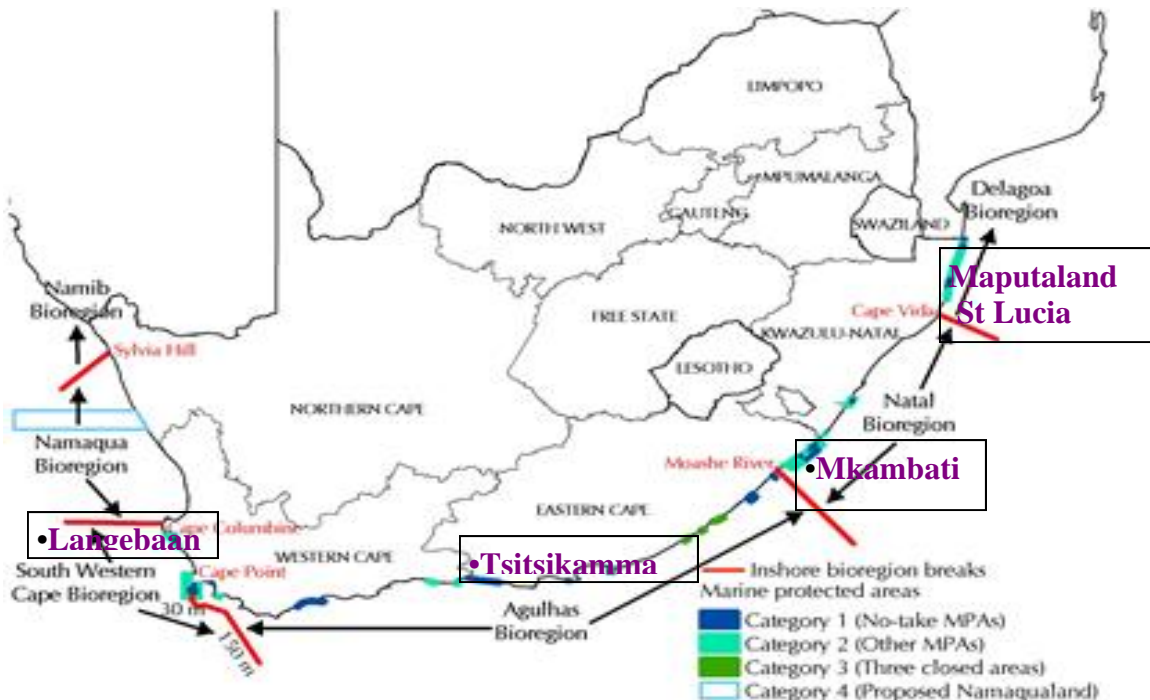


## Introduction

South Africa has a long history of commitment to MPAs, dating back to 1964 with the proclamation of the first MPA in Tsitsikamma. This was in direct response to the call by the International Union for the Conservation of Nature (now IUCN-The World Conservation Union) in 1962, at the first IUCN International Conference at which a global system of PAs was called for (Faasen, 2006:16). Subsequently, South Africa has participated actively in international processes to promote MPAs, signing and ratifying the Ramsar Convention and the CBD and, more recently committing itself to the PA PoW.

This study examines five MPAs in South Africa and spans three of the country's four coastal provinces<sup>3</sup>. Langebaan Lagoon MPA in the West Coast National Park lies approximately 100 km northwest of Cape Town in the Western Cape. The St Lucia MPA and the Maputaland MPA are adjacent to one another within the Greater St Lucia World Heritage Park, recently renamed iSimangaliso Park Wetlands Authority, on the northeast coast in KwaZulu Natal. The Tsitsikamma MPA, South Africa's oldest MPA, is located in the Eastern Cape Province, along the southeast coast of the country. The Mkambati Nature Reserve MPA is located along the northeastern part of the Eastern Cape and forms part of the larger Pondoland MPA.

**Figure 1: Marine Protected Areas and Small-scale Fishing Communities in South Africa**



Source: DEAT: South Africa Environmental Outlook Report 2006,184

<sup>3</sup> The case studies on Langebaan MPA, St Lucia, Maputaland and Tsitsikamma were written by Jackie Sunde, while the case study on Mkambati Nature Reserve MPA was written by Moenieba Isaacs.

For the purpose of this paper, MPAs are defined as marine environments that are protected in designated ways from human activity. All MPAs constrain human behaviour, and the major objective of MPAs is the conservation of marine ecosystems. MPAs are also a management tool for biological and ecological conservation (Blount and Pitchon, 2007:103). Currently, at the time of conducting this research, South Africa has 19 MPAs declared under the Marine Living Resources Act (MLRA) of 1998, covering almost 18 per cent of the coastline. Two of these are strictly 'no-take' MPAs in their entirety; eight are multi-zoned but include strictly no-take 'sanctuary' zones, while the others comprise a combination of controlled zones, allowing for limited fishing, and restricted zones allowing for some tourism and recreational non-extractive use. The primary objective of MPAs in South Africa is the conservation of marine environments, while assisting with the management of fisheries by protecting and rebuilding economically important stocks.

The aim of this study is to provide specific examples of practice that contribute to an overview of the way in which MPA policy and management are affecting small-scale fishing communities living in, or adjacent to, these parks. Drawing on international and national commitments and obligations towards these local communities as a framework for evaluating implementation, the study highlights key concerns pertaining to the current policy and management of MPAs in South Africa.

Section 1 locates the study within the history of conservation approaches in southern Africa and provides a brief overview of the framework of analysis used in the study. It identifies the key principal commitments to MPAs and other international instruments towards which South Africa has an obligation, and which form the backdrop for the study.

Section 2 focuses on South African national legislative and policy imperatives that shape marine conservation, fisheries rights and management in the country. Areas of authority and contiguous jurisdictions are highlighted.

Section 3 presents a brief summary of the status of the PA PoW implementation relevant to the country's MPAs, drawing on the Third National Report on the Programme of Work.

Section 4 discusses the key features of fisheries policy and management in South Africa in order to locate the claim by many South African scientists that MPAs are a critical fisheries management tool.

Section 5 presents key concerns from each of the five MPA research sites.

The final Section 6 discusses the findings, presents conclusions and puts forward recommendations for the focus of future advocacy, training and information work on this issue.

## **SECTION ONE**

### **The History of Conservation in South Africa**

The declaration of MPAs in South Africa over the past half-century and their impact on fisher and coastal communities need to be examined in the context of the political economy of the country and the shifting approaches to conservation in the region as a whole. In southern Africa, a ‘fortress conservation’ approach has dominated nature preservation and the establishment of PAs for much of the 20th century. The resultant controversies around these PAs have been focused on the way they were set up and their negative impact on communities dependent on local resources (Whande, 2007). The sites of contestation were located in colonial and apartheid rule over natural resources and the disregard of local indigenous knowledge and forms of environmental protection. The creation of PAs also coincided with the rapid period of industrialization of the economy in South Africa. The complex linkages between cheap African labour to support Afrikaner and British settler economic interests and scientific management principles dominated the creation of PAs (Carruthers, 1989 and 1995).

With the political landscapes changing in other parts of Africa from the 1960s, efforts towards community-based conservation gained ground as a solution to exclusive PAs. Global questions of social justice and sustainable development prompted a new conservation mindset that would address social and equity issues. The new conservation approach unfolding in Africa recognized the limitations of the preservation ideology of ‘fortress conservation’, and created space for restructuring relationships between State and local communities. This shift from ‘nature as protected through exclusive State control’ to nature ‘as managed through inclusive, participatory, community-based conservation (CBC)’ gained popularity within the shift to more democratic governments. Devolution of responsibilities and participation in decisionmaking were key in this new approach to conservation in southern Africa.

The election of the first democratic government in South Africa in 1994, the adoption of a democratic constitution, and a focus on the need to introduce more democratic, participatory processes, added weight to this shift in approach to PA management in South Africa. Post-apartheid legislative and strategic frameworks attempted to find a consensus between the conservation and developmental needs of South African citizens. This was articulated in the Reconstruction and Development Plan (RDP, 1994) for South Africa, which stated that the primary objective of the new fisheries policy would be the upliftment of impoverished coastal communities through improved access.

South Africa hosted the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002, and played a leading role in the acceptance of the target that a “representative network of MPAs be established by 2012” as part of the Programme of Implementation accepted at the Summit. The country also hosted the Vth IUCN World Parks Congress in Durban in 2003, during which a number of critical recommendations were accepted pertaining to the role of PAs in promoting poverty relief, equitable sharing of benefits, and sustainable livelihoods<sup>4</sup>. In addition, South Africa is party to a number of international and regional conservation and fisheries management instruments that promote the use of MPAs as a key conservation and fisheries management tool, including the World

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<sup>4</sup> See Vth IUCN World Parks Congress Recommendations 5.29, 5.24 – 5.27, amongst others.

Heritage Act, the United Nations Convention on the Law of the Sea (UNCLOS), and the FAO Code of Conduct for Responsible Fisheries.

While the emphasis on social and economic justice was important in bringing about a paradigm shift in South Africa in the past decade, leading to attempts to balance conservation and development needs in the country's approach to PAs as a whole, there has, more recently, been a resurgence of stricter forms of protection globally. Turner (2004) and Whande (2007) have argued that this has led to a waning of interest in community-based conservation in relation to terrestrial PAs in the region.

There are thus contradictory trends that have impacts on MPAs as a component of PAs. On the one hand, concepts such as fisheries 'co-management', 'sustainable livelihoods' and 'poverty alleviation' have gained popularity among donors in post-apartheid fisheries management in South Africa. However, fisheries managers are simultaneously strongly influenced by fisheries science and the promotion of a strict precautionary approach. In the last few years, fisheries management in South Africa has adopted an ecosystem management to fisheries and declared 18 per cent of the coast as MPAs. The way this tension between conservation and social justice imperatives shapes the management of MPAs in South Africa needs to be understood in the context of the vulnerability, structural poverty, and livelihood needs of coastal communities in South Africa.

### **Framework of Analysis**

This study has drawn on a number of different theoretical frameworks to assess the impact of MPAs on small-scale fishing communities and to evaluate the role that MPAs are playing in realizing the rights and social development of these communities.

The CBD Programme of Work on Protected Areas Programme Element 2: Governance, participation, equity and benefit sharing, Goals 2.1 and 2.2, and related targets and suggested activities, provide the basis for this study. Specifically, the goals and targets include:

*Goal 2.1: To promote equity and benefit sharing*

*Goal 2.2: To enhance and secure involvement of indigenous and local communities and relevant stakeholders*

This framework is complemented by indicators drawn from the extensive body of work on measuring poverty, as well as specific studies on measuring the contribution of MPAs to poverty eradication<sup>5</sup>. The framework of analysis will incorporate the following key issues<sup>6</sup> to further guide discussion of MPAs in South Africa: control of open access; management and zoning; the involvement of coastal communities in governance; the costs and benefits of MPAs; and science and traditional knowledge.

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<sup>5</sup> See, amongst others, Lea M. Sherl et al., 2004.

<sup>6</sup> The key issues were identified with Prof. Antonio Carlos Diegues of the University of Sao Paulo, Brazil.

## SECTION 2

### **South African National Legislative and Policy Frameworks, Authorities and Jurisdictions**

International commitments and imperatives towards marine conservation are reflected well in South Africa's national legislation. The Constitution of South Africa, Bill of Rights, Section 24, includes the right to the environment. It states: "Everyone has the right to an environment that is not harmful to their health or well-being; and to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development." (Constitution of the Republic of South Africa, No 108 of 1996)

In order to give effect to this right, the South African government has enacted a suite of laws that further consolidates various aspects of these provisions. The National Environmental Management Act (NEMA) 107 of 1998 provides the principal legislative framework for environmental governance in South Africa. NEMA translates the environmental principles and rights contained in the Constitution into legal provisions, and identifies procedures and mechanisms for implementing these principles. Of particular importance to MPAs and any development initiatives based on coastal resources are the provisions relating to co-operative governance and the inclusion of civil society in environmental management (Sisitka and Fielding, 2006:38).

The Marine Living Resources Act (MLRA) of 1998 places the overall authority for allocating rights to, and managing, marine living resources, for both inshore and coastal resources, in the hands of the Minister of Environmental Affairs and Tourism. Responsibility for the establishment and management of MPAs thus falls under this Act and is the competence of the DEAT. The section on MPAs in the MLRA does not directly reflect any of the socioeconomic and cultural aspects identified in the general principles informing the MLRA and hence is rather limited. It states that the Minister may declare an MPA for the following objectives:

- (a) for the protection of fauna and flora or a particular species of fauna or flora and the physical features on which they depend;
- (b) to facilitate fishery management by protecting spawning stock, allowing stock recovery, enhancing stock abundance in adjacent areas, and providing pristine communities for research; or
- (c) to diminish any conflict that may arise from competing uses in that area (DEAT, 1998, Section 43)

Related legislation includes the National Environmental Management: Biodiversity Act 10 of 2004, which makes provision for the management and conservation of biological diversity, noting the objective of "the fair and equitable sharing among stakeholders of

benefits arising”. The National Environmental Management: Protected Areas Act of 2003 has the explicit objective of providing for the declaration and management of PAs, but excludes MPAs, which are declared under the MLRA. The PAs Act incorporates key principles related to co-operative governance in the declaration and management of PAs and the need to “promote sustainable utilization of PAs for the benefit of people, in a manner that would preserve the ecological character of such areas; and to promote participation of local communities in the management of PAs, where appropriate” (Protected Areas Act, 2003). All of the abovementioned Acts provide clear recognition of the need to protect biodiversity and maintain a strong human rights-based approach. Environmental rights are balanced with socioeconomic rights.

Marine conservation and the management of all marine resources comprise a national competency falling under the DEAT. Within the department, the responsibility is with the branch, Marine and Coastal Management (MCM). The MLRA is the primary legal instrument for the protection of MPAs within this context. Prior to the promulgation of the MLRA, marine conservation was characterized by a range of overlapping and confusing local and provincial ordinances and regulations. Although the responsibility for marine conservation lies at the national level, the recently tabled Bill on Integrated Coastal Management places a considerable responsibility for coastal management and land-use planning -- aspects that impinge on MPAs directly -- in the hands of provincial authorities and steering committees (Integrated Coastal Management Bill, 2007).

Before the MLRA came into effect, MPAs were managed by the South African National Parks Board, a statutory agency responsible for managing most of South Africa’s terrestrial PAs, together with the provincial nature conservation agencies. This National Board is now known as SANparks. After the MLRA was introduced, MCM has taken over responsibility for ensuring implementation of legislation. The relative neglect of MPAs has been blamed on these confusing institutional arrangements whereby, in most MPAs, SANParks continues to be the managing authority but without authority over the legislation pertaining to the marine component. SANParks manages six of the MPAs, while local municipalities manage two. Other implementing agencies include iSimangaliso Wetlands Authority, Ezemvelo KwaZulu Natal Wildlife, the provincial conservation body in KwaZulu, and the East Cape Nature and Cape Nature Conservation.

Of considerable relevance to this paper is the fact that the management of fisheries in South Africa and the management of MPAs are controlled by the same legislation, and this has led to the integration of the two. Some have argued that this constitutes a strength as MPAs are regarded as a tool for fisheries management, while others have suggested this hampers the effective planning of MPAs (Sisitka and Fielding, 2005). Leading fisheries scientist Colin Attwood has argued that “the ability to zone fishing activities effectively, to make ‘no-take’ MPAs, the ability to cast MPA objectives in fishery terms, and the ability to make fishers pay for the management of MPAs, are beneficial consequences of having common legislation governing fisheries and marine conservation” (Lemm and Attwood, 2003: 89). The effect of this integration is that some of the broader MPA functions related to social-justice goals appear neglected. From the perspective of this paper, it appears to

lead to a limited conceptualization of the purpose and benefits of MPAs, framing the primary benefits within a narrow fisheries-science paradigm.

Recognition of the need to ensure that traditional communities share in the benefits of PAs is a well-entrenched principle in the legislative framework, as are commitments to recognizing traditional rights, and the need to ensure that the communities participate in, and benefit from, these areas. This is particularly so for the terrestrial areas covered by the PAs Act but less so for the MPAs, as the MLRA is not specific on these aspects.

Over the past five years, considerable efforts have been made by DEAT to develop policy to realize these international and national commitments to protecting biodiversity and, in particular, the cultural and social aspects. South Africa's National Biodiversity Strategy and Action Plan (2005), Strategic Objective 4 states: "Human development and well-being are enhanced through sustainable use of biological resources and equitable sharing of benefits" (DEAT, 2005b:62). This Strategic Objective acknowledges the political injustices of the past in terms of access to, and control over, resources. It notes that "rights of access and use need to be coupled with a renewed sense of ownership and responsibility for management of natural resources". It also recognizes that access issues are broader than direct-use issues, and includes promoting access to land, broadening access to PAs, promoting access to information, and ensuring informed participation in decisionmaking" (DEAT, 2005b:62). It does note, however, that "in some cases, to ensure conservation and/or sustainable use, rights of access may need to be balanced against other rights. For example, while no one can be denied their rights, the State may, nevertheless, put restrictions on those rights through regulations, so that one person's rights do not infringe on another person's rights, including the rights of future generations" (DEAT, 2005b:63).

This participatory, equitable and human-rights-based perspective has filtered into the Biodiversity and Conservation Branch within DEAT, SANParks policy and practice. However, the emphasis appears to be on terrestrial parks and **no** specific policy exists for the management of MPAs. MCM has begun drafting a policy for MPAs but this was put on hold (pers. comm., Alan Boyd, 2007). Although it has neither released a policy for MPAs specifically, nor developed a programme to house this responsibility, MCM has made its general policy intentions with regard to MPAs public through a number of statements by the Minister<sup>7</sup>. DEAT intends increasing the coastal area under protection, extending the cover currently provided to estuaries and, in general, intends developing a more consolidated MPA network. A National Protected Area Expansion Strategy (NPAES) is being developed by the Biodiversity and Conservation branch within DEAT, which will cover MPAs as well. DEAT is also busy developing a plan for the declaration of offshore MPAs (Boyd, 2007).

DEAT facilitates a regular People in Parks forum for both the marine and terrestrial components of PAs. "This initiative aims to make sure that communities living in parks or adjacent to them...enjoy direct benefits from the parks" (Boyd,2007:1). MCM has not released a policy on People in Parks or how it intends addressing related issues in MPAs as yet; however, it is now attending these meetings on a regular basis, and links between this

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<sup>7</sup> See for example Media Statement on Tsitsikamma, dated 26 November 2007.

agenda and MCM's own work with small-scale fishers is noted (Boyd, 2007). MCM appears committed to moving towards implementing a multi-zoning approach to MPAs, although with considerable emphasis remaining on the need for 'no-take' zones. This approach has been recently underscored by the Minister's decision on the Tsitsikamma 'no-take' zone, as will be discussed in a subsequent section of this report. DEAT is considering a proposal to re-zone the Dwesa-Cebe MPA, which is currently a 'no-take' MPA, into a sustainable-use area. This will allow the local community to harvest resources on a restricted basis (Boyd, 2007). While no direct reference is made to the CBD PA PoW in MCM's documentation on this issue, it would appear as if a sustainable-use and multi-zoning perspective is increasingly being adopted by MCM, but the approach appears to be inconsistently implemented.

There appears to be a hiatus when it comes to translating national legislation into policy commitments in terms of MPAs specifically. Despite a fairly clear and well-articulated legislative framework, South Africa's actual institutional arrangements for the management of MPAs have been chaotic and contradictory over the past four decades, and have prioritized the conservation objectives.

Notwithstanding its mandate, MCM's involvement in MPAs on the ground has been limited to fishing law enforcement. "The actual management of an MPA is usually undertaken by conservation agencies, which do not make the laws applicable within it. In contrast, conservation agencies managing terrestrial PAs usually have land tenure, allowing for a better integration of legislation, marketing, financial control and on-the-ground management. It is this split of legislative and management authority that has hindered the upliftment of MPAs" (Sisitka and Fielding, 2006:50).

Very recently, some progress has been reported on this matter. Funding and contractual agreements have been agreed upon with five of the biggest implementing agencies, iSimangaliso, Ezemvelo KZN Wildlife, EC Parks Board, and Cape Nature, covering 11 of the 19 large MPAs. Contracts for partial support to local municipalities are being considered for the two smaller MPAs of Helderberg and Sardinia Bay (Boyd, 2007:2).

## SECTION 3

### **National Reporting on Biodiversity Conservation and on the Programme of Work Targets**

South Africa has only relatively recently developed a coherent framework for data management and reporting on environmental indicators, but, from the perspective of MPAs, this appears to still be dogged by the general fragmentary nature of institutional arrangements.

In 2005, DEAT completed the Development of the National Biodiversity Strategy and Action Plan. This Plan was based on an assessment of South Africa's biodiversity context, which included a national-scale spatial assessment (National Spatial Biodiversity Assessment–NSBA) with a marine component. This was also the first time that an ecosystem approach was used to assess the status of biodiversity (DEAT, 2005b:14). The spatial biodiversity assessment of the marine environment indicated that 65 per cent of South Africa's 34 marine biozones are threatened (with 12 per cent assessed as “critically endangered”, 15 per cent as “endangered”, and 38 per cent as “vulnerable”) and 35 per cent as “least threatened” (DEAT, 2005b:15). The study noted that “there is considerable lack of understanding of subsistence use of terrestrial and coastal resources in South Africa, except that it is known to be extensive” (DEAT:2005b,21). It is important to note that the marine component of the spatial conservation assessment did not include an assessment of sustainable use, and was clear in that it did not attempt to be a tool for fisheries management.

Despite this dearth of information during the scoping and assessment process, the focus on the rights of traditional communities within terrestrial PAs and the importance of community participation and sharing in benefits was still incorporated into the National Biodiversity Strategy and Action Plan. Thus, although these goals were developed for terrestrial PAs, they also provide a framework for assessing progress in the marine component of PAs.

In 2005, South Africa completed the Third National Report to the CBD. The responses provided by the South Africa government CBD focal point, copied below, reveal once again that much of the interventions undertaken in compliance with the CBD Programme of Work are driven by the terrestrial parks and there is little, if any, integration with MPAs. No reference to the CBD Programme of Work is made in any of the Marine and Coastal Management MPA documentation for the report.

In response to the key Programme of Work Targets in relation to Article 8 (j) on traditional knowledge and related provisions, South Africa reported the following:

- It has not “created and developed capacity-building programmes to involve and enable smallholder farmers, indigenous and local communities, and other relevant

stakeholders to effectively participate in decision-making processes related to genetic use restriction technologies”.

- It has not “supported indigenous and local communities in undertaking field studies to determine the status, trends and threats related to the knowledge, innovations and practices of indigenous and local communities” (Decision VII/16).
- It has not initiated a legal and institutional review of matters related to cultural, environmental and social impact assessment, with a view to incorporating the Akwé:Kon Guidelines into national legislation, policies, and procedures.
- It has not used the Akwé:Kon Guidelines in any project proposed to take place on sacred sites and/or land and waters traditionally occupied by indigenous and local communities (Decision VII/16).

In response to the questions on capacity building and participation of indigenous and local communities, South Africa reported the following actions:

- It has taken “some measures to enhance and strengthen the capacity of indigenous and local communities to be effectively involved in decisionmaking related to the use of their traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biodiversity” (Decision V/16).

Examples provided to support this included, amongst others, the fact that DEAT developed community-based natural resources management guidelines in 2003 and “at the Greater St Lucia Wetlands Park, fishing communities are encouraged to continue practising their traditional fishing practices” (DEAT, 2005a). Although this question was answered positively, the examples provided by the country focal person are not supported by the fieldwork conducted for this case study on MPAs.

- It has developed “appropriate mechanisms, guidelines, legislation or other initiatives to foster and promote the effective participation of indigenous and local communities in decisionmaking, policy planning and development, and implementation of the conservation and sustainable use of biodiversity at international, regional, sub-regional, national and local levels” (Decision V/16).

The supporting statement for this response was: “For all policy development, planning, legislation, etc., extensive processes for community participation are required. These requirements are legislated.” It must be noted that for the recent public participation processes for the development of a new subsistence and small-scale fisheries policy, the communities involved in this research did **not** participate effectively in the policy process.<sup>8</sup>

- It has put mechanisms in place “for promoting the full and effective participation of indigenous and local communities, with specific provisions for the full, active and

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<sup>8</sup> See *Comments on Subsistence and Small-scale Policy*. Masifundise, Cape Town, 2007.

effective participation of women in all elements of the programme of work” (Decision V/16, annex).

This was motivated by the fact that South Africa has set targets for the participation of previously disadvantaged individuals, including women, the youth and the disabled in all aspects of governance and the economy. This research indicates that men and women from traditional fishing communities are not participating fully or effectively in the management and governance of MPAs or in benefiting equally from these areas.

- South Africa has not “established national, sub-regional and/or regional indigenous and local community biodiversity advisory committees”.
- South Africa has not “assisted indigenous and local community organizations to hold regional meetings to discuss the outcomes of the decisions of the Conference of the Parties and to prepare for meetings under the Convention” (DEAT, 2005a).

## **SECTION 4**

### **Fisheries Policy and Management in South Africa**

Fisheries management in South Africa has been closely linked to the establishment of the fishing industry in the country. The industry has a long history that dates to pre-colonial times. However, in the more recent past, it has been dominated by large, white-owned, highly capitalized interests.

The new democratic government, elected in 1994, inherited not only the apartheid legacy of poverty, unemployment, a poor educational system and an unequal distribution of resources, but also white monopoly capital and Afrikaner capital deeply entrenched in the established fishing companies. The latter was not keen to relinquish any of their control to new entrants (Van Sittert, 2003). According to them, the formal part of the fisheries sector was performing well in economic terms, and the resource was well managed and they hardly needed any restructuring or further development planned by government. According to Hersoug (1996), 40 years of apartheid and more than 300 years of colonial discrimination had left the fishing sector with features of an extremely uneven distribution of resources between whites and blacks, a skewed distribution of fish resources between small-scale and large-scale operators, a totally uneven regional distribution of catching and processing possibilities, and a fisheries administration dominated by white administrators with little legitimacy among the predominantly black coastal population.

In 1994, a reform process was initiated, but progress in poor, previously marginalized fishing communities has been slow. Even during the policy formulation process, impoverished fishing communities were already being sidelined, as the government adopted a more neoliberal stance by overlooking community participation in the redistribution of rights, and promoting a large, commercially and export-oriented macroeconomic strategy.

Despite the importance of the subsistence sector, most coloured and black fishers were **never** formally recognized, and fell under the category of recreational fishers, where they were supposed to harvest limited amounts of fish for personal consumption only. Although it was illegal to sell under the recreational permits, most of them made a living through selling their catches (Branch et al., 2002).

During the past 15 years, the discourse on South African subsistence fishing has changed dramatically. The post-1994 new fisheries policy had to incorporate all the coastal provinces of South Africa and hence had to be seen to be accommodating the more subsistence-oriented fishers of the eastern seaboard. The MLRA (1998) recognized commercial, recreational and subsistence fishing, and thus provided some legal recognition to some of these fishers, for the first time. The MLRA defines a subsistence fisher as “a natural person who regularly catches fish for personal consumption or for the consumption of his or her dependants, including one who engages from time to time in the local sale or barter of excess catch, but does not include a person who engages on a substantial scale in the sale of fish on a commercial basis” (MLRA 18 of 1998: 12). The Subsistence Fisheries Task Group (SFTG)<sup>9</sup> further elaborated on this definition by stating: “Subsistence fishers are poor people who personally harvest marine resources as a source of food or sell them to meet the basic needs of food security; they operate on, or near to, the shore or estuaries, live in close proximity to the resource, consume or sell the resources locally, use low-technology gear (often as part of long-standing community-based or cultural practices), and the kinds of resources they harvest generate only sufficient returns to meet the needs of food security” (SFTG 2000: III). Those artisanal and small-scale fishers who were excluded by this definition have continued to advocate for their inclusion over the past nine years, but with little success.

South Africa’s fisheries management system is largely framed by the 1995 FAO Code of Conduct for Responsible Fisheries and UNCLOS. Fisheries managers have committed South Africa to implementing an ecosystem approach to fisheries by 2010 and to meeting the WSSD targets on both restoration of fish stocks by 2015, and 20 per cent of the coast to be protected within MPAs by 2012. As will be seen from the case study discussion below, these goals appear to be driving the MPA management agenda in South Africa, and MPAs are referred to by fisheries managers as a critical fisheries management tool.

In 2002, the Minister introduced the Medium-term Rights Fishing Policy, based primarily on an individual quota system, which allocated rights for four years. This was followed, in 2005, by the General Policy for the Allocation and Management of Long-term Fishing Rights. Both these policies were geared towards the allocation of rights for 22 commercial species to commercial enterprises, and tended to lead to the exclusion and marginalization of the majority of traditional, small-scale and artisanal fishers.

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<sup>9</sup> The SFTG consisted of two groups, the core group of 17 members with divergent areas of expertise, and the consultative group of 20 members who provided information and support to the core group. According to the detailed survey of the SFTG, there were 143 fishing communities along the entire coast, comprising approximately 20,000 households, with some 30,000 subsistence fishers. Of these, only 30 communities were located in the Western Cape, with the majority in KwaZulu Natal and Eastern Cape (Isaacs, 2003).

In the Eastern Cape and KwaZulu Natal, DEAT commenced with the allocation of subsistence exemptions to a limited number of individual fishers who were harvesting on what was defined as a subsistence basis. Those fishers living within MPAs in these two provinces were designated 'subsistence', and a process of allocating exemptions and permits began. Traditional artisanal and small-scale fishers remained marginalized. Following pressure from fishers and the threat of litigation by Masifundise and other organizations working with traditional fishers, the Minister finally signed a Court Order in May 2007 agreeing to develop a new legislative and policy framework that would accommodate traditional small-scale fishers in South Africa. This process is currently under way. It will include those fishers who were defined as subsistence by the MLRA but, to date, have only received exemptions and have never been recognized as full rights holders.

### **Co-management in South Africa**

Following the establishment of the Subsistence Task Group in 2000, the principle of co-management was strongly encouraged in those communities defined by MCM as subsistence communities, and it was argued that "the few established successful co-management structures should be used as models for local fisheries management structures" (SFTG, 2000: 47). As will be seen from the discussion presented in the Mkambati, Mabibi and Sokhulu case studies, the experience of fisheries co-management has been mixed.

In South Africa, as elsewhere in the world, co-management at the local, community level refers to involvement of fishers in management of their fisheries to improve their livelihoods. However, there is no clear and universally accepted definition of co-management, even though it continues to be seen as a panacea for resolving problems of inequitable, undemocratic and inefficient fisheries management (Isaacs et al., 2005). Experience so far indicates that existing co-management arrangements have primarily focused on conservation and management of fish resources rather than on using them to facilitate economic development in fishing communities, or as an instrument for poverty alleviation (Hauck and Sowman, 2003; Hara Raakjær Nielsen, 2003).

## **SECTION 5**

### **Presentation of Key Issues from Five Marine Protected Areas in South Africa**

#### **Methodology**

This study included participatory research with four traditional fishing communities, as well as a documentation study of a fifth community living adjacent to, or in, MPAs in South Africa. The fieldwork, undertaken between October 2006 and December 2007, comprised focus-group meetings, community meetings, individual interviews using a semi-structured interview schedule, documentation of selected oral histories, interviews with key informants, and a review of literature; however, not all of these methods were used in

each field site<sup>10</sup>. The process with the Langebaan fishers from the West Coast National Park and Mkambati Nature Reserve was more intensive than the brief fieldwork conducted with the St Lucia and Maputaland communities as the researchers have been working with these fishers on issues pertaining to the MPA for an extended period of time.<sup>11</sup>

The aim was to try and integrate the case-study fieldwork process with the national small-scale fishers' policy process that is currently under way in South Africa, and to turn it into an opportunity to facilitate and initiate participatory action. The policy process has put the issues of preferential access for traditional small-scale fishers and 'community rights' firmly on the agenda, along with the right to be consulted in policy formulation, to participate in co-management and to allow for the integration of indigenous knowledge in research initiatives.

Importantly, all five of the sites were proclaimed MPAs prior to the current legislation governing MPAs and prior to the development of the CBD Programme of Work and the South Africa National Biodiversity Strategy and Action Plan. As a result, none of the parks conducted baseline studies on their impact on the communities; to date, none of the parks has developed databases to monitor the impacts on the livelihoods of these communities. The very rural nature of many of these communities renders census data as not truly representative; there is a paucity of reliable, accurate socioeconomic data on all these communities. It has not been possible, within the time constraints of this study, to conduct a detailed survey of socioeconomic conditions; the study has had to rely primarily on existing data. There is a need for much more nuanced data on each of these communities as it is not easy to assess the impacts on livelihoods retrospectively. The case study on the Tsitsikamma MPA depends heavily on desktop research and draws extensively on the recent fieldwork undertaken by Helene Fassen for her thesis (Faasen, 2006). The case study on the Mkambati MPA relies on the fieldwork of Kepe (1997, 2001, 2004) and Whande (2004) on land-based livelihoods.

## **1. Langebaan Lagoon MPA, Western Cape**

### **History of the Local Community and the Formation of the MPA**

The West Coast National Park is located approximately 100 km west of Cape Town. This park is the location for a unique MPA, the Langebaan MPA, which encompasses South Africa's only true lagoon, Langebaan Lagoon. The lagoon was initially declared a protected area in 1976 under the National Parks Act No. 57 of 1976. It was subsequently declared a National Park and MPA under this legislation. Following the promulgation of the MLRA, the park was also declared under the new fisheries management legislation in 2000. The lagoon, together with the Sixteen Mile Beach MPA nearby, comprises a combined length of 66 km (Lemm and Attwood, 2003:74). The Lagoon MPA comprises

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<sup>10</sup> See Appendix One for a list of key informants.

<sup>11</sup> Moenieba Isaacs undertook responsibility for the Mkambati Study. The fieldwork for the Langebaan study was conducted by Jackie Sunde, with assistance from community leaders, Norton Dowries and Solene Smith. The fieldwork for the Sokhulu and Mabibit communities was conducted by Sithembiso Gwaza and Jackie Sunde and the desktop research on Tsitsikamma was done by Jackie Sunde.

three zones: Zone A, where the catching of commercial and recreational line-fish is permitted, together with the use of fishing net for those with net fish permits. (Recreational power boats, sailing boats, water ski-ing and kite-surfing are allowed in this zone.); Zone B, where only those fishers with net fishing rights are allowed to fish; and Zone C, which is a no-take, sanctuary zone where no boats or extractive use are permitted.

The history of the local Langebaan traditional fisher community can be traced back hundreds of years. However, this history has not been recognized in the establishment and management of the MPA. On the contrary, the local traditional fisher community that lived in, and adjacent to the park, has been systematically dispossessed of their culture, tradition and livelihoods by the MPA over the past 20 years. It would appear that many of the traditional fishers of Langebaan occupied a unique class position for much of the first half of the 20th century, as workers on offshore fishing vessels that travelled far for many months, and then as owner-operators of their own small wooden fishing vessels at home on the lagoon, where they caught harders (*Liza richardsonii*) and a few other line-fish for their livelihoods. When they returned from working for the fishing industry, they immediately resumed their traditional fishing activities in the lagoon.

The lagoon was zoned as a protected area in 1976, and administered by the South African Transport Services, which was the ports authority at the time. Initially, the fishers did not need a permit to fish but boats had to be licensed. Subsequently, permits were issued to the fishers by the ports authority. At the onset of the 1980s, there were 27 fishers with permits to harvest harders in the lagoon, using drift-nets. These permits supported approximately 60 households' livelihoods, as each permit holder had a '*bakkie maat*' and women and children were directly involved in the drying and preparation of the catch.

The fishers remember nostalgically how, when they were young, the whole community was involved in net fishing, and how they depended on the lagoon for their livelihoods. Those who had boats were able to provide work for other fishers. The men caught the fish, and the women were directly involved in mending nets, preparing for fishing, and cleaning and processing the catch. There were even a few women who also went to sea. The "*kinders dra die mandjie*" ("the children carried the basket") and were responsible for checking that the dried fish, known as '*bokkoms*', was brought in at night and taken out in the mornings.

Prior to the 1980s, Langebaan village was undeveloped, and there was very little construction taking place there. The lagoon was then declared a national park under the SANParks and an MPA in 1982 and zoning introduced. None of the fishers was consulted about the establishment of these zones. During the mid-1980s, the park authorities began buying neighbouring farms and incorporating them into the park. These farms were typical of the farms of the area within the broader apartheid landscape of this period, in which one found a complex constellation of race and class relations. Many of the coloured fishermen worked for white farm owners, tending their livestock, and fished to supplement their meagre incomes. Community members harvested a variety of local plants and herbs for both consumption and medicinal purposes. They also made brooms, which they sold for

extra income, and used the reed for thatching roofs, and cow dung for the floors of their homes.

### **Access Rights to Marine Resources**

The declaration of the MPA was a turning point for many of the fishers who were gradually forced off the farms that were now incorporated into the park. While there were 27 permits at the time of declaration of the MPA, the management gradually reduced the number of permits. Following the introduction of the new fishing-rights allocation system, the number was further reduced, and now only seven coloured and three white fishers have rights to net fish in the lagoon. Two of the other fishers who were previously fishers for net fish were allocated West Coast rock lobster permits, and one of these two also received a white mussel harvesting permit. The only option for the remaining, approximately 40, traditional fishers is to purchase a recreational permit, which allows them limited line-fish from one zone only, and which they may not sell. Their catches are not sustainable and do not provide for basic household food security. Without any access to alternative livelihood opportunities, and due to a lack of access to information and credit to facilitate leverage on tourism opportunities, these fishers are very vulnerable to the impact of development on the lagoon. Currently, they feel that they are being “squeezed from all sides”.

The park is now managed by SANParks through a service agreement signed with MCM. The park experiences a number of difficulties in managing the marine-related aspects under these arrangements (pers. comm., MPA management, 2007). In practice, this means that MCM, at the national level, determines the total allowable effort and catch for the various species in the lagoon, and it manages the application for, and allocation of, fishing rights to the local fisher community. The SANParks management is responsible for compliance within its areas of jurisdiction, but MCM is responsible for allocating research permits and exemptions for the MPA waters.

### **Fisheries Management, Science and Traditional Knowledge**

Neither those fishers with legal rights to fish nor those without are able to participate in the management of the lagoon, and there is no effective mechanism for consultation. The ‘Stakeholder Forum’ of the Park, while an important and necessary forum, is not an appropriate mechanism for addressing fisher-specific issues as it comprises a range of diverse stakeholder groups, each with very different needs and interests. In this context, the seemingly neutral discourse of ‘user groups’ is problematic. The discourse on rights has become distorted so that the park authorities appear to believe that their task is to balance the rights of different user groups -- that is, to ensure that the ‘rights’ of the wealthy elite to holiday and enjoy a range of water sports are protected, at the expense of the poor fishers who depend on their use of the resource for their livelihoods.

The fishers are not invited to participate in research into the status of the stocks in the lagoon; their traditional knowledge has not been accommodated; and nor are they party to the decisionmaking on the total allowable catch (TAC) for the lagoon. As a consequence, they do not support the TAC that has been set, and many of those who do not have rights

are harvesting illegally as they believe that there is plenty of fish. There is no system of co-management in the lagoon.

A review of some of the available scientific literature on the state of the stocks targeted by the Langebaan fishers, coupled with interviews with two fisheries scientists working in the lagoon, provided inconclusive evidence that would support the current strict limitations on the Langebaan Lagoon net fishers and the zoning regime of the marine park<sup>12</sup>. The government scientists justify the strict zonation and limited effort allowed on the grounds that the net fish by-catch in the Langebaan Lagoon has an impact on overexploited line-fish species. They regard the MPA restricted zones as a critical fisheries management tool in this regard. They assert that the 'spillover' and 'recruitment' benefits of the MPA will ultimately benefit the fishers, an assertion that they use to justify a precautionary approach to the total allowable effort in the lagoon. The fishers have to bear the full cost of this approach through the restricted TAC and the tight zonation policy, while a very large number of recreational fishers are permitted to continue to utilize the lagoon. This has had drastic impacts on the well-being and livelihoods of the traditional fishers in the lagoon.

### **Empowerment, Governance and Participation**

The fishers have not perceived any benefits from any of the projects within the MPA, and investment in the area for the tourism industry has only benefited a few elites and workers in the construction industry. At present, there are great pressures on the lagoon ecosystem, and it would appear that the fishers are bearing the brunt of measures to try and address these pressures. The recreational fishing effort is considerable but no attempt is being made to limit it. There are unconfirmed reports that there is poaching from defence force officials but the issue is not being addressed. The Saldanha harbour authorities intend to expand the harbour, and an environmental impact assessment has been commissioned but the fishers have not been consulted. Tourism projects along the shore of the lagoon are driving up the number of users on the lagoon, increasing user conflicts. Within this context, the fishers tend to locate the source of the problem as the establishment of the MPA and the fisheries management regime that has accompanied it. Despite repeated attempts to meet with the government fisheries department to negotiate their rights to fish in their traditional waters and to participate in the management of the lagoon, the fishing community in the Langebaan Lagoon MPA remains marginalized, continuing to illegally harvest a wide range of species, which they believe is justified, given that they are excluded from harvesting their preferred traditional species, the harders.

## **2. iSimangaliso World Heritage Site, including Maputaland Marine Reserve and St Lucia Marine Park, KwaZulu Natal**

St Lucia and Maputaland comprise a network of two MPAs that both fall within the Greater St Lucia Wetland Park, now known as iSimangaliso Wetland Park Authority (IWPA). iSimangaliso was declared a World Heritage Site in 1999 and has also been recognized as a Ramsar site. St Lucia MPA was declared in 1968, subsequently under the auspices of the MLRA in 1998 as well as in terms of the World Heritage Convention Act (WHCA) No. 49 of 1999. Similarly, the Maputaland MPA, which was originally declared

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<sup>12</sup> See Hutchings and Lamberth, 2002 (a), (b) and Hutchings et al., 2002.

under Provincial Ordinance 15 of 1974, now falls within the MLRA and the WHCA (Lemm and Attwood, 2003:13) The IWPA is the management authority for the World Heritage Site and is responsible for ensuring compliance with the Protected Areas Act as well as the international obligations arising from the WHCA. This also entails giving direction to the policy, planning and management of the park, and all ecotourism and other economic and social activities, including promoting the development of communities living within the park's boundaries. The IWPA has contracted the provincial conservation agency, Ezemvelo KwaZulu Natal Wildlife (EKZNW), as its nature conservation agent. EKZNW is responsible for the management of the marine conservation component and, as part of this, the fisheries component. For this role, the EKZNW has a management agreement and contract with MCM, the national branch responsible for fisheries management, which delegates the role to the provincial agency. As the agency is also responsible for fisheries management within the province as a whole, the marine conservation aspect of its MPA work is, in fact, an extension of its fisheries management function in the province. The overlapping areas of jurisdiction between iSimangaliso and EKZNW, albeit for different functions, create considerable confusion, and there appears to be competing perspectives when it comes to issues related to research processes and protocols as they pertain to the fishing communities.

### **History of the Parks and the Use of Natural Resources**

The history of iSimangaliso Park is one of community displacement in the name of conservation, and repeated clashes with authorities over the harvesting of marine resources. Until recently, the entire park area was subject to land claims in terms of the restitution process inherent in the Land Claims Act. Beginning in the 1960s and continuing into the 1990s, traditional communities were forcibly removed from their lands in order to accommodate the apartheid conservation lobby.

Until the promulgation of the MLRA in 1998, traditional fishers and inter-tidal harvesters were treated as criminals, and experienced repeated harassment from the authorities for their use of marine resources. Over the past 11 years, the provincial fisheries authority, now known as EKZNW, has begun working with these communities, trying to implement a regulatory and monitoring system. After decades of mistrust between the authorities and the communities due to the harvesting having been regarded as 'illegal', the process of empowering communities to participate in a regulatory system that is defined and circumscribed at the national government level is a very challenging one.

There are several communities of traditional fishers and harvesters living in iSimangaliso borders. On the recommendation of the EKZNW staff, this study selected two of these communities, namely, Mabibi and Sokhulu.

### **Maputaland MPA – Mabibi Community**

The Mabibi community comprises approximately 200 traditional households, living in an isolated rural setting between the shores of Lake Sibaya and the coastal forest reserve of Maputaland. The community is descended from the Northern Zulu and Thonga people and

lives under traditional authority. It has traditionally harvested inland lake, coastal inter-tidal, fish and forestry resources, and undertaken agricultural production in order to survive. Infrastructure in the village is very limited. There are only two schools, one a pre-primary and the other a primary school. There is a health clinic situated next to the primary school. Residents have no running water or electricity; however, a scheme is currently under construction to extend water and sanitation services to the community.

The Mabibi community has a lengthy history of harvesting marine resources for subsistence purposes. Mussels (*P. perna*), limpets (*Fisurella and Patella spp.*) and red bait (*Pyura stolonifera*) are the primary inter-tidal resources that are harvested (EKZNW, (1), 2006:1). It is believed that communities have been harvesting invertebrate organisms along the shore for several hundreds of years (EKZNW, 2006:13). Traditionally, women and children undertook this harvesting and “it has become an integral part of the social and cultural fabric of tribal life” (EKZNW, 2006:13). Harvesters no longer use traditional tools but a variety of modern instruments such as axes, hoes, *pangas* and sharpened vehicle spring blades to prise the organisms off the rocks (EKZNW, 2006:13). In addition to harvesting inter-tidal organisms, these communities have depended on shore-based line fishing for their food security. These subsistence fishers make up a very small proportion of the line fishers along the coast, and most of the fishers are recreational. They harvest small, more plentiful species such as karanteen, blacktail, pinky and stonebream (EKZNW (2),2006:1).

### **Governance of Marine Resource Access and Use**

Until as recently as 2003, the harvesting of marine resources was unregulated. In 2002, EKZNW began working with the local fisher community to build their capacity to establish a joint management committee to manage the harvesting of inter-tidal organisms. This approach was based on the WWF-SA-funded EKZNW projects at eNkouvukeni, north of Mabibi in the Kosi area, as well as the successful EKZNW-managed Sokhulu Mussel Harvesting Project, where joint management committees had been established<sup>13</sup>. The Mabibi project aimed to introduce co-management with the overall objective of ensuring “sustainable use of the resources and conservation of biodiversity” (WWF, 2004:3).

Currently, there is a joint co-management committee, representing both the predominantly female harvesters and male line-fishers. Four community monitors were elected in 2006, and a system of permits and bag limits was introduced in the past year.

The community has identified the following problems that they experience in relation to the harvesting of marine resources and the MPA:

#### *Lack of access to the sea*

The Mabibi fishers and harvesters do not have direct access to the sea but the local luxury tourist resort, the Thonga Beach Lodge, built on their land, has a road to the sea, which the fishers may not utilize. The community has tried to address this issue by repeatedly bringing it to the attention of the park authorities but have been told that they cannot get an

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<sup>13</sup> These projects have been well documented. See Harris, J.M. et al., 2003 and WWF Green Trust Project Progress Report, 2004.

access road of their own. The park has closed the launching of vessels from this shore to the general public, and only the local Thonga Beach Lodge may launch vessels from this shore.

*Prohibition on owning and using non-motorized and motorized vessels*

The traditional, local community is not allowed to use any vessels. They are not even allowed to utilize non-motorized vessels such as canoes, yet the Thonga Lodge is allowed a vessel. The community perceives this as very unfair and feel frustrated as they would like to be allowed to offer canoeing to local campers and visitors as an alternative income-generating option.

*Limits placed on use of natural resources*

The community wishes to “own our own place”, and feels “badly treated by KZNW”, the authority it perceives as responsible for limiting the harvesting of marine resources. The community express frustration with the limits on bag size and numbers. It feels that the limits are not sustainable. It also feels that it is not fair that their members are limited to the same catch as the recreational fishers.

**Opportunities, Benefit Sharing and Equitable Access to Resources**

The Mabibi fishers and harvesters have not heard of the CBD and are not aware of their rights to participate in the MPA decisionmaking or of any provisions to ensure that they share in the benefits. The community is adamant that their members are not able to participate in the management of the MPA or broader iSimangaliso Park. The community states that it has not received any benefits or investments from the community levy. The participants said that the tourist lodge and the camp provide employment for approximately 45 local persons, but these are not necessarily from the fisher group. Apart from this, they do not perceive any benefits for their community. On the contrary, they complain that there is no monitoring of the fish that the lodge catches, and the lodge has privileges that they do not have, such as access to a boat and an access road to the beach.

There are very few alternative livelihood options for the members of the community. Only two persons from the community have participated in the Coast Care Project, and only for a limited period of time, after which they were unemployed. The park has not provided any training for them on any form of alternative livelihoods.

The community appears constrained by the limited allocations to subsistence fishers, and the broader lack of access to opportunities. Community members admitted to harvesting and fishing beyond the legal limits and outside their subsistence permit conditions. For example, they are also harvesting crayfish, which they are not permitted to do. They also expressed frustration at the current limits, and, when questioned, did not articulate concerns regarding the state of the resources or impact of increased exploitation of these resources.

The fishers do not appear empowered to advocate for resources or for their right to participate in decisionmaking. It is not clear as to the extent to which this is blocked by the local traditional authority structures. There is no indication that they perceive a link

between their rights to marine resources, their rights to co-management and their rights to broader socioeconomic development. The committee does not actively advocate on behalf of the fishers, a condition that is possibly exacerbated by the remoteness of the village, and there is no transfer of capacity from the fishing 'co-management' skills to broader community concerns.

Desktop research conducted subsequent to the visit to the fisher community revealed a number of surprising facts that the community did not mention, despite repeated probing around the issue of benefits and impact of the park. In 2002, the Wetlands Park Authority initiated an ecotourism project in Mabibi to stimulate opportunities for the local community, and entered into an agreement with a private company to develop a luxury lodge. The Thonga Beach Lodge and the Mabibi Campsite have become benchmarks for the development of private-sector/community partnerships in ecotourism. The local community, through the Mabibi Community Trust, owns a 68 per cent share in the R6.5-mn Thonga Beach Lodge and a 51 per cent share in the campsite (*Mail and Guardian*, 30 November 2004). The fact that the community is not aware of the potential 'benefits' flowing to them from this lodge highlights the lack of adequate and effective participation of the community in the planning process and their lack of awareness about their rights.

The very poor infrastructure in Mabibi and the lack of facilities suggest that though funds are being put into a trust for the community, there has been a breakdown in the actual allocation of these funds for community development, and the benefits are not "trickling down". It would appear that there are several reasons for this. The existing hierarchical structure of the local tribal authority, and the relatively new and weak local government, with limited capacity, are undoubtedly contributing towards the lack of social and economic development in these communities. However, the fact that the local co-management structure focuses largely only on fishing permits, and operates within a fairly narrow ecological focus on the resource, appears to have contributed to the fact that the fishers are not empowered to question the current situation. There is no institutional mechanism or process for facilitating the fishers' access to alternative sources of livelihoods, and, in a context where the fishers do not see any benefits from participating in the co-management committees, it is unlikely that this will be sustainable.

### **3. St Lucia MPA – The Sokhulu Mussel Harvesters and Line Fishers**

The Sokhulu fishers and mussel harvesters live on the southwest border of the park within the jurisdiction of the Sokhulu Traditional Authority. The community has traditionally harvested marine resources along the coast, both within and just outside the borders of the park, along a 20-30-km stretch of coast between St Lucia estuary mouth and Njokanjane (Harris et al., 2003:64). Harvesting of mussels dates back hundreds of years. It would appear that traditionally, the harvesters were women who used a rotational system, moving from one site to another as mussels became depleted (Harris et al., 2003:64).

Prior to the 1980s, the community practised this traditional use of marine resources. There was no national legislative framework to accommodate this type of marine resource use,

and the communities continued with little interference. In the 1980s, however, the provincial government introduced, and began enforcing, permit requirements and bag limits. This brought the harvesters into repeated clashes with law enforcement officers. The impact of this on the harvesters, and indirectly on the resource, has been documented by Jean Harris.<sup>14</sup> As a result of growing concern by the conservation authorities at the time about the increasing exploitation of mussels along this coast, predominantly by recreational harvesters, research on the harvesting of inter-tidal mussel stocks commenced in 1994. This brought the increasing conflict between the Sokhulu mussel harvesters and the park's board officials to the attention of management staff. In response, a long-term project was initiated to establish a joint management committee, with funding from the Green Trust and WWF-SA. An area outside the park, at Dingini, was designated for their subsistence use, and community monitors were selected. An experiment was set up with the women, identifying different zones for harvesting, which enabled them to understand the impact of overharvesting on the mussels. Over time, the harvesters were also encouraged to use less damaging tools for removing mussels off the rocks. In the following five years, a range of capacity-building and training opportunities were provided to the committee and some community members. (Harris et al., 2003:69).

Decisionmaking within the co-management system in Sokhulu has operated at two levels (Harris et al., 2003:82). Initially, decisions regarding the placing of subsistence zones and the TAC were made by the provincial conservation authority, with inputs from researchers, and the community committee representatives made the decisions about who should gain access and the number of bags allowed per person. Subsequently, the responsibility for deciding the TAC was devolved to the joint committee. The joint committee representatives now have equal voting power. A constitution has been developed, and roles and responsibilities of members of the co-management committees have been outlined.

Despite having their own co-management committee, the fishers and mussel harvesters express a range of frustrations and concerns regarding local management of the resources. They experience ongoing user conflicts with recreational fishers, many of whom are extremely racist and blame them for the high crime rates in the area. They are also unhappy with current zone regulations and bag limits, which, they say, are inadequate for their basic needs. They feel it is unfair that recreational fishers are allowed to harvest a large quantity of resources but yet they, who depend on the resources for their livelihoods, are so restricted.

The fishers and mussel harvesters do not appear to locate the existing limits within the current subsistence fisheries management policy, and this adds to their frustration, as they perceive recreational fishers as having more power than they do; yet, they do not question this from a rights perspective. As with the Mabibi community, the Sokhulu fishers and harvesters did not participate in the drafting of the management plan. This was discussed with the committee members but not with the broader community, and it has yet to be translated into Zulu.

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<sup>14</sup> See Harris et al., 2003

The community of harvesters and fishers does not appear to have been able to transfer any of the confidence or capacities gained through the co-management process to the struggle for their basic socioeconomic rights.

### **Opportunities and Livelihoods**

Currently, 116 mussel-harvesting permits have been issued in Sokhulu. The community harvests the mussels primarily for household consumption; however, a small amount is sold. The harvesters cook, shell and sell the mussels in cans. The market value is low -- in 1995, the selling price was R2 per can -- and thus the resource had more consumption than sale value (Harris et al., 2006:73). There is a small group of male line fishers who harvest within strict daily bag limits, of equal size to those allocated to the recreational fishers. Both groups complain that the bag limits are insufficient for them to survive, and there are few alternative livelihood options for the fishers in the area. A few get temporary work collecting wood for the local sawmills. Many people rely on childcare grants and pensions. They do not benefit from Coast Care, the DEAT project and the Poverty Alleviation Project that removed alien vegetation.

It would appear that the weak local government, coupled with a strong tribal authority, which is not in close contact with the fisher and harvesting community within the broader Sokhulu community, is one of the primary problems. It is also suggested that perhaps because these residents do have access to marine resources for their livelihoods, they are not targeted by the park authorities for poverty-relief and alternative livelihood projects. As noted in relation to Mabibi, because of a lack of institutional mechanisms within the fisheries conservation authority to address issues of alternative livelihoods, and between the EKZNW and iSimangaliso, the issue of alternative livelihoods for these communities has never been adequately addressed. The communities are marginalized in relation to poverty-relief options as they are perceived as having an income, and yet the 'subsistence' income they are allowed is insufficient to sustain their livelihoods.

## **4. Tsitsikamma MPA**

### **Background and History of the Communities Living in the Park**

Tsitsikamma MPA, which lies within the Tsitsikamma National Park, is the oldest MPA in South Africa and the first to be established in Africa. It was established in 1964, prior to any international or national recognition of MPAs as a tool for the conservation of marine resources. The Tsitsikamma MPA is one of the largest MPAs in the country. With a shoreline of 57 km and as a single no-take reserve, it protects 11 per cent of the county's temperate south coast shoreline, a significant marine biome, given its role as a nursery for many reef species. Although the park was declared in 1964, the Tsitsikamma Forest Park was declared the Tsitsikamma National Park only in 1989. However, during the intervening period, considerable interventions were made to begin to extend the park's jurisdiction and add a considerable amount of land to the park. Subsequent proclamations traversed the Covie community that had already been subjected to forced relocations and the dictates of the forestry authorities (Conway and Xipu, 2005). Those Covie residents who still lived in the original area were very dependent on fishing as a source of food and were cut off from accessing the sea through the erection of fences that cut across the Covie

commonage. These residents were never consulted about the action nor did they receive any compensation (Conway and Xipu, 2005). Similarly, residents of the neighbouring villages of Thornham, Coldstream and Storms River were largely cut off from easy access to their livelihoods.

The history of marine resource use in the area dates to the 19th century (Delius, 2002 in Faasen, 2006:17). The communities living in the Tsitsikamma area relied heavily on the surrounding forest and coastline for their sustenance. The Khoisan community made a living as woodcutters but supplemented their meagre earnings with fish that they caught along the rocky shores.

Initially, angling from the rocks and the collection of bait species was permitted when the Park was established, but the fishers had to purchase an entry permit (Faasen, 2006). Shore-based angling was allowed to continue throughout the park for the following 11 years until 1975. In that year, it was limited to 15 sites and then subsequently further limited in 1978 to a single 3-km stretch, with no bait collection allowed. In 2001, the entire area was declared a no-take zone. Throughout this period, the local community advocated actively to retain access to their historical fishing site through the formation of the Tsitsikamma Angling Union. The fishers, together with other recreational anglers who used the area, wrote petitions, memorandums and met with SANParks and other key officials. They also met with MCM representatives (Faasen, 2006:18).

In September 2006, the community living immediately adjacent to the park, under the auspices of the Tsitsikamma Community Angling Forum (TCAF), launched an active campaign to restore their access to their historic fishing site and requested the Minister of Environmental Affairs and Tourism, van Schalkwyk, to open the park under tight restrictions, to a limited group. They proposed opening a corridor of 10 km, which would only constitute 13 per cent of the total area. The fishers would assist with monitoring the catch and stocks.

Following this request, the Minister announced in March 2007 that this request would be considered. In response, a 'Statement of Concern', signed by 124 members of the marine science community throughout South Africa, was sent to the Minister. In this document, the scientists offered their "learned advice that the Tsitsikamma National Park should remain closed to any form of fishing". This was motivated strongly with 13 points that they stated were based primarily on biological and economical grounds (Statement of Concern, 2007).

On 27 November 2007, the Minister took a decision not to open the park for any fishing, and to retain its no-take status. In a very strong statement, he further declared his intention to extend the areas under MPA control: "Because of our determined and forward-looking approach, South Africa today is among the world leaders in implementing the goals set at the 2002 World Summit on Sustainable Development...At least 18 per cent of South Africa's coastline falls within formal protected areas" (DEAT, 2007). Minister van Schalkwyk said a decision to open this MPA would effectively have signalled a broader shift in policy on the part of government and the beginning of a new approach that is

neither sustainable nor in line with stated objectives. He added that opening the MPA would “undermine its biological sustainability” (DEAT, 2007).

As a result of this decision, the communities living adjacent to the park continue to have no access to their historical fishing grounds. It is believed that many of the fishers fish illegally in the park (Faasen, 2006). A survey of their attitudes towards illegal fishing in the park indicated that the majority of the residents interviewed believed they had a right to fish there and, in the face of the recent decision, they are likely to continue to do so. Seventy-seven per cent of the respondents supported illegal fishing in the park. Only 16 per cent reported that they benefit from the park. Six per cent of the respondents who denied having benefited from the park had worked for Coast Care, and 17 per cent had worked for the Working for Water Programme. This suggests that they did not know the park was the implementing agency for these poverty relief projects or they did not see their employment as a benefit (Faasen, 2006: 96). Half of the respondents who felt that they do not benefit from the park stated that they feel that the benefits of the park accrue to a few select individuals (Faasen, 2006:97).

### **The Scientific Community’s Perception of the Benefit Flows within and from the Park**

An examination of the debates around the benefits and perceived value of the park and the ‘no-take’ zoning aspect of the park provides important insights into the current dominant discourse on MPAs in South Africa.

As noted above, the marine scientific community’s response to the possible opening of the no-take zone was that “the marine biodiversity protected within the Tsitsikamma National Park is of immense ‘value’ to the nation as a whole and its protected status should not be compromised by the needs of a few” (Scientists Statement of Concern, 2007). They also stated that “opening of the MPA to fishing would thus result in the rapid depletion of healthy stocks to the detriment of the local fishery and, more importantly, to the detriment of the commercial and recreational fisher operating in areas adjacent to the MPA” (Scientists Statement of Concern, 2007). They go on to argue that “as scientists we need ‘evidence-based’ arguments, and we have very valuable economic and social research on the issue commissioned by WWF” (Scientists Statement of Concern, 2007). This ‘very valuable’ research referred to is a study that was commissioned by WWF-SA in order to try and provide a preliminary estimate of the costs and benefits of the Garden Route MPAs.

Clearly, this raises the issue of how to ‘value’ and quantify the worth of biological stocks, and cultural identity and history in a country where the history of local communities has been systematically devalued. One of the claimant communities, in this instance, had their land expropriated from them for the formation of the park, while the others lost access to their livelihoods. Since many of them have been forced to find alternative work over the past 20 years, their dependence on the resource for livelihoods is difficult to prove. Currently, only 2 per cent depend on wild foods for survival, but the others argue strongly that they still supplement their incomes with fish, and that this is also an important cultural tradition. This aspect has not been valued and the recent (2006) WWF report fails

completely to even acknowledge that this is the primary motivation for the claim by these communities. Instead, the fishers are referred to as ‘recreational anglers’. The study commissioned by WWF-SA on the economic value of the MPA is held in high regard by the marine science community and is now often quoted in support of MPAs in South Africa. The findings indicate that the ‘costs are far **outweighed** by the benefits’ and a figure of R33 mn is given as the total economic value of the Garden Route MPAs (Turpie et al., 2006).

This study is an excellent example of the way in which the discourse on benefits of MPAs is being argued, devoid of any location in the political economy of the fishing industry. Nowhere in the report is the cultural and spiritual value of the MPA for the traditional fishing community estimated, and this ‘non-use’ value is not factored into the value of the park, nor is the loss of access for these communities accounted for. The study also fails to note the history of the exclusion of many traditional small-scale fishing communities from the allocation of line-fishing rights.

It would appear from the language of the WWF report on the value of Garden Route MPAs, and other statements made by scientists during interviews for this research, that, in a context where conservationists feel that their authority based on biological conservation ethics is failing them, they have to resort to economic reductionism in order to justify, and motivate for, conservation measures. They are appropriating concepts of ‘equity’ and ‘benefits for all’ in an attempt to lobby the politicians, on the one hand, and the economists, on the other, knowing that, in the current macroeconomic climate, it is costs and benefits that ultimately count the most. The Minister stated in his speech on the decision to uphold the ban on fishing in the Tsitsikamma that “allowing a few people access for recreational purposes would negate the benefits that accrue to all” (DEAT, 2007).

The concept of equity has been appropriated so that equity must, according to the politics of the day, mean equal benefit sharing for all. Notions of past and present injustices, and the concept of preferential benefits to those who are marginalized or have historical rights do not feature in this approach. The way that cultural identity is embedded in marine seascapes and space is not accommodated. This raises a broader debate regarding the balancing of constitutional rights, particularly environmental rights, with social rights.

## **5. Mkambati Nature Reserve within the Pondoland MPA**

The Mkambati Nature Reserve is located within the Pondoland MPA in the Eastern Cape Province of South Africa. The Pondoland MPA is the largest in South Africa, covering 1,300 sq km, which include 90 km of coastline, and extending approximately 15 km out to sea to the 100-m isobath. The area falls under three different tenure regimes -- communal settlement, State land used for parastatal agricultural projects, and the State-owned Mkambati Nature Reserve. This reserve covers 6,120 ha, and was declared a reserve in 1920 for people who had leprosy and later, tuberculosis. Mkambati Nature Reserve was proclaimed as a nature reserve in 1977. In 1998, the MPA was declared under Section 43

of the MLRA. Subsequently, the marine reserve has been incorporated into the larger Pondoland MPA in terms of Section 43 of the MLRA, and the original Mkambati MPA was de-proclaimed (ECPB, IGRMP 2007). It currently falls under the Protected Areas Act 57 of 2003 as a Provincial Nature Reserve (ECPB, IGRMP 2007).

The community initiated a land claim for their land in terms of the Restitution of Land Claims Act of 1994. In terms of the settlement agreement signed in this regard, the Mkambati Land Trust now holds the land on behalf of the community. The Eastern Cape Parks Board (ECPB) is responsible for the protection, conservation and biodiversity, in accordance with the management plan and provincial and national legislation (ECPB, IGRMP 2007). Until recently, there has been no management agreement between MCM and DEAT or ECPB, and limited assistance from MCM on management and especially, compliance activities (ECPB, IGRMP 2007). The role of traditional authorities in the new democratic structures is unclear and contested (Cousins, 1996). A co-management committee was established in 2004 between the Mkambati Land Trust representatives and the delegated management authority as part of the land claims settlement agreement.

### **The Ndengane Community**

The Ndengane community resides less than 2 km from the coast within the Mkambati Reserve and derive primary protein from exploiting marine resources like abalone, brown mussels, limpets, crayfish, oysters, finfish, and seaweed (Fielding et al., 1994). The community comprises 3,000 inhabitants in 83 households and is dominated by female-headed households. The community maintains a rural livelihood, with a strong influence on indigenous knowledge systems. The members of the community derive their livelihoods from land-based resources, for example, livestock, medicinal plants and food crops. Some of the poor in the community share labour on farms in exchange for food; they also get seasonal employment on government public works and poverty-alleviation programmes, and tourism in the parks also adds to some of the income to households. Many households survive on various forms of cash income through government welfare grants (pensions, childcare), migrant remittances, and beer brewing.

Kepe (1997) and Whande (2004) state that marine resources form an important source of protein in the poor households who do not have livestock and land. In Ndengane, villagers with limited livelihoods tend to utilize the marine resources, selling some to the tourist market and consuming the rest at home. The traditional harvesting site for the Ndengane community has been the rocky shore between the Mnyamene and Magongo Rivers south of the Msikaba River. In particular, the area between Mkambati and Msikaba Rivers, which falls within the Mkambati Nature Reserve, has been used by fishers. Since 1994, this harvesting area has now been declared a no-take MPA zone. Although fishers are aware of the governing regulations regarding closed seasons and no-take zones, they continue to harvest, and use the notion of *ukjola*<sup>15</sup> (Kepe, 1997). In most cases, the fishers are not arrested as the civic organizations and tribal authorities tend to support *ukjola*, a process of legitimizing informal rights. The exploitation rate of marine resources is also

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<sup>15</sup> “This is a local term that refers to locally legitimized ‘stealing’ of a resource, based on historical claims to it, that predate the existing legislation” (Kepe, 1997:53).

affected by the social and economic conditions (lack of alternative livelihoods, high unemployment and poverty), which are attracting more young adults into harvesting.

There is a clear gendered division of labour, with women and girl children harvesting mussels and limpets, and men being the primary harvesters of crayfish and line-fish. Recently, (Kepe, 1997 and Whande, 2004) noted an increasing trend of women harvesting lobsters for the tourist market, and some men also collecting mussels, while young boys do both. However, most of the harvest is consumed at home. Seaweed (*Gelidium peridifolium*) is harvested by women and sold to local licensed entrepreneurs (Kepe, 1997). In Ndengane, access rights for women are determined through their kinship and network in the community. Women are not allowed to raise their opinions or speak out at community meetings, unless they are related to the chieftaincy. However, in the Role community, only 10 km from Ndengane, women are represented on the co-management committee, and they raise their opinions in meetings and engage in debates.

Of the 83 households, 90 per cent collect marine resources (mussels and crayfish) and either consume them or sell them to the tourists visiting the Mkambati nature reserve or owners of the coastal dwellings. According to the park officials, about 30 rights holders were allocated subsistence permits but there are also a large number of households that fish on the post office recreational permits.

#### **Access Rights to Marine Resources**

MCM<sup>16</sup> states that in 2006, 151 exemptions were issued in Ndengane (36), Role (76), Mncambeni or Cuthwini (39) communities. In Role and Ndengane, MCM issued East Coast rock lobster exemptions, which are valid from March to the last day of October 2006. In Mncambeni/Cuthwini, 39 exemptions for brown mussels were issued, valid for one year and renewable (MCM, 2006). It is important to note that these allocations are exemptions for a period of a year, and it is not guaranteed that the fishers will be allocated rights again. The standoff between MCM and the chieftaincy has resulted in no rights being allocated to the Ndengane community in 2007, and the deputy headman has instructed his fishers to continue fishing without a permit. The chieftaincy feels that MCM has consulted his community to form a co-management group to assist with the monitoring and control of harvesting and illegal fishing activities in the no-take zone without getting permission from him. MCM outsourced the setting up of local co-management committee to a consultancy called Sustainable Coastal Development. According to the consultant, the goal of this initiative is to form a representative group, and they have tried, on numerous occasions, to get permission of the tribal authority, with little success.

The community has identified the following concerns: the lack of co-ordination between government departments in implementing programmes and regulations within the communities; overlapping roles and responsibilities of Eastern Cape Parks and MCM; lack of clarity of the roles and responsibilities of the co management committee in relation to the tribal authorities; and the fact that the chieftaincy and the fishers were not consulted in the implementation of new regulations in the MPA. The community members are unclear as to the impact of the new subsistence permits on their traditional access to resources. The

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<sup>16</sup> As stated in an email communication from Mr Sandile Sibaya.

chieftaincy is also unhappy with the fact that it is not clear as to how the community will benefit from the programmes the government intends implementing.

The standoff between the community of Ndengane and MCM clearly indicates the insufficient involvement of local and indigenous communities, and their knowledge in the establishment and management of the MPAs. The role of chieftaincy in access to natural resources is still unclear. In Ndengane, the chieftaincy tends to ignore the new regulations. If this conflict is not dealt with, fishers will continue to use *ukjola* to justify illegal actions, with support from the traditional authority, and this could compromise the resource.

## SECTION SIX

### **Discussion and Findings**

South Africa has a clearly identifiable legislative framework in place for the establishment of MPAs, and has taken decisive actions over the past 40 years, bringing as much as 18 per cent of the coastal zone under protection. Actual policy on MPAs is lacking, however, and there is little evidence that the planning and management of these MPAs is done within the framework of the CBD PA PoW. MPAs are regarded as a critical fisheries management tool, and the approach to the zoning and management of these areas is driven by this perspective.

#### **Access and Opportunities**

A closer look at the participants and beneficiaries indicates that the benefits of marine conservation and ecotourism within MPAs are contradictory for traditional small-scale fishers and harvesters, and most do not benefit equitably from these programmes. They do not experience benefits from increased protection of the resources as the dominance of conventional conservation science ensures that the limits on their harvests remain stringent and barely enable them to sustain their livelihoods, in some cases not at all. Their identity as legitimate rights holders is eclipsed by the notion of 'stakeholders'. Some of them are 'permitted' to use the resources on a subsistence basis, but not, however, entitled with a sense of rights. In two of the case studies, we found fishers' access regulated through subsistence permits. In the case of Mkambati, due to the standoff between official authorities (MCM) and traditional authorities, no access rights were allocated in 2007. For the Covie community of the Tsitsikamma MPA, traditional access has been denied completely through the declaration of a no-take zone, despite considerable advocacy on their behalf to have their rights recognized. In Langebaan only seven of the local traditional fishers have access rights.

In response to these costs of 'conservation', fishers in four of the five MPAs admitted to fishing illegally, and have resorted to unsustainable harvesting activities. In contrast, in three out of five of the parks, recreational resource users in, and outside, the parks continue to utilize the same marine resources with legal sanction.

#### **Poverty Alleviation and Alternative Livelihoods**

The lack of appropriate institutional mechanisms to facilitate integration of a developmental approach and access to supplementary livelihood options or poverty relief projects pervades both the management of small-scale fisheries and MPAs. Financial benefits from ecotourism have not yet ‘trickled down’ to fishing communities. Poverty alleviation and public-works programmes do not target them as they are regarded as already having an income from harvesting and catching of marine resources. Most of the case studies indicate a reduction in marine-based livelihoods, even as the authorities are not offering any viable alternative opportunities like, for example, land-based livelihoods or tourism. The jobs that were created through poverty alleviation projects were short-term and not sustainable. It is not surprising that MPAs are unable to enable fishers to diversify livelihoods, as there is absolutely no mechanism to facilitate this.

### **Governance, Participation and Co-management**

All five of the MPAs under discussion inherited an apartheid legacy of top-down management. All five are now trying to implement a participatory approach, which is being driven largely by the terrestrial PA work in DEAT and within SANParks. But the findings of this research suggest that the fundamental paradigm within which much of this participatory and co-management approach is located is not one of empowerment. Committees’ capacities and skills are built in order to meet the instrumental needs of orderly use, monitoring and compliance within communities, and there is little transfer of the consciousness of their rights as fishers to other socioeconomic rights. This approach does not question and challenge the power relations that lie at the heart of access to, control over, and management of, resources in the country. As a result, these communities are still subject to blatant forms of racism, discrimination and the inequities of a system where powerful traditional structures control access to benefits and resources. This narrow, instrumental approach to fisheries management within MPAs results in a failure to set up adequate institutional mechanisms that will facilitate access to real livelihood alternatives and benefits for the community. In all but one of these studies, there is a noticeable lack of integration with local government economic development opportunities and tourism initiatives.

It is clear that the vulnerabilities and gaps in the general fisheries management policy in South Africa have impacts on the management of the small-scale fishers within MPAs. There is no policy to secure an enabling environment for fishers, no clear expression of their rights in policy, which leads to marginalization, exclusion and failure to recognize their rights in terms of MPAs too. Notions of MPAs as the fisheries ‘safety banks for all’ abound. This attitude fails to locate MPAs within the history of injustice and unequal access to marine resources upon which South Africa’s current fishing industry and recreational opportunities are based. Specific groups have been systematically excluded and marginalized, and the poor benefit from neither the commercial fishing industry for which MPAs are allegedly compensating nor the commercial line fishery and recreational fishers who benefit from the ‘spillover’ and protection that MPAs are alleged to provide.



## **Conclusions and Recommendations**

### **Legislative and Policy Framework**

South Africa has established the necessary legislative framework for ensuring that indigenous and local communities share equitably in the costs and benefits of MPAs, and participate in the governance of these areas. These legal commitments have yet to be translated into clear policy directives for the marine component of PAs, with the corresponding institutional mechanisms in place to secure their implementation in practice. Currently, the costs of MPAs far outweigh the benefits for small-scale fishing communities who appear to be bearing the brunt of this gap in policy and the resulting confusion and competing objectives. Traditional fisher and harvesting communities are not benefiting equitably. Women in these communities often bear the costs of the impact of such policies because of the roles they play in sustaining their households. MCM needs to develop a policy for the management of MPAs, along with norms and standards for the evaluation of benefit sharing and participation of local communities. While such a policy needs to be articulated in conjunction with the General Policy on the Allocation and Management of Fishing Rights, it should also embrace the broader ecological, social and cultural imperatives that inform the web of life and well-being in coastal communities.

International NGOs can contribute to this process by disseminating and drawing attention to general guidelines on developing and enabling an MPA policy environment as well as information on norms, standards and methodologies for monitoring and evaluation of MPAs from the perspective of the impact on small-scale fishing communities.

### **Management of MPAs**

The failure to address the rights, needs and interests of traditional, small-scale fishers in South Africa's general fisheries management policy spills over into the management of MPAs. This appears to be due, in part, to the linking of the management of marine living resources with that of MPAs through the same legislative framework, the MLRA. It is also, in part, influenced by the dominance of a conservationist fisheries science that fails to adequately address the social justice and cultural imperatives informing the objectives of MPAs. The rights of fishers to preferential access to certain resources arising from their historic dependence on them for their livelihoods, their past discriminatory exclusion or their cultural histories are neither recognized nor balanced with the rights of other resources users and marine species. In contrast, MPAs are currently playgrounds for the rich, laboratories for marine scientists or protected paradises for marine organisms. Traditional fishing communities must subsist in marginalized zones along the fringes, benefiting from the as yet unproven 'spillover' effects.

MCM needs to develop a sustainable fisheries-rights and management policy for the small-scale sector that clearly recognizes the rights of these fishers and includes the policy mechanisms that will give effect to a community-rights-based approach based on preferential access to specified zones and a basket of resources that can sustain their livelihoods. This management policy needs to integrate the indigenous knowledge of fishers with scientific knowledge of the stocks. The application of this in MPAs must be

recognized. The political will and commitment to implement this must be conveyed to the marine science community, and a fundamental paradigm shift facilitated so that a partnership between local fishing communities and fisheries scientists can be established. The implementation of integrated research projects that harness the indigenous knowledge of fishers and secure their participation, demonstrating the tangible benefits of MPAs, will contribute enormously to gaining their support for the objectives of the MPA authorities.

### **Institutional Arrangements**

The lack of appropriate institutional arrangements to facilitate the equitable sharing of benefits and enable local fishing communities to access and enjoy the gains that accrue from tourism and other opportunities further impedes realization of MPA development potential. MPA authorities need to put in place the human, community-development capacity at the local level that will enable communities to be integrated into local development opportunities and give the necessary support to ensure leverage of these opportunities. Towards this end, the managing authority for an MPA should be required to form a partnership with both the local government and civil society in delivering integrated programmes for local economic development.

### **Participatory Governance**

The current approach to community participation in the governance of MPA resources tends to be instrumental rather than empowering. Traditional fishing communities are unaware of their rights and are not empowered to participate effectively and fully in the management of these resources. The absence of an empowering, human-rights-based approach to capacity building for co-management means that these coastal communities are unable to make the links between their fishing rights and broader socioeconomic rights. High levels of poverty and social exclusion, poor infrastructure and inequitable access to resources are common features across all five of the case studies. The fragile governance structures in coastal communities are often unable to deal with the new enforcement regulations of regulating access, exclusionary criteria, the need for sanctuaries, etc. Hence, it is important for the MPA process to be socially acceptable and equitable, not undermine cultural values and practices, and offer feasible alternative livelihood sources. This will require ongoing stakeholder participation in co-management arrangements with authorities.

Government and MPA authorities and conservation agencies, research and training institutions and civil society role players need to develop and implement awareness-raising and capacity-building programmes that have the empowerment of traditional, small-scale fishers and harvesters living in, or adjacent to, MPAs as a primary objective. These programmes need to provide accessible popular information, appropriate to the literacy levels of these communities. Particular attention should be paid to ensuring that women are enabled to participate fully in the various related processes. International and national NGOs should play a role in raising awareness of the CBD PA PoW so that these communities are able to participate actively and effectively in both its implementation and in the ongoing evaluation of progress towards the achievement of the objectives of the Convention.

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## **Appendix One: List of Key Informants and Sources**

### **1. Mabibi, Sokhulu, Langebaan and Tsitsikamma**

Colin Attwood, marine fisheries scientist (personal interview)

Maria Hauck. Researcher, UCT EEU (personal interview)

Bronwyn James, iSimangaliso Research Manager (brief telephonic discussion)

Jean Harris, EKZN wildlife ecologist (meeting)

Alan Boyd, director responsible for MPA management, MCM (telephonic discussion and email)

Cedric Coetzee, EKZN Wildlife Manager (meeting)

Gijimane Myende, EKZMW Extension Officer (meeting)

Phikelele Mbonambi, EKZMW Extension Officer (meeting)

Nellie Gumede, EKZMW Extension Officer (meeting)

Pierre Nel, Manager, West Coast National Park (telephonic discussion)

Mandla Zikhali, community leader (brief discussion)

Steven Lamberth, MCM fisheries scientist (telephonic discussion and email)

Joyce Zikhali, community leader (brief discussion)

Solene Smith , community leader (meetings)

Norton Dowries, community leader (meetings)

Aanyah Omardien, WWF Programme Manager (brief telephonic discussion and email)

Henry Bruiners, Chairperson for the Tsitsikamma Community Angling Forum (telephonic discussion)

### **2. List of Interviews for Mkambati Case Study**

Vuyani Mpiya, Eastern Cape Parks and Manager of Mkambati Nature Reserve

Bongani Mvulo, Eastern Cape Parks and official of Mkambati Nature Reserve

Andrew Motha, Marine and Coastal Management, Compliance

Pinky Gqirama, Marine and Coastal Management, Compliance

Tokello Poho, Marine and Coastal Management, NORSA

Nobusika Mpongoma, Marine and Coastal Management, Marine Protected Areas

Themba, Sustainable Coastal Development