

MPA Workshop Proceedings

**Fishery-dependent Livelihoods, Conservation and
Sustainable Use of Biodiversity: The Case of Marine
and Coastal Protected Areas in India**



1 – 2 March 2012

India International Centre, New Delhi, India



International Collective in Support of Fishworkers
www.icsf.net

MPA Workshop

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MPA WORKSHOP PROCEEDINGS
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N VENUGOPALAN/ICSF

A woman carrying seaweeds at Bharathinagar village in the district of Ramanathapuram in the State of Tamil Nadu



Acronyms and Abbreviations

ABS	access and benefit sharing
BDA	Biological Diversity Act
BHS	biodiversity heritage site
BLC	boat licence certificate
BMC	biodiversity management committee
BNHS	Bombay Natural History Society
BOBLME	Bay of Bengal Large Marine Ecosystem
BOBP-IGO	Bay of Bengal Programme – Inter Governmental Organization
CAT	Conservation Action Trust
CBD	Convention on Biological Diversity
CCF	Chief Conservator of Forests
CII	Confederation of Indian Industry
CMFRI	Central Marine Fisheries Research Institute
CMPA	collaboratively managed protected area
COP	Conference of the Parties
CPCB	Central Pollution Control Board
CRZ	coastal regulation zone
CSD	Campaign for Survival and Dignity
CSMCRI	Central Salt and Marine Chemicals Research Institute
CVCA	critically vulnerable coastal area
CWH	critical wildlife habitat
DAHDF	Department of Animal Husbandry, Dairying and Fisheries
DFO	Divisional Forest Officer
DIG	Deputy Inspector General
DNA	deoxyribonucleic acid
EDC	eco-development committee
EEZ	exclusive economic zone
EIA	environmental impact assessment
ESA	ecologically sensitive area
FCA	Forest (Conservation) Act
FICCI	Federation of Indian Chambers of Commerce and Industry
FRA	Forest Rights Act
FTA	free trade agreement
GDP	gross domestic product
GEF	Global Environment Facility
GOMBR	Gulf of Mannar Biosphere Reserve
GOMBRT	Gulf of Mannar Biosphere Reserve Trust

GOMMNP	Gulf of Mannar (Marine) National Park
hp	horsepower
HTL	high tide line
ICCA	Indigenous and Community Conserved Areas
ICSF	International Collective in Support of Fishworkers
ICZM	integrated coastal zone management
IFA	Indian Forest Act
IFS	Indian Forest Service
JFM	joint forest management
MASS	Machimar Adhikar Sangarsh Sangathan
MCBD	marine and coastal biodiversity
MCPA	marine and coastal protected area
MCS	monitoring control and surveillance
MFRA	Marine Fishing Regulation Act
mn	million
MoA	Ministry of Agriculture
MoEF	Ministry of Environment and Forests
MPA	marine protected area
MSY	maximum sustainable yield
MZI	The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act
NBA	National Biodiversity Authority
NBSAP	National Biodiversity Strategy and Action Plan
NCF	Nature Conservation Foundation
NIO	National Institute of Oceanography
NFF	National Fishworkers' Forum
NGO	non-governmental organization
OTFWU	Orissa Traditional Fish Worker's Union
PCCF	Principal Chief Conservator of Forests
PESA	Panchayat (Extension to Scheduled Areas) Act
PoWPA	Programme of Work on Protected Areas
RFTU	Ramnad district Fishworker's Trade Union
SCZMA	State Coastal Zone Management Authority
SEZ	special economic zone
SPCB	State Pollution Control Board
STR	Sundarbans Tiger Reserve
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
WII	Wildlife Institute of India
WLPA	Wild Life (Protection) Act

Preface

A workshop titled 'Social Dimensions of Marine Protected Area Implementation in India: Do Fishing Communities Benefit?' was organized by the International Collective in Support of Fishworkers (ICSF) in Chennai, India, in January 2009. The workshop highlighted the need to integrate fundamental principles of participation, environmental justice and human rights into the implementation of marine and coastal protected areas (MCPAs).

The subsequent Delhi Workshop, which is reported in this publication, was also organized from a fishing-community perspective as a follow-up to the 2009 workshop. It was held against the backdrop of India's decision to host the 11th Conference of the Parties (COP11) to the Convention on Biological Diversity (CBD) in Hyderabad, in October 2012, which has the programme of work on marine and coastal biodiversity on its agenda. Notably, the theme identified by the CBD for the International Day for Biological Diversity in 2012 is also marine and coastal biodiversity.

The Delhi Workshop, conducted during 1-2 March 2012, brought together 65 participants, who included representatives of fishworker and support organizations, activists, scientists, researchers, lawyers, environmental group members and representatives from the Ministry of Agriculture (MoA) and the Ministry of Environment and Forests (MoEF), Government of India, and from the State Fisheries and Forest Departments of West Bengal, Tamil Nadu, Gujarat and Maharashtra.

The workshop reviewed existing legal and institutional mechanisms for creating, implementing and reporting MCPAs in India, and discussed their impact from the perspective of environmental justice and human rights; further, in light of the growing challenges facing marine and coastal biodiversity, the workshop made specific proposals based on good practices for *in-situ* conservation of marine and coastal biodiversity, poverty eradication, and economic and social development of small-scale, artisanal fishing communities in India.

There was general consensus that systematic efforts to ensure the conservation and sustainable use of India's marine and coastal biodiversity be undertaken at the earliest, using a holistic, ecosystem-based approach, and that MCPAs, implemented as part of a wider marine and coastal biodiversity-conservation and sustainable-use framework, can offer both environmental and social benefits, provided they are designed well, and ensure the full and effective participation of local fishing and other communities at all stages of design and implementation. It was proposed that legal options to promote participatory *in-situ* conservation and management processes, and which document and protect the rights of local fishing communities to fish in sustainable ways, should be explored. The need to establish better co-ordination mechanisms between relevant ministries, in particular between the MoEF and the MoA, and the State-level Fisheries and Forests Departments, was also stressed, as was the need for systematic efforts towards capacity building of all those involved in MCPA practice, including policymakers and local communities.

This publication will be useful for those working on MCPAs, including fishing-community organizations, researchers, government officials, non-governmental organizations and scientists.

Prospectus

BACKGROUND

A workshop titled “Social Dimensions of Marine Protected Area Implementation in India: Do Fishing Communities Benefit?” was organized by the International Collective in Support of Fishworkers (ICSF) in Chennai, India, in January 2009. The workshop was mainly meant to discuss the findings of case studies and other experiences of marine protected area (MPA) implementation in India, from a fishing-community perspective. Discussions at the workshop explored the extent to which fishing communities are part of MPA governance, and their perceptions about the costs and benefits of MPA practice. Noting that various legal and institutional issues are hampering implementation of biodiversity conservation and resource management, with consequences for the livelihoods of fishing communities in MPA areas, the workshop highlighted the need to integrate fundamental principles of participation, environmental justice and human rights into the implementation of marine and coastal protected areas. It also called for fishing communities to be considered as allies, and for community-led initiatives for management and conservation of resources to be recognized and supported.

This workshop, also from a fishing-community perspective, was organized as a follow-up to the 2009 workshop, against the backdrop of India’s decision to host the 11th Conference of the Parties (COP11) to the Convention on Biological Diversity (CBD) in Hyderabad in October 2012. Significantly, CBD has identified the themes for the International Day for Biological Diversity in 2012 as “marine and coastal biodiversity”.

Various decisions of CBD’s COP have recognized that marine and coastal protected areas, implemented as part of a wider marine and coastal area management framework, are one of the important tools for the conservation and sustainable use of marine and coastal biodiversity. CBD has also recognized the importance of addressing issues related to governance, participation, equity and benefit-sharing, and of securing the full and effective participation of indigenous and local communities in the establishment and management of existing and new protected areas. International experience has also indicated that participatory models of conservation and resource management are more effective in protecting both livelihoods and biodiversity, and that communities can be powerful allies in efforts for conservation and management of marine and coastal resources.

ISSUES

Although MCPAs are not defined in CBD, the meaning of ‘protected area’ under CBD may be projected to MCPAs. Thus, MCPAs can mean any specific area, designated or regulated and managed to achieve *in-situ* conservation of marine and coastal ecosystems and natural habitats, as well as the maintenance and recovery of viable populations of marine and coastal species in their natural surroundings. A range of MCPAs is being employed in different parts of the world towards *in-situ* conservation of marine and coastal biodiversity at the behest of States and local communities. These include MCPAs where extractive uses are permitted and those where extraction is prohibited.

India notified its Biological Diversity Act, 2002 (BDA), consistent with the CBD, for conservation of Indian biological diversity, sustainable use of its components, and fair and equitable sharing of benefits. As in the CBD text, there are no legally defined categories of MCPAs or MPAs in Indian law. What is reported as marine ‘protected areas’ by India to the COP are selected

sanctuaries and national parks declared under the Wild Life (Protection) Act, 1972 (WLPA) and the Wild Life (Protection) Amendment Act, 1991. These sanctuaries and national parks were brought under a new heading—‘protected areas’—under the 2002 Wild Life (Protection) Amendment Act. Reported ‘protected areas’ are designated either to protect wild fauna and flora and their habitats exclusively in the marine and coastal area (that is, the area between the mean high-water mark and the limit of the territorial sea), or to protect, *inter alia*, the marine and coastal component of larger sanctuaries or national parks. They are essentially non-extractive protected areas under the jurisdiction of environment and forests authorities. The BDA recognizes *in-situ* conservation as in CBD and gives powers to State governments to declare areas of biodiversity importance as biodiversity heritage sites (BHS). Indicative guidelines have recently been formulated by the National Biodiversity Authority (NBA) for declaration of BHSs. The BDA also provides for the constitution of local-level Biodiversity Management Committees (BMCs) for, *inter alia*, promoting the conservation and sustainable use of biological diversity. However, this role of BMCs has been diluted in the implementing Rules, 2004.

Under the 2002 WLPA, there are categories such as ‘conservation reserve’ for protecting fauna and flora and their habitat, in consultation with local communities, and ‘community reserve’, for protecting fauna, flora, and traditional or cultural conservation values and practices with community participation. No such reserves have, however, been created in marine and coastal areas and the applicability of these categories in a marine and coastal context is not clear. There are provisions under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) to declare critical wildlife habitats (CWHs) within national parks and sanctuaries as inviolate areas for wildlife conservation. No CWHs have so far been declared. Similarly, there are provisions under the Environment (Protection) Act 1986 (EPA), for declaration of ‘ecologically sensitive areas’ (ESAs) and under the recently notified Coastal Regulation Zone (CRZ) Notification 2011 for designation of Critically Vulnerable Coastal Areas (CVCAs). There are also provisions under the 1976 Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act of India (MZI) for specifying designated areas for protection of the marine environment and resources in the Indian exclusive economic zone (EEZ). This provision also has not yet been used.

As a signatory to the CBD, India is obliged to report on protected areas, including marine and coastal protected areas, as an *in-situ* conservation measure. Among existing protected areas, only marine and coastal areas enjoying the highest level of protection under the 2002 WLPA are reported by India as marine ‘protected areas’ to the COP. There are, however, provisions for specified fishing zones in territorial waters for conflict resolution and conservation under respective State fisheries law. These zones also serve the function of protected areas. There are tribal reserves under the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956, rendering a greater degree of protection to marine and coastal areas. There are designated wetland protected areas in lagoons and backwaters adjacent to the coast, designated cultural or archaeological protected areas in the marine or coastal areas, and coastal zone regulation designed to protect the coast and heritage sites. There are also informal community-based marine and coastal protected areas enjoying local legitimacy in some lagoons and nearshore areas. These marine and coastal protected areas under the jurisdiction of national or State authorities, such as departments of fisheries, culture and environment and forests, or under local communities, are currently not reported to the COP as measures taken for the implementation of *in-situ* conservation under CBD obligations.

There is thus considerable scope for improving reporting of marine ‘protected areas’ so that both highly protected, and protected, categories are reported to the COP. There is also need for greater coherence between different agencies ranging from ministries of earth sciences and

agriculture for the EEZ, to the State environment and forests departments, and fisheries departments for territorial waters, internal waters and the coast.

Several existing, and proposed, sanctuaries and national parks in marine and coastal areas in India are spread out from the coast to the limit of the territorial sea. However, marine internal waters, especially between low-water lines and straight baselines, have not been factored into the notification and declaration procedure for protected areas in India under the wildlife laws. There are marine internal waters in places like the Sundarbans, Gulf of Mannar and Kutch, where fishing rights are not factored into the procedure for notifying and declaring a protected area. There should, in particular, be provisions to protect the occupational interests of local fishermen who are particularly dependent on marine internal waters for a livelihood. There should, therefore, be a mechanism to address these fishing rights, similar to the mechanism to deal with rights to land and other forest resources under the 1991 WLPA or with rights recognized under the 2006 FRA.

OBJECTIVES

The workshop is being organized with the following objectives:

- improve the visibility of highly protected, and protected, marine and coastal areas in the maritime and coastal zones of India;
- review existing Indian legal and institutional mechanisms for creating, implementing and reporting marine and coastal protected areas in marine internal and territorial waters, and to seek coherence across agencies;
- discuss the impact of MCPAs in India from the perspective of environmental justice and human rights; and
- in the light of the growing challenges facing marine and coastal biodiversity, make specific proposals based on good practices for *in-situ* conservation of marine and coastal biodiversity, poverty eradication, and economic and social development of small-scale, artisanal fishing communities in India.

PARTICIPANTS

The workshop will bring together representatives of fishing communities living in and around MCPAs, from both Central and State governments (from their relevant ministries and departments), fisheries research institutions, non-governmental organizations (NGOs), scientists, and environmental groups working on MCPAs.

PROGRAMME

The two-day programme will include presentations on the following topics:

- challenges (fisheries and non-fisheries) facing marine and coastal biodiversity;
- role of BDA, 2002, in the conservation and sustainable use of marine and coastal biodiversity;
- provisions of legal instruments such as the Central MZI Act, 1976, the CRZ Notification, and the Marine Fishing Regulation Act (MFRA) and Rules, under State and Union Territories that have the effect of providing protection to certain marine and coastal zones;
- community-based management and conservation initiatives;
- the current state of MCPA implementation in India, with case studies on social issues related to MCPA implementation in five main marine 'protected areas' declared under the WLPA in mainland India;
- marine internal waters, MCPAs and rights of fishing communities;

- legal provisions and proposals for recognizing rights and livelihoods of fishing communities in MCPA practice; and
- developing a comprehensive approach for the conservation and sustainable use of India's marine and coastal biodiversity that, *inter alia*, protects fisheries-based livelihoods of local communities.

EXPECTED OUTCOMES

The workshop is expected to:

- provide greater visibility to the challenges facing marine and coastal biodiversity and the need for a holistic framework for its conservation and sustainable use;
- provide greater visibility to highly protected, and protected, marine and coastal areas in India;
- draw attention to the social and livelihood impacts of marine sanctuaries and national parks under the WLPA, 1972, and its amendments on fishing communities;
- highlight legal and institutional problems in the notification and declaration of marine sanctuaries and national parks that hinder the recognition of the fishing rights of local communities;
- propose a mechanism to recognize the fishing rights and occupational interests of Indian small-scale, artisanal fishing communities in internal waters as well as in designated MCPAs, as well as to factor these rights and interests into the process of declaring a marine or coastal protected area;
- make specific proposals on establishing livelihood-sensitive and participatory regimes for conservation and sustainable use of marine and coastal biodiversity;
- highlight legal and institutional problems in the notification and declaration of marine sanctuaries and national parks;
- create greater awareness of community institutions and seek space for community-led conservation and management initiatives;
- propose an inclusive reporting mechanism for MCPAs to the COP; and
- provide a platform for fishworkers, policymakers, researchers, and NGOs to discuss and dialogue on MCPA practice in India from a social perspective.

Report of the Workshop Proceedings

INAUGURAL SESSION

Chair: Y S Yadava, Director, Bay of Bengal Programme - Inter Governmental Organization (BOBP-IGO)

Welcome

V Vivekanandan, Member, ICSF, welcomed the participants and presented the context of the workshop. He noted that fishing communities in India are today placed in an unusual position of having people from outside the sector influencing fisheries management. Until recently, he said, fishing issues were largely handled within the sector, that is, by the State fisheries departments, and at the Centre, by the MoA. Nowadays, due to environmental concerns, various constituencies in the country, such as the MoEF and others, are having a say in fisheries management. Ironically, fishers who should be the natural allies of conservation because their livelihood depends entirely on a natural resource, are at the receiving end of conservation measures. On the one hand, the issues related to sustainability of fisheries are not being addressed and, on the other, the rest of society, impatient with the slow progress in improving fisheries management, is coming in with prescriptions.

Worldwide, biodiversity concerns are high on the agenda, noted Vivekanandan. In recent times, biodiversity in marine and coastal areas is gaining focus. It is against this backdrop that India will be hosting the COP11 of the CBD later this year. This is a good opportunity for fishing communities and those interested in the sector to come together and see how to move forward in a way that keeps to the spirit of CBD while protecting the long-term interests of the fisheries sector. Drawing attention to the workshop on social dimensions of MPAs that had been organized by ICSF in 2009, Vivekanandan pointed out that ICSF has been working on this issue for the last several years. He concluded by noting the positive response of the Government of India to the workshop, with senior officials from both the MoEF and the MoA making time to participate. He expressed confidence that a balance between conservation and fisheries interests will be found with the contributions of all present.

Introduction

Chandrika Sharma, Executive Secretary, ICSF, welcomed the participants, who included fishworker union representatives, government officials from the Centre and from State fisheries and forest departments, NGOs, scientists and independent researchers.

Giving the background to the workshop, Sharma said that fisheries make important contributions to the local and national economies, to employment and to food security. Fishing communities have fished for generations, are highly skilled, and have evolved sociocultural institutions that regulate resource use, conserve resources, resolve conflicts and ensure equitable access to resources. Yet, they are socioeconomically disadvantaged, and, in many regions, are below the poverty line. This workshop, she said, is a follow-up to the ICSF workshop held in Chennai in 2009.

Recalling the key points from the last workshop, Sharma said livelihood problems arising from unfair restrictions on fishing operations and the impact of destructive non-fishery activities in MCPAs had been discussed. The Chennai workshop had recommended the need for an integrated and participatory framework for the conservation, use and management of MCBP that

secures the preferential access rights of fishers to coastal and fisheries resources as well as the need for better collaboration and co-ordination, especially between the MoEF and MoA.

With respect to expected outcomes from the current workshop, Sharma said the focus would be on how and in what forms conservation (of biodiversity), under fisheries or environmental legislations, can be incorporated within a holistic management framework. It will also look at how to integrate human rights and environmental justice into the law and practice related to MCPA governance. Efforts will also be taken to make specific proposals based on best practices of how to conserve MCBBD in ways that can also lead to poverty eradication, and socioeconomic development of small-scale fishing communities.

The workshop will also explore the issues faced by fishers in MCPAs, and provisions and proposals that secure the rights of fishing communities to resources and to their management in protected areas. Sharma reminded participants that the workshop is being held in the backdrop of India's decision to host COP11 of the CBD. A major focus at COP11 will be MCBBD, which is also the theme for the International Day of Biodiversity, 22 May 2012.

Inaugural address

In his inaugural address, Hem Pande, Joint Secretary in the MoEF, responsible for the organization of COP11, spoke of India's hopes for CBD. He said that as the host government for the upcoming meeting, India has the prerogative of setting the agenda for the high-level segment where political leaders come together. One of the topics identified by India for this segment is MCBBD. He said that India will be supporting the Nagoya Protocol at the COP because for India, biodiversity is linked inextricably to livelihoods, unlike in developed nations where it is a lifestyle issue. India needs to practise sustainable use of resources with the free and prior informed consent of those who are dependent on the resource, and ensure that they benefit from this resource use. Under CBD, access and benefit sharing (ABS) is an important aim. To achieve this, India needs to implement, in letter and spirit, the 2002 BDA.

Highlighting the need for peoples' participation in biodiversity management, Pande noted that sustainable development has three aspects—economic, social and environmental. Unfortunately, the focus in recent times has been more on the environmental aspect. There is a great pressure on India's biodiversity, with 2.5 per cent of the world's land mass supporting 18 per cent of the world's population. The challenge, then, is to balance all three aspects of sustainable development. This could be achieved, he said, only if the 300 mn people directly dependent on biodiversity participate in biodiversity management and conservation. He admitted that conflicts are sure to arise but this, perhaps, would still be a better model than excluding people from resource management. This will be a key area of discussion at COP11. India has a long way to go in achieving this goal. Since people will participate only if they get benefits, we need to scale up projects like the one funded by the Global Environment Facility (GEF) in the Gulf of Mannar Biosphere Reserve (GOMBR) in Tamil Nadu, he added.

Pande concluded by inviting the fishing community to participate in COP11, and reminded participants of the opportunity India has to influence global decisions on biodiversity as the president of CBD's COP for the next two years.

Keynote address

Tarun Shridhar, Joint Secretary (Fisheries), Department of Animal Husbandry, Dairying and Fisheries (DAHDF), MoA, in his keynote address, spoke of the state of Indian fish stocks. He pointed out that while the Food and Agriculture Organization of the United Nations (FAO) estimates that more than 82 per cent of global fisheries are fully exploited or

depleting, the Indian Ocean stocks are underexploited. He pointed out that the maximum sustainable yield (MSY) in India's EEZ was estimated at 3.9 mn tonnes, but the actual harvest is just 3 mn tonnes. A new estimate puts the resource potential (in the EEZ) at a higher figure of 4.4 mn tonnes. This gives us the advantage of planning for sustainable harvests instead of resorting to *post facto* conservation measures after resources have already been depleted.

Shridhar noted that though India is the second largest producer of fish, exporting US\$3 mn worth of fish annually, despite having one of the lowest productivity rates in the world, fisheries is low on the political and governance agenda. This is where ICSF and other stakeholders can play a role to raise the currently low profile of the sector.

He noted that marine resource management and fisheries management needs to be linked, to develop an integrated management framework. That this has not happened reflects a failing of policymakers in different responsible ministries, like in agriculture and environment. He expressed concern that the State fisheries departments and the MoA do not have the capacity to take on the job by themselves.

Acknowledging traditional management practices, he said fisheries management does not owe its knowledge to science but to fishers. The basic tools that are still used today, such as closed season during spawning/breeding periods, were developed by fishers. The problem lies, he said, with industrial fishing which threatens biodiversity but, unfortunately, any conservation measure like MPAs or bans on species affects primarily traditional fishers and not commercial fishing interests.

Shridhar also emphasized the need to strengthen legislation regulating fishing in the Indian EEZ. India has regulations for foreign vessels but not for Indian vessels. Unfortunately, the legislation for this, drafted by the MoA, has not moved forward, also due to objections put forward by fishworker groups. It is important to put such legislation in place, he said. Concluding his address, Shridhar again emphasized the need to integrate all aspects of conservation, social needs and resource management.

ROHIT GUSAIN/ICSF



Chandrika Sharma of ICSF, Tarun Shridhar of MoA (DAHDF), Y S Yadava of BOBP-IGO and Hem Pande of MoEF at the inaugural session of the Delhi MPA Workshop



RAMYA RAJAGOPALAN/ICSF

Rampani fishermen with their catch at Malvan in Sindhudurg, the southernmost district of the Indian State of Maharashtra

LEGAL FRAMEWORK FOR CONSERVATION AND MANAGEMENT OF MARINE AND COASTAL BIOLOGICAL DIVERSITY (MCBD)

Chair: B C Choudhury, Wildlife Institute of India (WII)

The session sought to explore existing environmental and fisheries legislation in India with a view to understanding how a broader integrated framework for managing coastal resources within and outside protected areas can be developed.

Presentation: The Environment Protection Act (EPA) and Biological Diversity Act (BDA)

Presenter: Kanchi Kohli, Kalpavriksh

Kanchi Kohli noted the difficulty in developing an integrated legal framework for the coast as it supports diverse livelihoods—from fishing to grazing. This complex and fragile ecosystem is rarely understood by policymakers located in New Delhi. Coasts are seen as wastelands where ports, special economic zones (SEZs) and other industrial infrastructure can be developed. Industrial hubs, Kohli said, are being created, without respect for the existing livelihoods of local communities. As a result, resistance to projects is increasing, such as the resistance against the Mundra port and the SEZ in Gujarat, the Posco plant in Odisha, and the Kudankulam power plant in Tamil Nadu.

Kohli provided an overview of the 1986 EPA, which also regulates industrial operations and processes. The EPA, a reaction to the Bhopal tragedy, is an umbrella legislation giving the Centre broad powers to protect and improve the environment. It provides an option to declare ESAs, restricting land-use change, without impacting existing livelihoods.

Kohli spoke of the BDA of 2002, which regulates access for commercial use to bioresources and the traditional knowledge of communities through district, State and national-level bodies. A drawback is that the Act talks of consultations with communities but not of free, prior informed consent. The BDA and the Nagoya Protocol of 2010 have transformed traditional knowledge and biodiversity into tradeable commodities. Kohli opined that this is dangerous as it individualizes the connection between traditional knowledge and bioresources, ignoring the existence of common lands, common knowledge and heritage.

The few positive provisions in the Act, such as the option to restrict activities detrimental to biodiversity, are absent from the Rules. Other provisions, such as for the declaration of BHS, have been rarely used. Since the BDA says the Centre has a duty to protect biodiversity, peoples' knowledge, and carry out Environmental Impact Assessments (EIAs), one could potentially link the BDA to the EIA notification (under the EPA) to restrict industrial activities. A new remedy is the National Green Tribunal, mandated to look into all issues of environment. The Tribunal hears petitions challenging the orders or clearances given under the EPA and BDA.

There is a disconnect, Kohli concluded, between intent and design of the laws; the BDA talks of conservation and sustainable use, but the main framework is access. Conservation is retrofitted. Similarly, the EIA notification talks of environmental and social impact assessments for all developmental activities, but is badly implemented.

Presentation: Coastal Regulation Zone (CRZ) Notification

Presenter: Aarthi Sridhar, Dakshin Foundation

Aarthi Sridhar, talking of the CRZ Notification of 1991, noted the disconnect between the black-and-white nature of legislation and the complex, undefinable nature of the coast. The CRZ Notification, a zonation framework under the EPA, provided for various levels of protection to the

zones. Over the years, its provisions were diluted as many as 25 times. The MoEF subsequently came out with a new version of the notification, which was strongly opposed by coastal communities. After a protracted battle, the current 2011 version was cleared. Now the MoEF has a greater jurisdiction than before on coastal spaces. On the positive side, CRZ 2011 recognizes, to some extent, the customary rights of fishers. It also has a provision to declare CVCAs, though the guidelines for this are yet to be issued. Implementation is based on baseline data about high- and low-tide lines, and hazard line that have not yet been demarcated. Until this is done, States are expected to follow earlier coastal zone management plans (CZMPs) approved by the MoEF. In some States, the plans are only conditionally approved, so it is unclear whether these plans can be relied upon.

The other problem is lack of clarity on who is responsible for implementation. For example, the CRZ Notification talks about controlling pollution, which is the mandate of the State Pollution Control Board (SPCB). All these problems, Sridhar noted, make it difficult to implement the Notification. Moreover, implementation of the Notification rests, to a great degree, on effective implementation of the EIA notification. As noted before, the implementation of the EIA notification leaves much to be desired.

Apart from the State Coastal Zone Management Authority (SCZMA), the CRZ Notification of 2011 provides for the constitution of district-level committees under the chairmanship of the district magistrate, with at least three representatives of local, traditional, coastal communities, including fisherfolk. However, no such committee has been formed to date, said Sridhar. Tracking CRZ implementation is a frustrating process, Sridhar concluded, given all these problems and the fact that data is not easily available in the public domain.

Presentation: Fisheries legislation

Presenter: Sebastian Mathew, Programme Adviser, ICSF

Sebastian Mathew pointed out how existing fisheries laws have provisions in common with the aims of CBD. Under CBD, a protected area is defined as a geographically defined area that is designated, regulated or managed to achieve specific conservation objectives. These elements are also seen in fisheries legislation; however, they need to be strengthened. State MFRAs recognize, for example, the need to conserve fish species and to regulate fishing. The MFRAs of West Bengal, Andaman and Nicobar Islands, and Puduchery talk of protecting whale sharks and turtles, which are mentioned in the WLPA. The MFRAs also have prohibitions on using poison, and on capture of juveniles, and marine ornamental species. All coastal States have a zone exclusively for non-mechanized vessels (though the extent of this zone varies), as well as mesh-size regulations and other gear restrictions in territorial waters. In Lakshadweep Islands, there is prohibition of certain types of fishing like purse-seining, pelagic- and bottom-trawling. In addition, there is an annual closed season for fishing that varies between the east and west coasts.

In India's EEZ, the MZI Act gives the Central government sovereign rights to protect the marine environment and prevent pollution and exploitation of natural resources. The Centre can also declare any part of the EEZ out of bounds to protect resources. These provisions could be used for better conservation; however, the only measure that is used is the annual closed season. Effective implementation of fisheries legislation can contribute to conservation and sustainable use of marine resources, Mathew concluded.

Discussion

Commenting on the spurt of foreign private interests in carbon credit schemes, Somenath Bhattacharyya of the Integrated Coastal Zone Management (ICZM) Project in West Bengal

said that many of these projects, in the guise of providing livelihoods, in effect restrict peoples' access to bioresources. Kanchi Kohli of Kalpavriksh pointed out that the income generation promised by these projects is not equivalent to livelihood betterment. Seemingly benevolent agendas can be actually profit-driven.

Shalini Bhutani, an independent researcher, added that the Indian government is also facilitating Indian companies to take up contract farming in Africa and elsewhere for food security. We need to locate all legislation in the political economy as it colours implementation of laws, she said. For example, free trade agreements (FTAs) and fisheries partnership agreements with large fishing interests, especially from the European Union, are being negotiated by India. Bioinformatics and biotechnology are also changing the game, with research being pushed by industrial bodies through projects like mapping of marine life, and deoxyribonucleic acid (DNA) scanning.

On the role of the BDA in regulating marine exports, Bhutani said that the BDA regulates access to genetic material. Commercial access needs approvals by NBA or intimation to the State biodiversity board; however, this does not apply to the 190 normally traded (agricultural) commodities. This does not mean, however, that if genetic material from any of these 190 plants is used for industrial or research purposes, approval is not needed. Also, under Section 38 of BDA, States can, on representation from civil society or communities, exempt resources from being traded, if they are being threatened with extinction.

Participants also spoke of the inadequacy of implementing and monitoring agencies. K B Thampi, retired Principal Chief Conservator of Forests (PCCF), Kerala, pointed out that India has enough legislation but it is the implementation which is the problem. There is often a lack of clarity on which line department has the mandate to implement a particular environmental legislation, for example, the EPA. In addition, policies are often not followed up by supporting legislation. The forest policy of 1988 talks of people's participation but there is no legislation that has followed this. Instead, the Indian Forest Act (IFA) of 1927 is still in place. There is also a conflict when new-generation laws like the 2006 FRA are pitted against the IFA, the Forest (Conservation) Act (FCA) of 1980 and the WLPA of 1972.

Vivekanandan of ICSF pointed out that any measure or instrument works only if the local community makes it their own. No fisheries department, he said, actually believes it has the right to manage the resource; hence, they are hesitant to do anything. The one instrument within fisheries legislation that has worked is the annual monsoon fishing ban. The demand for such a ban was first made by Kerala's traditional fishers and then adopted across the Indian coast. Unless we recognize the strong community dimension in fisheries, we cannot have a good functioning law, Vivekanandan reiterated.

Yadava of BOBP-IGO said that in the fisheries sector, the policy-setting plans are prepared every five years, taking into account the changing context. So, even if the mother act remains unaltered, the rules can, and should, be changed. We cannot, and should not, have static documents, he said.

Mathew of ICSF noted the need for coherence between conservation and fisheries legislations, so that they address issues of biodiversity, sustainable use, conservation, and co-management while protecting the interests of coastal communities. We need to reflect on legal measures that need to be taken and on how to revamp *panchayati raj* institutions to play an active role in coastal issues.

Choudhury of WII summed up the discussion, pointing out that legislation is evolving, from facilitating exploitation and excluding people towards a more conservation and people-oriented outlook. He noted that the new emerging drivers in legislation are science and international trade.



RAMYA RAJAGOPALAN/ICSF

Sachana ship-breaking yard near Jamnagar
(Marine) National Park in the State of Gujarat

PANEL DISCUSSION: FOREST, ENVIRONMENT, BIODIVERSITY AND FISHERIES LEGISLATION: STRENGTHS, WEAKNESSES, OPPORTUNITIES AND THREATS FOR CONSERVATION AND MANAGEMENT OF MCBD

Chair: M J Vijayan, Delhi Forum

Speaker: Vishnu Bhat, Fisheries Development Commissioner, DAHDF, MoA

Vishnu Bhat provided an overview of the fisheries sector, highlighting its importance in providing livelihoods and in contributing to the economy. He also reiterated the need to raise the profile of fisheries. Giving an insider's view of the sector, he outlined the problems facing the MoA in implementation of legislation. Since fisheries in territorial waters is a State subject, where the Centre has only an advisory role, it is the State fisheries departments that are in charge of implementation of fisheries laws. Most State fisheries departments lack adequate manpower. The departments are also hampered by a lack of resources and equipment needed for enforcement.

Bhat also spoke of the low awareness of regulations among communities, the lack of community participation in planning and management, inadequate baseline data for management, and lack of co-ordination among relevant agencies. He said that the sector is lagging behind in developing a holistic approach to management.

Bhat concluded with some suggestions for improvement: complete baseline inventories on biological resources, capacity building of stakeholders in relevant areas (ecofriendly fishing, biodiversity, etc.); effective management; stringent rules for invasive species introduction such as by requiring effective EIAs; ecosystem restoration where needed; and recognition of access rights of communities to traditional fishing grounds and resources. In addition, fisheries co-management approaches need to be planned and implemented, while strict regulations need to be imposed on developmental activities affecting biodiversity.

Speaker: J R Bhatt, Director, MoEF

J R Bhatt commented that the debate on conservation and fisheries is extremely polarized. While there are those who maintain that things are terrible, waters are polluted, bottom trawling is rampant and so on, there are others who maintain that things are not so bad and that policies and laws for management and conservation are in place. We need to be honest, he said, recognizing what is at stake and what has been done. We need to admit that we have not done enough to protect the marine ecosystem and that now that terrestrial systems have been plundered, we are turning to the seas.

Referring to Bhutani's comment on the political economy, Bhatt said it is difficult to work on convergence of fisheries and conservation; on the one hand, there are conservation imperatives and, on the other, there is a thickening web of multilateral agreements that binds us to certain agendas.

Bhatt also pointed out that while developing legislation, it is difficult to anticipate diverse needs and pressures. This is what has happened with the CRZ Notification of 1991, requiring the MoEF to allow certain amendments. We have to be concerned, said Bhatt, that laws are in place but there is no implementation regime. To solve this problem, synergies and linkages between concerned departments and stakeholders are needed. Conservation without sustainable use and equitable sharing will have no meaning, but equity is difficult to define, and poor people rarely benefit. Bhatt concluded by underscoring the need to include local people in management and the need to respect, and not just recognize, their rights and empirical wisdom.

Speaker: Bharat Patel, Machimar Adhikar Sangarsh Sangathan (MASS)/ National Fishworkers' Forum (NFF)

Bharat Patel spoke of the dire environmental situation in Gujarat's Kutch region. The majority of violations, he said, are by industries and not by communities. He provided several examples of violations, such as for the construction of the Mundra port that was built without proper environmental clearances. The government is often complicit in such violations, he said, approving, for example, compensatory mangrove afforestation that falls far short of the mark. Violations take place in other ways as well. The clearance may be for the use of a certain technology; however, the actual technology used is different. EIA clearances are obtained by submitting such incorrect information. He also spoke of conflicts of interest. For example, the government agency that is tasked with demarcating the high-tide line (HTL) is also carrying out the EIAs for many industries. Patel also drew attention to the way industrial lobbies, such as the Confederation of Indian Industry (CII) and the Federation of Indian Chambers of Commerce and Industry (FICCI), are pushing for changes in environmental legislation to favour industrial growth, despite their negative impacts on both biodiversity and community livelihoods. Patel concluded that while violations are mainly by big industries, it is fishing communities who are badly impacted.

Vijayan of Delhi Forum summed up the session, pointing out that most Gujarat fishers no longer fish in their own waters; they take the risk of going into Pakistani waters because of the overfishing and environmental problems along their own coast. It is not greed that drives them but the compulsions of survival and paying back loans. Vijayan said that it took 44 years post-Independence to formulate a regulation for the coast. Twenty years later, everyone is still talking of the challenges in implementing that law, even as the law itself has been heavily diluted. Much of this dilution has been to accommodate the interests of industry; however, ironically, the question now seems to be how communities can adapt to changes. Vijayan also stressed the need to recognize the traditional knowledge of communities, stressing that it is they who know best the ground realities.

Discussion

Referring to the mention of MSY in the inaugural session, Aaron Lobo of Nature Conservation Foundation (NCF) questioned the wisdom of using MSY as a measure in tropical, multi-species fisheries. MSY, he added, is based on single-stock models used in the West and is not suited to Indian conditions. Moreover, even though it was mentioned that India is not fishing to potential, fishers are complaining of plummeting fish catches. Bhat of DAHDF noted that the stock estimates being quoted have been validated by a scientific committee led by the Central Marine Fisheries Research Institute (CMFRI), which has some of the best stock-assessment scientists.

Sharma of ICSF sought to know the feasibility of establishing better co-ordination mechanisms between the ministries of environment and agriculture. Bhatt of MoEF replied that capacity building is crucial in both ministries as is co-ordination on a regular basis. Bhat of DAHDF added that, of late, both the ministries have been co-ordinating, such as through the Bay of Bengal Large Marine Ecosystem (BOBLME) project. Yadava of BOBP-IGO added that there are existing interfaces between the MoEF and the MoA. However, similar interfaces are needed at the local and State-level. At the local level, the fisheries departments lack capacity, and most of their efforts are focused on administration of welfare schemes. There is no clear management function mandated for them, and neither has appropriate training been provided.

SOCIAL DIMENSIONS OF MARINE AND COASTAL PROTECTED AREA PRACTICE: ISSUES OF CONCERN TO FISHING COMMUNITIES

Chairs: S A Baba, Secretary (Fisheries), West Bengal and C M Muralidharan, Member, ICSF

S A Baba began the session by noting that we have laws, notifications and policies but are lacking when it comes to implementation. The mechanism to enforce laws needs to be strengthened. The fisheries departments need more resources and manpower. Participation of communities and stakeholders is also needed. At the field level, fisheries departments are concerned about bridging the gap between production and the growing demand/consumption of fish. Unfortunately, traditional fishers do not have the capacity to increase production, he said. Fishers need to raise their voices to change the situation and gain the government's attention. While fishers are socioeconomically in the same situation as farmers, they, unlike farmers, do not have access to many government schemes. The central government is a mediator; so it is up to the fishers to ensure that their voices are heard.

Representatives from fishing communities from coastal and marine national parks and sanctuaries were then invited to briefly share their situation.

Presentation: Jamnagar (Marine) National Park and Wildlife Sanctuary, Gujarat

Presenter: Bharat Patel, MASS/NFF

The Gulf of Kutch is not a marine national park; it is a marine industrial park, Bharat Patel began in his presentation. There are pipelines, single-buoy moorings, oil jetties, cement industries, petrochemical and chemical industries, salt industries, thermal power plants, shipbreaking yards, captive and private jetties, minor ports and a fishing harbour within or immediately adjacent to the marine wildlife sanctuary and national park. Over 109 sq km of the protected area has been diverted for industrial use. Though 70 per cent of India's crude oil imports come through the Gulf, there is no contingency plan for oil spills, he pointed out.

There are 18,758 active fishers in the area whose livelihoods are hampered by rampant industrial growth. Fishing is restricted in the national park, and fishers are often fired upon if they come close to captive jetties. The ICZM project, which has set up eco-development committees (EDCs), does not usually involve the fishing community Patel said that the fishing community is demanding that the government restrict and regulate existing industries and stop further expansion, study the impact of industrialization on the area's ecology and take up restoration of degraded areas, ban trawling and other destructive forms of fishing, and, most importantly, recognize the rights of traditional fishing communities to fishing grounds. Mechanisms for the active participation of fishing communities in the planning and implementation of protected areas also need to be developed, he concluded.

Presentation: Sundarbans Tiger Reserve (STR), West Bengal

Presenter: Pradip Chatterjee, NFF

According to Pradip Chatterjee of NFF, the classification of Sundarbans under the wildlife laws is confusing, considering that there is a tiger reserve, a biosphere reserve, a wildlife sanctuary, a national park, and reserve forests in the area. This means that there is a complex set of rules that limits fishing to a small area of the buffer zone of the STR (531.31 sq km), explained Chatterjee. Fishing is limited by the number of boat licence certificates (BLCs) issued, which also regulate the kind of boats and gear used. Only 923 BLCs were issued in the 1980s, of which only 709 are active. The number of BLCs issued has not been increased, despite the increase in the number of fishers. Even the transfer of inactive BLCs has not been allowed. When the system of

BLCs was first introduced, it was not opposed, as fish was in abundance throughout the Sundarbans. Now, even as fishing is strictly regulated, aquaculture and tourism are being promoted in the buffer zone.

The government does not recognize the right of innocent passage through the core area of the STR, Chatterjee pointed out. There is no effort to secure community participation in matters related to protected-area governance. Participation is limited to participation in EDCs. To add to the woes of the 35,000 fishers, in February 2012, the State government announced its intention to create a new wildlife sanctuary on the western edge of the Sundarbans.

The major demands of the fishers of Sundarbans, Chatterjee stressed, include the following:

- the protection of forests should be in the hands of those dependent on the resources. For this, a participatory framework involving communities in the management and governance of protected areas should be developed.
- the rights of traditional fishing communities to access their fishing grounds, and to sustainably use, manage and conserve biodiversity while ensuring their livelihoods and food security needs, should be recognized.
- the FRA should be implemented.
- the Sundarbans should be protected from land-based sources of pollution, encroachment and other activities, through strict implementation of environmental legislation.
- a joint conservation initiative with Bangladesh should be developed within the framework of an ecosystem-based approach to conservation and management.

Presentation: Gahirmata (Marine) Wildlife Sanctuary, Odisha

Presenter: Narayan Haldar, Orissa Traditional Fish Worker's Union (OTFWU)/ NFF

Narayan Haldar focused on the problems faced by fishers due to the Gahirmata Wildlife Sanctuary declared in 1997 to protect the nesting sites of the olive ridley turtles. The sanctuary has a core of 725.50 sq km where fishing is prohibited and a buffer zone of almost an equal area where fishing is permitted. The problem, however, is that to access the buffer zone, fishers must pass through the core area. And, Haldar pointed out, the right to innocent passage is not respected. He drew attention to instances of firing by the Coast Guard and the forest department, leading to the death of two fishers. In addition, when cases are booked against fishers, their boats are seized. This is a huge loss, as many fishers cannot repay loans for the boats. Due to such economic stress, eight fishers are reported to have committed suicide in the recent past. Haldar said that the trend of fishers, whose fishing activities have been curtailed or restricted, migrating to the cities and taking up manual labour, is rising. OTFWU's demands include the following:

- reduce the sanctuary limits to 10 km in width (from 20 km) and redraw the boundary and location of the sanctuary to exclude some areas like Hutikola, keeping in mind turtle-congregation zones and nesting beaches;
- implement provisions in the WLPA related to innocent passage and to protecting the occupational interests of fishers;
- recognize the access rights of fishers to traditional fishing grounds in the sanctuary during the non-turtle season, and allow sustainable fishing in the sanctuary by small motorized and non-motorized fishing vessels; and
- recognize the rights of fishing communities to manage their resources, and to be involved in monitoring and surveillance.

Presentation: Gulf of Mannar (Marine) National Park and Biosphere Reserve, Tamil Nadu

Presenter: A Palsamy, Ramnad district Fishworkers' Trade Union (RFTU)/ NFF

Palsamy highlighted how fishing activities are restricted in the Gulf of Mannar (Marine) National Park (GOMMNP), while industries are allowed to pollute and destroy the coastal ecosystem. He pointed to the high level of pollution in the GOMMNP due to industries, including thermal power plants, a nuclear power plant and mining operations, all in the vicinity of the national park.

Palsamy said there are 50,000 families dependent on the national park area in Tuticorin and Ramnad districts. They include 5,000 women seaweed collectors and 6,500 skin-divers who dive for shells and sea cucumbers.

On the problems faced by seaweed collectors, Palsamy said the forest department is restricting collection of seaweed by the women. The seaweeds collected are, however local species that grow on dead corals. Collection of seaweed does not pose a threat to the corals, and the logic of restricting collection of seaweed is not clear, particularly as local communities are willing to self-regulate their activities to ensure that there is no environmental impact. Palsamy said the government has turned people into smugglers by banning their traditional livelihood options. Thanks to the protected area, fishers cannot access their traditional fishing grounds around the 21 islands within the national park.

Palsamy also questioned the parameters used to impose restrictions on the waters around the islands. The notification designating the national park talks of restricting access around the islands upto five fathoms depth, but the management plan proposes restrictions in metres (500 m around the islands). Denial of access to the islands means that fishers are fearful of accessing them even for emergencies, such as during bad weather, as the fine imposed is prohibitive. Palsamy cited an incident where fishers decided to risk coming back to the mainland during inclement weather, even though reaching the island would have been a safer and easier option.

Palsamy drew attention to some of the community-initiated management and conservation measures such as the self-regulated ban on capturing juvenile fish, and the two-month holiday on seaweed collection.

Palsamy's presentation made the following demands:

- restore access rights to traditional fishing grounds;
- allow fishing operations by gill-netters, as well as seaweed collection in the national park, by providing permits;
- recognize the rights of communities to manage resources; and
- lift the ban on harvesting sea cucumbers, while simultaneously developing a plan for their sustainable harvest.

Fishing communities are committed to protecting coral reefs and other resources and are willing to co-operate with the forest department to achieve these goals, provided their rights to sustainably use and manage the resources is recognized, Palsamy concluded.

Presentation: Malvan (Marine) Wildlife Sanctuary, Maharashtra

Presenter: Dilip Hari Ghare, Sindhudurg Schrajeevi Rampan Machhimar Utapada Co-operative Society/ NFF

As many as 6,939 fishers will be affected if the Malvan (Marine) Wildlife Sanctuary is actually implemented, said Dilip Hari Ghare. There are plans to increase the size of the sanctuary, designated in 1987, from the current size of 29.12 sq km.

From the beginning, fishing communities have opposed the sanctuary, pointing out that they have been provided with no information about it, nor have they been consulted at any stage. Fishing communities are demanding a better information-sharing mechanism regarding plans for implementing the sanctuary and the management regulations that are being proposed. They want to be consulted when any decisions regarding the sanctuary are taken. They are also demanding that their rights to fish sustainably be recognized in the sanctuary management plan.

Ghare stressed that the fishing community will not accept any ban on fishing. Pointing to activities in the sanctuary, he said that alternative sources of livelihoods will not be accepted by the fisherfolk. He also called for the strict implementation of the provisions of the MFRA, especially with regard to banning the operation of mechanized vessels, such as purse-seiners operating near the shore. This has led to a decrease in catch for traditional fishers who are forced to look for other livelihood options, he added.

Discussion

The presentations from the five MPA regions led to a debate on whether fishing activities are restricted or not in national parks and sanctuaries declared under the WLPA. The forest department official from Gujarat said that there is no ban on fishing in the Gulf of Kutch National Park, in view of Article 25(a) of the WLPA, which talks of the occupational interests of fishers. In the Gulf of Mannar, there is no restriction on fishers entering or passing through the park, it was clarified. However, fishing is restricted in the core area, which needs to be kept inviolate. The forest department is planning to demarcate the core area with buoys (a move that has been strongly opposed by the fishing community).

Sharma of ICSF said that there are no guidelines from the MoEF on how the occupational-interests clause should be interpreted and implemented. This seems to have led to different interpretations on whether fishing is, in fact, restricted.

Advocate Nagasaila stressed that even if a national park or sanctuary is declared, occupational interests are protected under the legal framework.

The final notification of a national park or sanctuary usually stipulates that the rights and occupational interests of communities have to be taken care of. However, this does not mean that people will get to continue their traditional livelihoods, commented Choudhury of WII. This is why, he said, in terrestrial protected areas, there are alternative livelihood and relocation programmes in place. Since the marine space comes under a common-property regime, unlike forests, which are owned by the forest department, the implementation of this clause is based on the State's interpretation and the ingenuity of the officer on the ground. If the final notification is yet to be brought out, then the forest department could interpret the law to allow fishing activities. If a national park or sanctuary is notified, or the intention to create it is declared, the core zone is inviolate. The Supreme Court has clearly said not even a blade of grass can be taken out of such an area. Any removal of material can take place only if it is included in the management plan for improving habitat. Choudhury noted that in the management plan for the GOMBR prepared by the WII, it was suggested that in the islands, certain activities can be allowed, while in the coral reef areas, some activities can be banned and in the buffer area, fishing be allowed, subject to conservation and livelihood goals.

Disagreeing with this interpretation, Madhu Sarin of Campaign for Survival and Dignity (CSD) said that there is a clear procedure laid out to determine, on a case-by-case basis, in consultation with *gram sabhas*, whether the area needs to be made inviolate and whether the continuous presence and use by local people will lead to irreparable damage to habitat or species. This is supposed to be on the basis of scientific studies. The problem lies in the totally top-down, opaque

decision-making process, where there is no accountability and people are not consulted. Sarin felt that such processes destroy local livelihoods and make people enemies of conservation.

Re-iterating Nagasaila's comment, Sarin said that since rights have not been settled in the marine space, customary rights may be considered as still intact. She added that in the terrestrial reserve forests, the assumption is that rights have been settled but this is not so in territorial waters. Both the FRA and WLPA require that rights be recognized and settled before any relocation can be carried out.

A forest official from Tamil Nadu stressed that the process of settling rights is the same whether in terrestrial or marine national parks and sanctuaries; the process is streamlined and clearly laid out. In the case of GOMMNP, he said, time was given to people to claim rights. In fact, there was an ownership claim over one of the islands, and the government was directed by the judiciary to pay Rs 50 mn (US\$ 891,000) as settlement. The problem in GOMMNP is of a different nature, he said. Harvesting of some species like holothurians (sea cucumbers) have been banned under the WLPA, without considering the economic impacts. Any move now to de-list these species is difficult and will need to be backed by strong scientific evidence to support the move.

The situation in the GOMMNP came up for much discussion. Representatives from the RFTU pointed out that activities of fishers have been restricted, and cases have been registered against fishers for trespassing and collecting seaweed in the national park. It was clarified by the forest department officials present that the cases filed related to harvesting of holothurians, a banned species, and that the proposed demarcation of the national park would not, in fact, restrict the access of fishers.

Members of the RFTU again drew attention to the large number of polluting industries in the southern part of the GOMBR. What is the point of regulating traditional fishing when such industrial activities are not being curtailed, they queried.

S Balaji, Director of Gulf of Mannar Biosphere Reserve Trust (GOMBRT), commented that traditional fishers are convinced of the need for conservation, as is evident from their self-regulation of prohibited fishing gear. The main reason for habitat destruction was pair trawling. He also clarified that the forest department does not oppose indigenous seaweed collection. However, it is against the cultivation of the exotic seaweed, *Kappaphycus alvarezii*, which is an aggressive colonizer of live coral.

In the context of the Gulf of Kutch National Park, the forest department official present pointed out that many of the industries in the Gulf of Kutch pre-dated the MPA. He also pointed out the need to balance developmental and environmental imperatives, and, in this context, the importance of recognizing that the Gulf offers certain locational advantages for ports and industries. Responding to Patel's presentation, he stressed that the diversion of 109 sq km was through a legal process. Moreover, wherever mangroves and coral reefs have been affected by developmental activities, such losses have been compensated, including through translocation of corals and mangrove afforestation. There has been a 70 per cent success rate in the translocation of corals, the forest department official said.

Moving the discussion back to a broader perspective, Deepak Apte of the Bombay Natural History Society (BNHS) said that debating on a handful of MPAs is pointless, as 99 per cent of India's territorial waters are outside the MPA regime, and yet traditional fishers are reporting dwindling catches. So, the main problem is that increased commercial fishing has ensured that hardly any fish reaches the coastal waters where traditional fishers ply. In that context, inviolate areas are of paramount importance, even if they infringe on the rights of some

people, because these places will provide fish stocks in years to come. While you cannot close an area for a long period, maybe you can close different areas for different periods, and stocks will revive, Apte opined. Such work has been done on octopus regeneration in Madagascar. Apte also supported the fishing community demand that sea cucumbers be removed from Schedule I of the WLPA (which bans any harvest of the species), as long the collection is regulated.

Apte also commented on other legal options to declare areas for conservation, like ESAs, under the EPA, and conservation reserves under the WLPA. He spoke briefly of BNHS' work in the Lakshadweep islands to set up a conservation reserve. Unfortunately, though the community has consented to the plan, several bureaucratic hurdles have come in the way, and the area has still not been officially declared as a conservation reserve. We need to review how conservation reserves have been interpreted within the WLPA, he added. Apte also drew attention to the spurt of industrialization on the coast, and said that legal options like the creation of ESAs or inviolate areas can strengthen the struggle to save resources. It needs to be ensured, however, that the access of communities to traditional resources is not hampered.

Sharma of ICSF agreed that there is need to protect certain areas for regeneration. The real issue, she said, is who decides, and who is supported in the process. Choudhury of WII seconded the idea that a new concept or process is needed for management of marine areas. He also suggested that a study be done to compare an MPA with a non-MPA area, such as the GOMBR and the adjacent Palk Bay.

Sridhar of Dakshin Foundation made the point that the law is often arbitrary and that decisions are taken in a sociopolitical framework. There will never be enough science to satisfy everyone, so perhaps other knowledge frameworks should not be discounted when it comes to conservation decisions. If a community wants to designate a community reserve based on their knowledge framework, we should consider it seriously, she said.

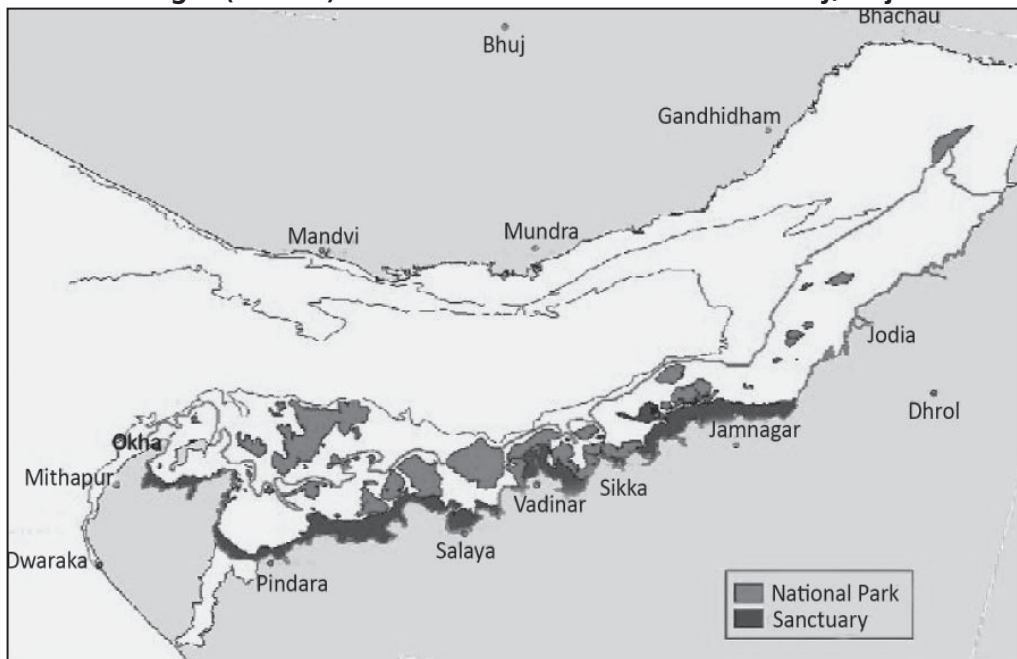
The session concluded with the chair, C M Muralidharan, commending participants on a debate that brought in many divergent views and perspectives, and yet respected the spirit of difference and dialogue.

ROHIT GUSAIN/ICSF



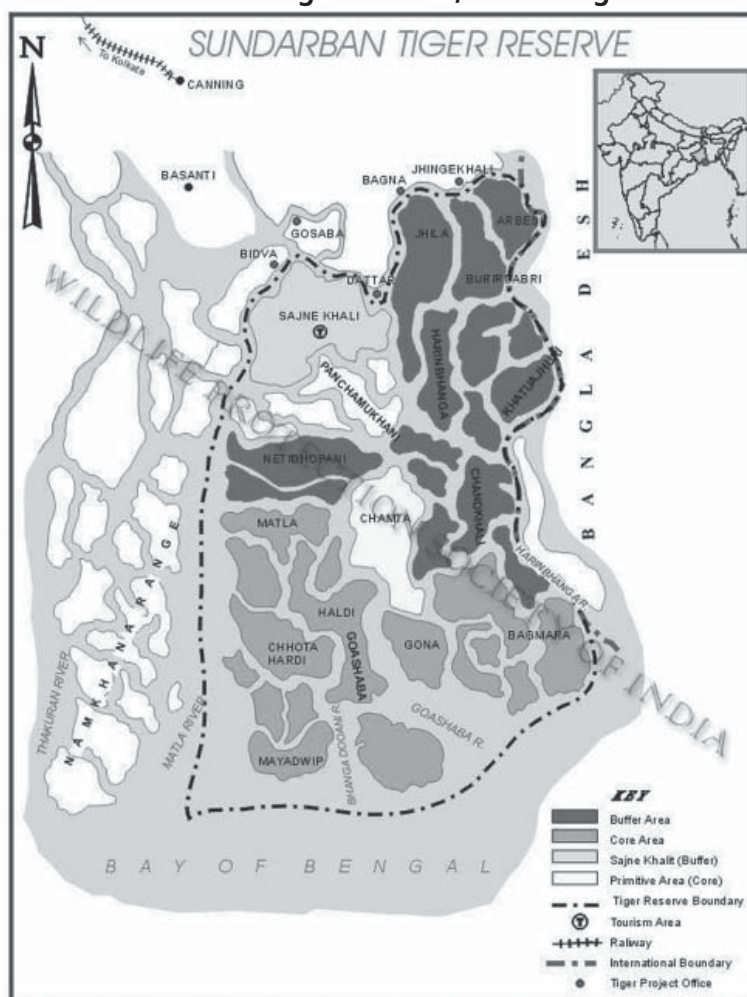
S A Baba, Secretary, Fisheries Department, Government of West Bengal and C M Muralidharan, ICSF at the workshop session on social dimensions of MCPA practice

Jamnagar (Marine) National Park and Wildlife Sanctuary, Gujarat



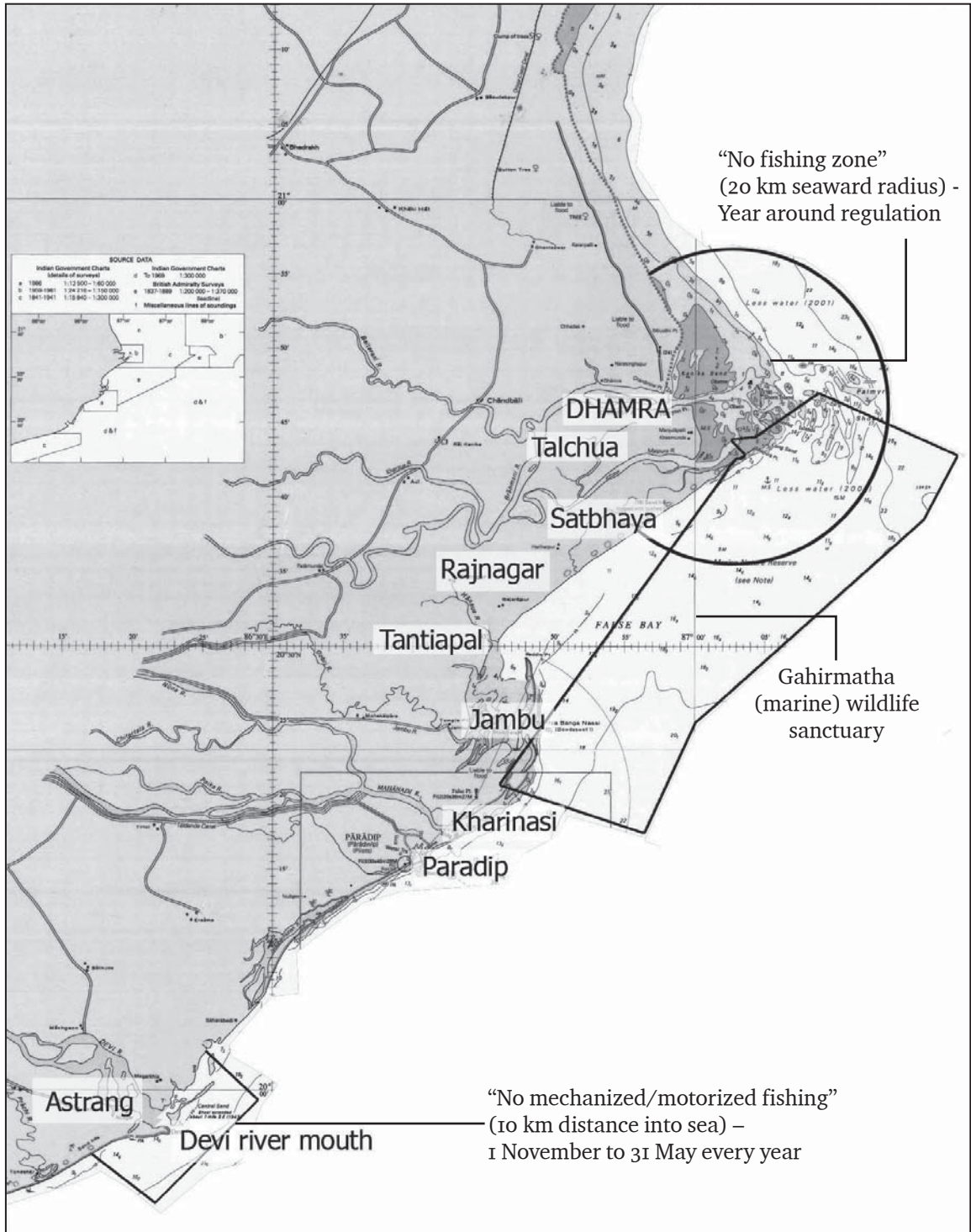
Source: DOD-ICMAM Report, 2002

Sundarbans Tiger Reserve, West Bengal



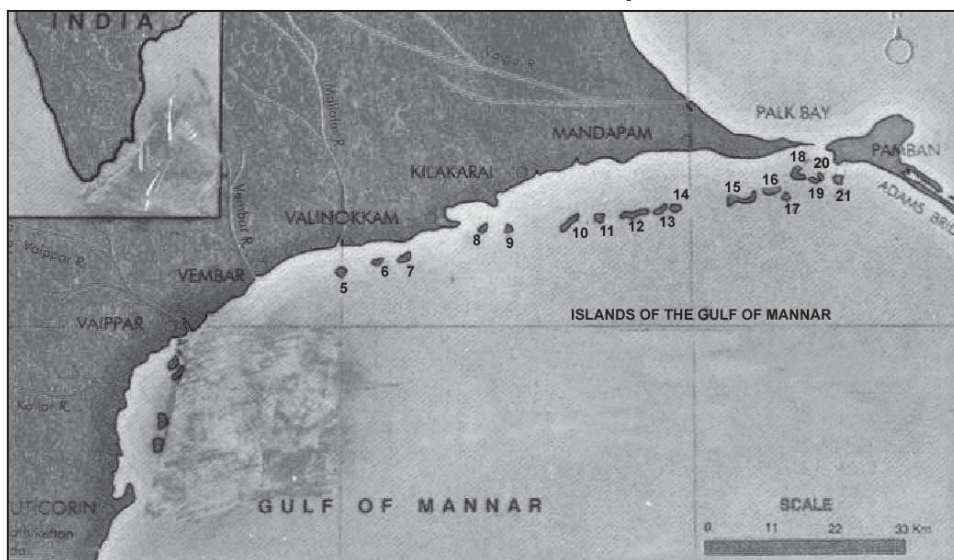
Source: Wildlife Protection Society of India

Gahirmatha (Marine) Wildlife Sanctuary, Odisha



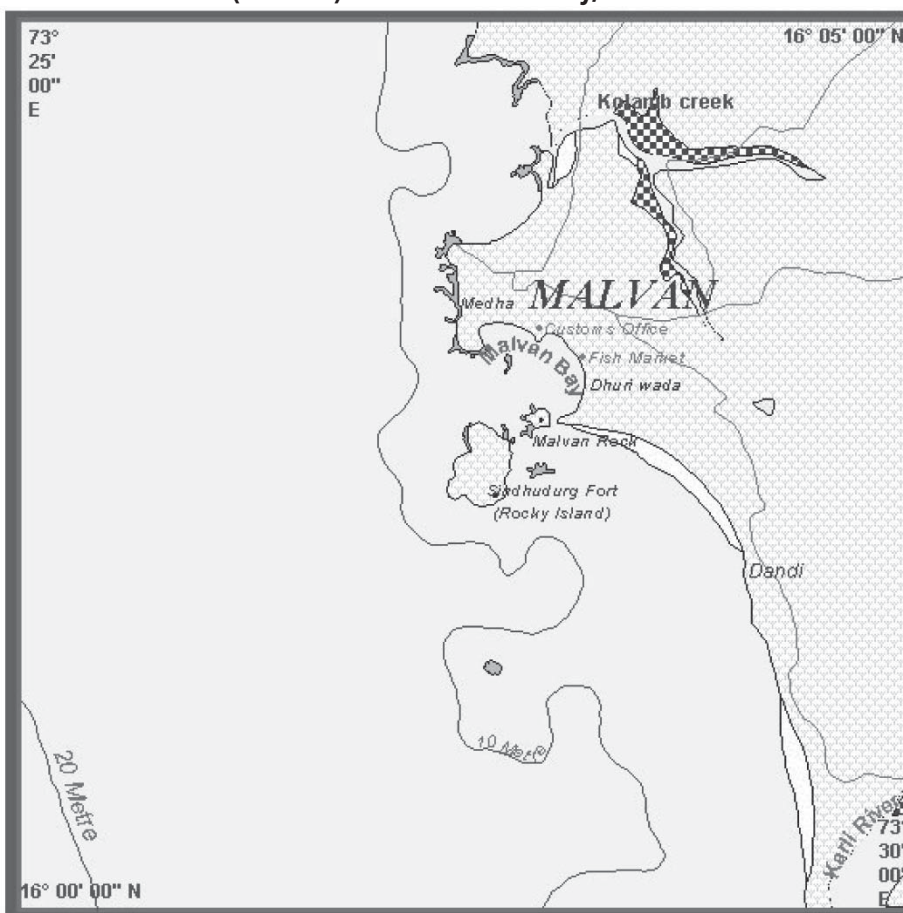
Source: Naval Hydrographic Map from Puri to Sandheads

Gulf of Mannar (Marine) National Park and Biosphere Reserve, Tamil Nadu



Source: www.ramnad.tn.nic.in

Malvan (Marine) Wildlife Sanctuary, Maharashtra



Source: ICMAM, DOC Report, 2001



Participants at the Delhi MPA Workshop listening to speaker at the session on social dimensions of MCPA practice

PANEL DISCUSSION: HOW TO RECONCILE CONSERVATION OF MCBD AND THE LIVELIHOOD INTERESTS OF COASTAL COMMUNITIES IN MCPAS (WILDLIFE SANCTUARIES, NATIONAL PARKS, BIOSPHERE RESERVES)

Chair: Deepak Apte, BNHS

Introducing the panel, Deepak Apte said that the participants need to come up with broad agendas, instead of looking at site-specific issues, if any change is to be brought to the status of traditional fishworkers.

Speaker: S Balaji, Director, GOMBRT

It is the government's job, as a trustee, to protect biodiversity, and to conserve and sustainably manage it for posterity, said S. Balaji. Conflicts do arise in the process, and they have to be reconciled. A good example, in this context, is the GOMBRT, funded by the United Nations Development Programme (UNDP) and the GEF, which is due to end this year.

GOMBR extends over 10,500 sq km, with a core area of 560 sq km, about five per cent of the total area. The region has about 3,600 species, with 35 per cent of all finfish species being represented here. Balaji said, unlike the Gujarat coast, where intense industrialization and pollution pose a serious threat to conservation and eventually the livelihoods of stakeholders, the Gulf of Mannar area has seen underdevelopment, which has caused more exploitation and depletion of marine resources. The districts of Tuticorin and Ramnad are the most backward in the State, with least infrastructure development and failing agriculture due to salinity. There are 0.25 mn people in the project area, most of whom are dependent on fisheries. Balaji said the situation for traditional fishers is bleak; there is little support from government in terms of schemes; mariculture has not picked up, nor has the fisheries department effectively regulated trawlers.

Considering the species richness of the area, UNDP came forward to promote conservation of bioresources by integrating relevant plans/policies of the government. The GOMBRT functions through a special-purpose vehicle, with the chief secretary (Government of Tamil Nadu) as chair. The focus is on awareness creation, capacity building of various stakeholders, research and on creation of alternative livelihood options.

The UNDP project, which is to be taken over by the State government from next year, has set up 248 EDCs in the project area. The villages are classified into threat categories (high, medium, low), based on how dependent they are on the sea and on how much of a threat they are to marine biodiversity. The trust, explained Balaji, has a corpus fund of Rs 75 mn (US\$ 1,336,500), which is distributed to EDCs, based on the threat status of villages, to provide micro-credit to self-help groups for livelihood-generation activities. This, he said, has eliminated moneylenders from the area.

Speaker: R D Kamboj, Chief Conservator of Forests (CCF), Jamnagar (Marine) National Park, Gujarat

R D Kamboj drew attention to the activities of the Gujarat forest department, and its success with mangrove reforestation—400 sq km have been planted in the last 30 years. Gujarat is the only State where the mangrove cover has increased, he said. The Gulf of Kutch (Marine) National Park undoubtedly faces many challenges from industrial growth, given that its location is considered advantageous by industry. Providing some facts about the region, he said that 76 mn tonnes of crude oil are refined annually, and though the threat of an oil spill is present, so far there has been no major spill. In addition, there are fertilizer, chemical industries and salt

pans which, he said, pre-date the declaration of the protected area. There are also three minor ports, several jetties, shipbreaking yards, commercial fishing, tourism and sewage/garbage from Jamnagar town to deal with. To counter these activities, a 620-sq km area has been declared as a national park, mangroves have been planted, patrolling taken up, and industries have been required to plant mangroves as a prerequisite to obtaining environmental clearance. In addition, the government, under the ICZM project, has taken up coral translocation activities. It has also established sea turtle hatcheries, and has arranged to pay fishers who release whale sharks that get caught in their nets. EDCs have also been formed through the ICZM project, and the forest department is spreading awareness about mangroves, and conducting nature education camps for children.

Speaker: Sanjay Deshmukh, Consultant, NBA

Sanjay Deshmukh highlighted the need to get people involved in sustainable use of resources. He noted that the government's approach too has changed, as is evident from the increased community involvement in protected areas.

Talking specifically of the tremendous pressure on coasts—with 63 per cent of the world's population located there—he drew attention to the roles that communities can play in addressing issues such as climate change. Drawing on his experience of working with communities near the Pichavaram mangroves (in Tamil Nadu), he spoke of using community knowledge to map resource availability. Deshmukh gave an overview of the projects he has been involved with, where innovative, but simple, techniques have been used to expand the area under mangroves. Under these joint mangrove management projects, communities have got not just income from the plantation work, but have also benefited from the reforested area in the subsequent period.

Speaker: Sanjiv Gopal, Greenpeace

Sanjiv Gopal said that COP11 being organized in India provides an opportunity to identify areas of collective synergy. There is enough evidence indicating that fisheries resources, both in the territorial waters and in the EEZ, are under tremendous pressure. There is no doubt that creation of inviolate areas would be useful in such a context. However, it is essential that a different process be put in place for establishing such areas, where communities are at the centre of decisions. There is much to learn from examples of other community-led MPAs, like the one in St Lucia in the Caribbean, which are meeting not just conservation goals but are also contributing to the regeneration of fisheries resources and to positive spillover benefits. Such community-centred processes should be supported by legislation, but also socially regulated.

Supporting Bhutani's comment on locating issues in the political economy, Gopal said that there is a need to critically look at the obsession with targets for economic growth. The CRZ history bears this out. Efforts to harness marine genetic resources as well as offshore oil and gas resources are now underway. There are plans to enter into fisheries agreements with select countries on the assumption that fisheries resources in the EEZ are underexploited.

Speaking of the complex legislative framework and the absence of co-ordination linkages between departments entrusted with enforcing coastal regulations, Gopal suggested the need for an overarching policy or white paper. Referring to the conflicts with fishing communities in protected areas, he suggested the need to support some of the issues that had been flagged by NFF during earlier presentations, such as the right of innocent passage, and opening up access (to MCPAs) to certain kinds of traditional fishing. NFF, on its part, should define what it considers to be traditional fishing, he said. By ensuring that local community interests are taken on board, the effectiveness of such protected areas is also likely to improve, Gopal concluded.

Speaker: R K Patil, NFF

“I am a killer of fish”, said R K Patil introducing himself. Pointing out that fishers have, for long, been concerned about depleting fish stocks, Patil said that NFF had, in 1991, protested against the government’s policy allowing 2,500 deep-sea fishing vessels to operate in Indian waters. Undoubtedly, there is need for conservation. However, considering the problems being faced by fishing communities in national parks and sanctuaries, NFF is questioning such exclusionary forms of conservation. Attempting to meet targets, such as the 10 per cent target for MPAs, will only exacerbate the livelihood problem of one mn active fishers and 14.4 mn people dependent on fisheries and related activities, he warned. Instead, the government should formulate policies that promote sustainable fishing. Only then will conservation programmes be accepted, and will work. Currently, in the name of conservation, fishers are not allowed to fish; however, in the name of development, industries are allowed to pollute the coast. This is leading to neither conservation nor the survival of fishers. There is also need to look at the reasons for the depletion of fish stocks, and for fishing down the food chain. There is need to protect fishing by traditional fishers for livelihood needs.

Finally, instead of extending the WLPA to marine areas, a separate marine protection act, keeping in mind all the above issues, must be put in place. If such an approach is not adopted, the fishing community will have no choice but to fight against the designation and implementation of protected areas in their current form.

Speaker: Y S Yadava, BOBP-IGO

While sustainable fisheries is not possible by undermining the environment, it is uncertain whether sustaining the environment is possible by undermining fisheries, said Y S Yadava. The US Great Lakes Water Quality Agreement of 1978 recognizes that no park is an island; Indian MPAs, then, are quite contrary to this experience. We cannot consider these parks in isolation as units of conservation. We need to look at them holistically, to ensure that conservation and sustainable exploitation go hand in hand. Yadava noted that while there is considerable debate on how far no-take MPAs contribute or undermine fisheries management objectives, few studies have actually investigated the social challenges posed by no-take MPAs. MPAs inevitably displace some resource users, increase congestion in the remaining open fishing grounds, increase variable costs associated with the choice of fishing grounds, and adversely affect coastal populations by restricting or prohibiting access to local fisheries.

A possible avenue for reconciliation is to define fishing rights and fishers’ duties using legal instruments like the CRZ. Fishing rights are not defined and, therefore, are not guaranteed; however, Indian fisheries are criticized as being ‘open access’, although they rarely are. Since rights are accompanied by duties, defining property rights could perhaps ensure that communities fulfill their responsibilities towards conservation.

The Joint Forest Management (JFM) programme undertaken in India could provide some pointers. JFM created an incentive structure for community participation, but acceptance of the incentives varied. For instance, studies in the Dooars region of West Bengal found broad community participation where the forest was degraded, but limited participation where forests were still vibrant.

It is important to start trusting communities by recognizing their implicit rights, and helping them define their responsibilities. In terms of plans, it must be kept in mind that communities are rarely homogenous, and that plans must fit local needs. There must be information sharing between government departments. The making of plans, and their implementation, must be a collective responsibility and should involve scientific monitoring on an ongoing basis.

Discussion

Commenting on the GOMBRT presentation, Ashish Kothari of Kalpavriksh said that the classification of villages in terms of threat reinforces the old paradigm of viewing people as pressures or threats. It may be better to classify communities in terms of potential, considering their attitude towards conservation. That would lead to very different management outcomes. Kothari also wanted to know how the 10 years of work through GOMBRT has helped conservation.

It was clarified by GOMBRT that the threat classification does not refer to the village's threat to biodiversity but to the village's level of dependency on marine resources. On the performance of GOMBRT, the trust representative said two monitoring studies have been undertaken, and the results show that communities rated the trust as the third most-liked agency.

Referring to the example of JFM, Kothari pointed out that, until recently, it was meant only for degraded forests. There are examples in Maharashtra where people were traditionally protecting forests. However, to access the funds available through JFM (the only scheme available), they cut down forests to make them degraded. Unlike in JFM, said Kothari, in the many examples of community-protected forests that exist, vibrant and dynamic work is taking place.

Mathew of ICSF pointed to the differing perspectives in reconciling conservation and livelihoods. While the fisheries department has a negative approach and lists banned species, the forest department has a positive listing of species that can be caught. Gopal added that there is also a question of looking at the problem from a management or production perspective.

Palsamy of RFTU expressed his disenchantment with the alternative livelihoods schemes of GOMBRT, pointing out that those involved in jasmine cultivation are not actually fishers but are people who already have land and other resources. Fishers do not have land to cultivate anything, he said. In response, it was informed that while in low-threat villages, alternative-livelihood programmes have involved those in fisheries-related sectors, in high-threat villages, all benefits have gone to fishers. Jasmine cultivation, it was clarified, constitutes less than one per cent of the alternative-livelihood programme outlay. The main benefits to local populations are through the microcredit programme; this provides Rs 9 mn (US\$ 160, 740) of credit per month, and has a rate of recovery of 90 per cent.

Continuing the debate on alternative-livelihood schemes, Apte said that he had several concerns about them, especially in a fisheries context. What else can fishers do but fish? Promoting land-based livelihoods as an alternative rarely works. A better approach, he said, would be to put in place alternative-livelihood schemes for large trawlers, whose activities are far more destructive. Or should we accept that we cannot handle the trawlers perhaps because of their political connections?

Pointing to the danger of oil spills in the Gulf of Kutch, Apte said that a while major oil spill may not yet have occurred in Kutch, small spills take place almost on a daily basis. An oil-content analysis of the sediments will show that biodiversity cannot be sustained in such high-stress conditions, he warned.

COMMUNITY-BASED CONSERVATION AND MANAGEMENT OF MCBD: NATIONAL AND INTERNATIONAL EXPERIENCES

Chair: Pramod Krishnan, UNDP

Presenter: Ashish Kothari, Kalpavriksh

Ashish Kothari spoke of the changing protected-area and conservation paradigms worldwide and the implications for marine conservation. While management is much talked about, the concept of protected-area governance is fairly new. If management is about what we want to achieve, governance is about who makes the decisions. The political angle of conservation is something that conservationists, until recently, have shied away from, but we cannot afford to do so because somewhere someone is taking a call on the management of a protected area.

Worldwide, the protected-area paradigm is changing in terms of how communities are viewed, said Kothari. Starting with the World Parks Conference in 2003 and the COP7 of CBD in 2004, questions are being asked about who can govern a protected area, and on the quality of governance. The elements of good governance include equity (costs should not be borne by the communities while benefits go to a few), respect for human rights (in India alone, several million people have been dispossessed of their rights and/or forcibly displaced), accountability (to government and to the public), and transparency in decisionmaking (even now, management plans are hard to get, and impossible to read for communities). The question is, how many of these elements are part of the process of governance in the current system in India.

Government-controlled protected areas are common, but other governance models also exist, such as protected areas managed by indigenous communities, through collaborative systems and by private owners. In indigenous and community conserved areas (ICCAs), indigenous communities often use customary laws to manage an area with various goals in mind (such as to protect cultural habits). In collaboratively managed protected areas (CMPAs), stakeholders share powers and responsibilities. India is obligated by the CBD to follow these new paradigms in implementing the Programme of Work on Protected Areas (PoWPA). This commits India to expanding the protected-area system with the full participation of communities, and by respecting their rights in all protected areas, new and old. PoWPA also talks of developing mechanisms for the equitable sharing of costs and benefits, respecting and maintaining traditional knowledge in protected areas, and creating mechanisms for dialogue and information exchange between officials and communities.

Using a variety of protected-area categories and governance types can expand the coverage of protected areas, address gaps in the system, increase flexibility and responsiveness of the system (for example, to climate change), and enhance public support for conservation.

In conclusion, Kothari said the key challenge was to push for recognition of rights of communities, ensuring community participation in government-managed protected areas, gaining recognition and legal backing for ICCAs, and ensuring participatory planning for coastal areas, as well as free, prior informed consent of communities before development projects are undertaken.

Presenter: Ramya Rajagopalan, ICSF

Ramya Rajagopalan presented an overview of fishing-community initiatives in conservation and management of coastal resources from across the world. In the Pacific Islands, customary practices, such as the Māori's *rāhui*, a form of taboo that restricts access to, or the use of, an area or resource by unauthorized persons, are legally recognized. Such practices are not permanent; they vary over time and space, depending on the resource.

In Panamá, the *Comarca de la Biosfera* of Gunayala is a protected area initiated by the community in 1983, where regulations are being developed by the several communities involved. The *Satoumi* initiatives documented in Japan are based on historical models of environmental stewardship by local communities. In the Philippines, there are fisheries refugia which are areas temporarily closed to protect the breeding and spawning grounds of fish. The refugia are declared based on co-operative research by fisheries departments and fishers, and are legally recognized.

Marine extractive reserves (RESEX), which are created only if the community demands them, are found in Brazil. These, again, are legally recognized under the national protected-area system, and work through co-management arrangements between the government and user associations. Rajagopalan also provided several examples of collaboration and/or community-driven management from south Pacific countries such as Fiji and Kiribati, and from Mexico, Thailand, Spain and France.

Presenter: V Vivekanandan, Member, ICSF

Vivekanandan provided an overview of traditional governance institutions in fishing communities in India. Traditional governance among marine fishing communities varies, depending on whether the residential and fish-landing spaces are adjacent to each other. In the southern States, communities live on the beach near their landing sites, so there is a single village governance structure for all needs—civil, social, cultural and religious. However, in West Bengal and in Gujarat, the village is far from the landing site, so fishing-related governance is separate from general village governance.

Traditional multi-tier governance still exists in India, though in a much weakened form. At the time of Independence, fishers were largely self-managing the fisheries. One exemption to this was the pearl and *chank* fisheries of Tamil Nadu, which has a 5,000-year history, with the Pandyas, Dutch, Portugese and British controlling them at various times. Post-1947, the State, in its anxiety to increase fisheries production, intervened, leading to a new sub-sector of mechanized boats (mainly trawlers) operating from harbours. This was an aggressive form of fishing, difficult to govern through the traditional system, though there are a few exceptions. In Nagapattinam (Tamil Nadu), the village system has such control over the trawlers that they cannot form separate associations. Another example is in Chennai. The 18 villages that use the Chennai harbour have a united *panchayat* that controls marketing at the harbour and, therefore, the fishing operations. The *panchayat* has managed to cap trawler numbers, something the State has been unable to do. The *panchayat* has also capped engine power at 200 horsepower (hp). Some months ago, when a few boats got 400-hp Chinese engines, they were denied access to the sea. A month later, they went back to the 200-hp engines.

A good example of a still-functioning rule is the 3-day-4-day rule in the Palk Bay (Tamil Nadu). This rule pre-dates the State MFRA, and has no legal sanction. By this rule, mechanized boats can go to sea three days a week, while the other four days are for traditional fishers. The agreement, which came after a series of clashes between the two sub-sectors, is still followed because the community has internalized it.

The village governance system, be it through a *panchayat* president or parish priest, is extremely jealous of its power; any outsider, even the government, cannot take any action in the village without their co-operation, said Vivekanandan. The fishing communities' loyalty lies with this system rather than with the *panchayati raj* institutions, where they may not be represented as such.

All communities have a variety of self-imposed regulations. Since shore-seines are usually longer than the coastline of the village, communities often adopt a rotation system that stipulates who can fish and when. There are also marketing regulations on when one can land fish, and who can

buy or sell fish. Some Tamil Nadu villages even have marketing quotas for widows. There are also traditions of property rights; in Kanyakumari (Tamil Nadu), rights to rocky patches for crab fishing are inheritable and, as in agriculture, the shares are being fragmented with each generation.

In India, though there is enormous governance capacity, there is no good community-managed system because resource boundaries are spread out, given the long, relatively straight coastline. A small cluster of villages cannot manage the vast area. In southeast Asia, there are examples of community-managed fisheries because the resource boundaries are well-defined, as within a cove or bay.

There are a variety of regulations that create equitable access for all but do not provide an overall resource management framework. Earlier, the issue was of equity and these regulations were developed to address this issue. Even today, the value system is such that if a poor person is fishing for basic livelihood needs, the community will not bar the person from fishing, even if a destructive gear is being employed. However, the traditional governance system is not geared to address the problem of overfishing that we are currently facing. Perhaps the best way forward is to have a multi-tiered system of management. Fishers have to be dealt with as groups, recognizing the existing institutional capacity that is already in place. Creating new bodies will not work as these will not have social legitimacy, concluded Vivekanandan.

Discussion

Mathew of ICSF commented that the first fisheries legislation we have, dating to 1897, talks of engines and the use of poison, indicating that destructive fishing existed even at that time. Vivekanandan concurred saying that this was connected to his earlier comments on poor groups that carry out destructive fishing. The mainstream fishing community is reluctant to stop that practice beyond a point because it is a livelihood issue; there may also be a communal dynamic attached to it. One example is from Vizhinjam (Kerala), where dynamite is used by one fishing community. The dominant fishing community, however, is loath to make an issue of this for fear of starting a communal conflict. This is where co-management is important but, at the moment, neither the forest, nor the fisheries department, has the capacity to develop a genuine co-management system without external facilitation.

Mathew questioned the assumption that area-based management is the most important tool available. Rajagopalan of ICSF clarified that spatio-temporal measures do not work on their own; other tools in fisheries management have to be simultaneously employed. Kothari of Kalpavriksh agreed that such measures are inadequate by themselves; they do not deal, for instance, with issues of nomadic groups (in terrestrial landscapes). The need for landscape—or seascape-level conservation, that which uses a mosaic of approaches, is now well recognized.



RAMYA RAJAGOPALAN/ICSF

Fishermen mending gillnets at the fish landing centre at Kharinasi in the State of Odisha

CONSERVATION AND SUSTAINABLE USE OF MCB: RECOGNIZING RIGHTS OF LOCAL COMMUNITIES

Chair: R D Kamboj, CCF, Jamnagar (Marine) National Park, Gujarat

Presentation: The way forward: towards a peoples' democratic governance

Presenter: C R Bijoy, CSD

C R Bijoy asked whether it was worth discussing community participation anymore. He added that what was needed was a mechanism that constantly seeks solutions. Legal regimes are not the answer; they are just instruments. The problem lies with the decision-making authorities and their functioning.

India, Bijoy said, has inherited the colonial system of governance with a line department responsible for implementing each set of legislation. The State and its governance takes on an adversarial role, resulting in increased conflicts between the State and the people, which has intensified in the neoliberal era. An electoral representative democracy got tagged along with this and is operating through a colonial administrative system. Post-Independence, decentralization through the 73rd Amendment to the Constitution and the *panchayati raj* system simply extended the political democracy to the village where it was subordinated to the colonial bureaucratic administrative structure. The conflicts and inadequacies led to two other forms of governance models: market-centered and market-based. The first model seeks to delink from the existing governance structure into an autonomous body responding and fashioned by the market, and not accountable to democracy as we know it. The second model that emerged from people's struggles is the people-centric participatory model exemplified by the Panchayat (Extension to Scheduled Areas) Act of 1996 or PESA and 2006 FRA. We are at a juncture when the colonial governance system is giving way faster to a market-based and a people-centric governance system. These are driven by intense political forces, and by capital and the struggles of people. Unlike any other legislation, the PESA and FRA are both applauded and hotly contested instruments. There have been organized attempts to subvert them, in law and practice. (State laws did not fully comply with the PESA nor put it into effective practice, and though an impressive 1.25 mn titles were issued under the FRA, even official bodies decried its ineffective implementation.) Various official bodies, such as the Planning Commission, the Administrative Reforms Commission and expert committees, have recognized the potential of these laws. Interestingly, in 2010, the Ministry of Panchayati Raj proposed constitutional amendments to the Sixth Schedule for northeastern States, under Article 243 for the general *panchayats*, and to the PESA. The general thrust is to create a new schedule—the 13th Schedule—where the powers of the *gram sabha*, as defined in the PESA, is to be listed as subject matters of the *gram sabha* and the *ward sabha* in the rest of the country, and to introduce District Councils patterned on the 6th Schedule and the *gram sabha* patterned on the PESA as a uniform structure of governance all over the country. These radical propositions have, however, been missed out by political parties, social movements and peoples organizations.

Presentation: Legal provisions and proposals for recognizing rights and occupational interests of fishing communities in conservation and management of MCB

Presenter: D Nagasaila, Advocate

D Nagasaila, based on her experience as an advocate, drew attention to a number of cases that were being pitched as people -vs-conservation, as for example, the Mudulmalai elephant corridor case, which has pitted tribals, small farmers and later settlers against the forest department and conservationists. If the effort had been to work with the tribals and small farmers, more would have been achieved even in terms of conservation. Instead, the mistrust and mutual suspicion generated has only worked to the advantage of large resort owners, violators, contractors and poachers, she said.

Speaking on the WLPA, Nagasaila pointed out that it was prepared with a terrestrial perspective, and was not appropriate for marine areas. The procedure for determining and acquiring rights is not

applicable to territorial waters. It logically follows, therefore, that the State does not have the right to take away these livelihood rights, as this is not provided for in the Act. The reasons and objectives of the 1991 Amendment clearly say that occupational interests have to be protected. It is not for individual officials to decide on the nature/extent of occupational interests that can be protected. It needs to be kept in mind that these are traditional/customary rights recognized by the Indian Constitution and that today customary law is accepted by the legal system. Unless these customary rights are taken away or abridged in a manner known to law, it is not open to any individual official to curb these rights. Similarly, environment management plans cannot go beyond constitutional and statutory mandates. Occupational interests are protected statutorily, and it is important for communities to assert them. This power of assertion has been lost. Experience indicates that rights are taken, never given. It is for the communities to take the rights constitutionally given to them, as per Article 21 of the Constitution on the right to life, and what is statutorily guaranteed to them under the WLPA. Communities must seek written confirmation that their statutory rights will not be denied. Such a step will also engender a sense of ownership of conservation efforts and ensure community co-operation for the conservation agenda. All citizens have some basic guarantees and there is need to reclaim them; only then will other agendas be achieved, she concluded.

Discussion

Commenting on Nagasaila's presentation, Shekar Kumar Niraj, Director, GOMBR pointed out that the forest department has been working on the elephant corridor case with good intentions. The focus is not on taking away rights, but on how outside money is taking land away from locals, and on ousting outsiders. Regarding the GOMMNP, he pointed out that the core inviolate area is a small portion of the total protected area. The idea is not to prevent fishing but to ensure regeneration of stocks. Such management initiatives are being taken based on scientific assessments.

On the provision related to occupational interests in the WLPA, Kothari of Kalpavriksh commented that perhaps too much was being read into it. Various interpretations are possible. For example, alternative livelihoods could be seen as addressing occupational interests. Moreover, this provision is not relevant in the case of national parks where the department has the mandate to stop fishing or even entry into the area. Unfortunately, he concluded, the WLPA does not provide an adequate framework for recognition of fishing rights.

Responding to the issue of settlement of rights Sridhar of Dakshin Foundation commented that while, in the case of reserve forests, it could be assumed that rights had already been settled, in the case of territorial waters, the assumption could be that such areas are owned by the government, hence there is no question of settling rights. Since both reserve forests and territorial waters have been discussed in the same sentence, the orientation of thought is unlikely to be diametrically opposite, she said.

Nagasaila said that, as a lawyer, the perspective is on how relief can be given to people. The very fact that there can be different interpretations means there is more than one way of looking at the issue. There is scope to argue for rights. Ownership is one thing, rights another. Even in the FRA, technically, the forests belong to the government, but the public-trust principle says that the government is holding them in trust for the public good and the public purpose. Also, the Constitution recognizes customary law as having the force of law, unless it conflicts with legislated law. To interpret the Constitution in a reasonable manner, once rights are recognized by the Constitution, there has to be a process established by law to take away rights. Article 21 of the Constitution says that the right to life and liberty can be taken away only by a procedure established by law. Courts have interpreted this to mean that procedures should be fair, just and reasonable. If the WLPA and its provisions are analyzed within this broader context, fishing rights cannot be taken away. If there is a process to take away rights in one situation and not in another, then the presumption in law is that the rights in the second situation stay intact. The same interpretation will apply to rights in national parks, as Section 35, which is the only section about national parks, adopts a similar process for the acquisition of rights.

PANEL DISCUSSION: RECOGNIZING SOCIAL ISSUES IN CONSERVATION AND MANAGEMENT OF MCB: CHALLENGES AND OPPORTUNITIES

Chair: S Balaji, Director, GOMBRT

Speaker: Prakriti Srivastava, Deputy Inspector General (DIG) (Wildlife), MoEF

Prakriti Srivastava spoke of a community-led turtle conservation project that she supported when she was Divisional Forest Officer (DFO), Calicut. The programme attracted more people once it became better organized and gained recognition. The forest department, through its initiative of working with the community, realized there were other issues such as sand mining that were threatening local habitats. There was a massive mobilization against this, including through the formation of a human chain on the beach. Though the mining lobby won that battle, the community did become more united. They were able to stop plans to develop a tourist resort in the area, which would have affected the turtle habitat. If the forest department works with local communities, objectives of both conservation and livelihoods can be achieved, Srivastava stressed.

Livelihood interventions, she said, should also be ecologically sustainable. She cited the example of the cultivation of the *Kappaphycus* spp. seaweed introduced in the Gulf of Mannar, and its negative impacts on biodiversity. Any livelihood intervention should be preceded by an EIA and should be holistic. There should be a plan for the development of the whole area, and all departments that have a stake should be involved, Srivastava concluded.

Speaker: A A Hebbar, DIG (Fisheries & Environment), Indian Coast Guard

A A Hebbar provided an overview of the structure and functions of the Coast Guard. The duties of the Coast Guard include providing protection to fishermen and assistance to them at sea while in distress, preservation and protection of the maritime environment, including prevention and control of maritime pollution, and the enforcement of the MZI Act. There is a conflict, he noted, in implementing orders of the MoEF relating to protection of the maritime environment and protecting and providing assistance to fishermen at sea. Hebbar stressed the need to deal with the problems faced by small-scale fishers, including in national parks and sanctuaries, in a sensitive manner, keeping in mind the livelihood issues arising from actions such as arresting fishers and impounding their vessels. There is need, he said, for individuals and organizations to work towards reducing conflicts, and protecting the marine environment. Perhaps plans to demarcate marine protected areas with buoys, such as in Gulf of Mannar, will help fishers identify areas they should not be entering, thus avoiding the need for action against them.

Speaker: Sebastian Mathew, Programme Adviser, ICSF

Sebastian Mathew said that the three pillars of sustainability—economic, social and environmental—are equally important. The economic and social dimensions cannot be treated as disparate in the context of poverty in many coastal areas. There are compelling conditions under which people have to earn their livelihoods. It is important that the interests of fishing communities be protected within the CBD framework of sustainable use, conservation and benefit sharing.

The presentations, Mathew said, make it clear that there is no wilful campaign against conservation; the campaign is, rather, for a participatory approach. Discussions are needed on the principles of environmental justice, human dignity, trust building and the eschewing of forcible eviction, as highlighted in Kothari's presentation. The MoEF needs to recognize the principle of sustainable use, while the fisheries departments must recognize the importance of conservation. A change in perspective from both sides is required to establish some coherence, ensuring that communities are the main beneficiaries of initiatives. In the light of the new legal instruments, such as the proposed FAO's guidelines for small-scale fisheries, we can forge a new trajectory that balances the imperatives of conservation and livelihoods.

Speaker: Pradip Kumar Chatterjee, NFF

The NFF, Pradip Chatterjee pointed out, believes that the greatest challenge is to change the mindset of those who govern national parks and sanctuaries. This belief arises from experiences of restrictive measures, implemented without consultation, and done in the name of science to which we have no access. If the government is entrusted with the well-being of the people and of natural resources, then it should take people into confidence. Why is it blocking our access to fish resources? The authorities need to change their mindset, Chatterjee said. They need to recognize that resources belong equally to the people who have depended on them.

Chatterjee reiterated the demand that the right of fishers to fish in coastal and marine waters be enshrined in an act along the lines of the FRA. The act should also recognize that conservation of natural resources must primarily rest with traditional and small-scale fishers. There is also need to amend the WLPA or to enact a new legislation that recognizes these rights. There is also need to support capacity development of fishers for self-governance and for addressing threats to biodiversity. This will turn the current situation of bitter conflict into co-operation, he concluded.

Speaker: Debi Goenka, Conservation Action Trust (CAT)

Debi Goenka of CAT was unable to attend the workshop but sent in his comments.

Goenka pointed out that the WLPA was never intended for marine sanctuaries. Like all laws, the WLPA is prescriptive and applies uniformly to all national parks, sanctuaries, tiger reserves and conservation reserves across the country. It may be advantageous, he noted, to seek designation of areas of high biodiversity as ESAs—this provides a more flexible framework, in that the individual notifications can be tailor-made to suit the existing situation.

Fishing communities, he said, need to recognize the benefits of MCPAs, so that their ‘capital’ breeding stock remains intact and they can sustainably harvest the ‘interest’. If this is accepted by both the forest department and the fishing communities, it will be possible to establish a working relationship with the forest department, so that issues related to local harassment and corruption can be dealt with more effectively. It would also help the fishers against the big trawlers who otherwise poach with impunity because of their muscle power and political connections. We should be prepared to work together to iron out differences—there is need for marine protected areas, and there is a need to safeguard the sustainable livelihoods of fishers, said Goenka.

Discussion

Sharma of ICSF, addressing Srivastava of MoEF, sought clarifications on the application of the WLPA to marine areas, about provisions in it to protect the occupational interests of fishers, and about whether community reserves can be designated in a marine context. Srivastava said that declaring a community reserve is not difficult if a community so decides. The regulations to be imposed should also be decided by the community. The declaration of community reserves in marine habitats would be very welcome since most marine areas are outside the protected area network, she said.

Rajagopalan of ICSF commented that, according to the WLPA, the land in a community reserve should be owned by the community, which does not work in a marine context. So how do we interpret it for a marine space? In response, Kothari of Kalpavriksh said there are different interpretations. While the Act says that community reserves cannot be on government lands, the Kerala government has questioned this, pointing out that there is nothing called ‘community lands’. Another problem, said Kothari, is the uniform institutional structure prescribed for managing a community reserve. This is why in the last nine years there have been only four community reserves in India. Which community would want to destroy its existing management structure to set up another one that is under the purview of the chief wildlife warden, he queried. There have been several requests to the MoEF to amend these two aspects. If these amendments are made, many more communities will come forward, as they would like legal backing for their conservation efforts.

Kothari also requested Srivastava to look into modifying the top-down management structure of conservation reserves, as these involve *panchayats* and not necessarily the communities themselves. It is usually a government department that has the decision-making power. In addition, there are, as yet, no guidelines for these two categories—issuance of guidelines will be very useful. Niraj of GOMBR noted that it has been left to the States to issue guidelines. Tamil Nadu, he said, is one of the few States that has seriously done so.

Gopal of Greenpeace wanted greater clarity on the provision on occupational interests and how it can be operationalized. Does it mean creating a corpus for fishers, or recognizing rights, or providing alternative livelihood sources? Gopal also noted that the issue of illegal fishing in the high seas, though perhaps not a burning issue currently, needs attention as it will impact resources in the EEZ at some point. Sixty-four per cent of the world's oceans are beyond national jurisdiction and only a handful of countries are accessing such resources, which include fisheries as well as hydrocarbons, marine genetic resources, and so on. Continuing with the issue of fishing beyond national jurisdiction, Hebbar of the Coast Guard drew attention to Indian fishers transgressing into Sri Lankan waters. While clashes at sea and court cases have been ongoing, there are also discussions at the government and at the community level to resolve the problem. Srivastava noted that this was also an issue with Myanmar fishers who poach sea cucumbers in the waters off the Andaman and Nicobar islands.

Bringing the discussion back to the WLPA, Mathew of ICSF reiterated the need for guidelines on operationalizing the provision related to occupational interests. He suggested that such guidelines should incorporate the right to work, traditional rights, and the right to have a share in fish resources. He also highlighted the issue of internal waters. The baselines filed by India with the UN Law of the Sea office are mostly straight, enclosing significant marine spaces (called internal waters). There is no mention of rights in these waters; it is important that rights recognized in territorial waters should be extended to internal waters, he suggested.

Commenting on the presentation on the GOMMNP and GOMBRT, Jones of RFTU said that fishers also see resource users in terms of threat levels. High-threat users would include trawlers, ports, power plants and other industries, while low-threat users would be traditional fishers, including skin-divers. Yet, alternative livelihood programmes are focused on low-threat groups. Jones also questioned the concept of alternative livelihoods; fishing is a traditional livelihood, so why should fishers abandon it? Would scientists or others give up their livelihood and take up alternative livelihoods? On the earlier comments that the core zone is only 560 sq km, Jones said that what is important to note is that this is the only area viable for fishing as the rest of the biosphere reserve is heavily polluted by mining and other industries.

Muralidharan of ICSF commented that, in the light of the earlier discussion on the need for the MoEF to move towards sustainable use and for the fisheries departments to move towards conservation, and the examples of other line departments failing their mandate, the fisheries department should be empowered to take on pollution monitoring. Fishers should be part of this monitoring process as they know best about the source and impacts of pollution. By the time pollution boards are brought in for inspection, it may be too late, or temporary measures to reduce pollution have already been taken. Chatterjee of NFF, however, felt that considering that the fisheries departments are unable to fulfil their own mandate of fisheries management and looking after the rights of fishers, it is unrealistic to expect them to deal with pollution.

Mathew of ICSF suggested that perhaps the economic, civil and political rights of citizens should be discussed in training programmes organized for forest officials. Also, efforts to implement a monitoring, control and surveillance (MCS) regime in fisheries could help in ensuring that fisheries are more conservation-oriented. Kothari added that the Indian Forest Services (IFS) syllabus is under revision, which is an opportunity to introduce modules. It was strange, however, that there was no mention of the FRA in the draft revised version of the IFS syllabus.

Srivastava of MoEF, replying to a question on whether there was any legislation requiring impact assessments for the introduction of exotic, potentially invasive species, said that while guidelines on export of species exist, there are no similar guidelines for import of species. This remains an issue that needs to be addressed as exotic species are being imported into India in the absence of clear policies to regulate such imports. Niraj of GOMBR pointed to the problems arising from the introduction of the exotic *Kappaphycus* spp. seaweed in the Palk Bay. When it was introduced in the mid-1990s by the Central Salt and Marine Chemicals Research Institute (CSMCRI), only its success in boosting incomes was known. Later, when its invasive propensity was realized, it was already too late to control the problem. Hebbar of the Coast Guard pointed out that shipping vessels are also responsible for the introduction of alien species, through ballast water discharge, which needs to be controlled as well.

ROHIT GUSAIN/ICSF



A A Hebbar of the Indian Coast Guard, Prakriti Srivastava of MoEF, Somenath Bhattacharyya of ICZM, Sebastian Mathew of ICSF and Pradip Chatterjee of NFF at the panel discussion on recognizing social issues in conservation and management of MCBD

PANEL DISCUSSION: WAY FORWARD

Chair: V Vivekanandan, Member, ICSF

Reflecting on the discussions over the past two days, Vivekanandan noted that most of the issues brought up had also been discussed at the 2009 workshop. It is evident that there is an understanding of the issues; however, there seems to be a sense of helplessness in resolving them. That is what ought to be urgently corrected now, he said.

Speaker: D Nagasaila, Advocate

Nagasaila noted that, at the conceptual level, it has now been accepted that the debate has to be changed from conservation-vs-livelihood to conservation-and-livelihood, with peoples' rights and livelihoods being central to all planning and conservation efforts. People must be involved in the decision-making process and not seen as recipients of largesse from the State. To operationalize this acceptance in the context of national parks and sanctuaries, a dialogue between officials and fishers should be initiated, and a written assurance provided that fishing activities will not be restricted within such areas. This will go a long way in facilitating the acceptance of conservation measures by the community. There is also need for capacity building of all line departments. Such efforts have been made in the case of the Tamil Nadu Water Supply and Drainage Board. The intervention helped in bringing down costs and increasing the reach of water supply. A convergence plan to promote co-ordination between all the line departments, with a community interface, should be worked out, Nagasaila suggested.

Speaker: Shekar Kumar Niraj, Director, GOMBR

Niraj began by stressing that the scope for settlement of rights is limited in the case of a national park. The provision related to occupational interests pertains more to a sanctuary and is understood in terms of traditional livelihoods.

Talking of MCPAs, Niraj highlighted that, across the world, fish stocks are depleting, and there is little that can be done to reverse this trend, considering the growing population. Alternative livelihoods are essential in such a context. Alternative livelihood programmes should not be seen as weaning communities away from traditional occupations, but as providing more options. In a marine and coastal context, such alternatives could include forestry, fisheries and ecotourism, where communities can be involved and their incomes can be boosted. Forestry could mean mangrove plantations. The department is also looking to cultivate *Artemia* spp. (an imported crustacean), used in aquariums. Ornamental fisheries offer great potential. Another option is coral regeneration. This is being developed and local communities could earn up to Rs 500 (US\$ 8.91) per hour. Regarding seaweed, while *Kappaphycus* spp. is not encouraged, there are other species that can be promoted. Ecotourism projects are being implemented by several departments. We need to promote such activities that will fill the gaps created by declining fisheries resources. The forest department does not regard fisheries as an undesirable activity. There are only restrictions on fishing in the core area, to allow for regeneration, and on the fishing of certain banned species. The department is open to more dialogue with communities, Niraj concluded.

Speaker: B C Choudhury, WII

Noting the impact of the global agenda on national plans, Choudhury pointed out that India has achieved less than one per cent of the 10 per cent Aichi target for MCPAs. WII has been mandated to assess if the country can meet this target. As many as 350 coastal locations were identified based on devised criteria—habitat diversity, species richness/diversity and socioeconomic livelihood dependency—for assessment. Of the 350 sites, 102 sites were found to have met the above criteria. Rather than recommending MPAs—often seen as problematic—the suggestion is to designate them as conservation areas, to allow for putting in place a participatory management framework, said Choudhury.

Given the high developmental pressures on the coast, it has been suggested that these 102 sites be declared natural no-investment industry areas—areas where, with no investment, considerable benefits (fisheries-based employment, food security etc.) can be obtained on an ongoing basis. Such areas should be declared as ‘no-go’ areas for other forms of economic development. The need to shift the MCPA management paradigm from ‘stickholders’ to ‘stakeholders’, from conflicting to complimentary approaches, has also been suggested. Another suggestion is to look at the possibility of advocating ‘corporate ecological responsibility’, instead of ‘corporate social responsibility’. A document on this, said Choudhary, is likely to be presented at COP11 by the MoEF.

Choudhury pointed out that while the MoEF is not familiar with the marine space, it should continue to be involved in marine conservation, as the MoEF itself had its genesis in the Agriculture and Co-operation Ministry, before it was made an independent ministry. In Southeast Asia, MPAs are managed by fisheries departments. There is a need to review the terrestrial approach to marine conservation.

Choudhury also called for a re-evaluation of standard alternative livelihood programmes, saying these are typically about the three Ps- *papad*, pickle and petticoat making. New management systems are needed that are driven by both science and traditional wisdom. Lessons can be drawn from good examples, such as the Maipur Reserve in Hong Kong and the GOMBRT project. Choudhury also drew attention to the fact that the Lakshadweep community reserve proposal will soon be discussed by the wildlife board. The message, in short, said Choudhury, is that there are meeting grounds that can help balance conservation and livelihoods.

Speaker: Deepak Apte, BNHS

Commenting on the disconnect between policymakers in Delhi and the ground reality, Apte said that traditional fishers can be the strongest supporters of conservation in a context where the coasts are being affected by large development projects, as long as their access to resources is not denied. Options like declaring ESAs need to be utilized better. This could help in regulating developmental projects in areas of high biodiversity. While there is no question of avoiding development, the question is how much, and what form, of development is acceptable.

Apte drew attention to the situation in Lakshadweep where the community came forward to seek designation of a conservation reserve under the WLPA. This request has, however, been lying pending with the government for the past five years. It took four years of rigorous interaction with the community to get to a stage where they took the initiative of requesting for the reserve. This was possible because of the open dialogue and transparency that was maintained. If a similar process had taken place in Malvan, it is likely that people would have supported the sanctuary and the trawlers could have been controlled. There is urgent need to work with communities. If a few community-led reserves can be set up, they will serve as positive examples, and more communities will be inspired to join.

Listing the threats to nearshore fisheries, Apte said that fishing is under threat from overfishing and development projects such as power plants. BNHS has found that there is a thermal shift of up to 7 degrees Centigrade in the nearshore waters off power plants. This alters the water chemistry which, in turn, changes fish composition. This is a serious issue for the fishing communities that fish in the area. The consequences of such thermal stress will show up only several years later, by when it will be too late for action. We are talking of access to fish, said Apte, but what is the point of access if there is no fish? We need to go beyond access and management issues because our coastline is being altered. With climate-change pressures, the high-tide line is changing, beaches are being lost, and none of our disaster-response plans look at these issues.

Speaker: Ashish Kothari, Kalpavriksh

The issue of rights is obviously crucial but it is not just about the right to fish, said Kothari. It is about territorial and customary rights over the marine and coastal ecosystem. India has, unfortunately, never looked into clarifying these rights; until this is done, there will be conflicts. In the context of

forests, the FRA, despite its flaws, does attempt to do this. There was a very preliminary effort earlier, through the MoEF, for a fishers' rights act, but, for several reasons, that attempt did not go far. There is need to push for the recognition of tenurial rights for fishers. This will also mean that no proposal—whether related to development or conservation—will be able to get through without the free, prior and informed consent of local communities. The draft of such a piece of legislation should be presented soon to the government. Perhaps, as in the case of tiger reserves, a review panel for MPAs can be constituted, and, through that, the rights, roles, responsibilities and powers of all stakeholders can be clarified.

Kothari also reiterated the need for dialogue, and proposed that in all existing national parks and sanctuaries, mandatory meetings between protected-area authorities and local communities be held every few months. This will help in sorting out a lot of issues. There could also be similar public dialogues at the State and national levels.

Commenting on the 102 sites of high biodiversity identified by WII, Kothari said that there is a need to move away from the WLPA paradigm. Even the community reserve option under the WLPA is problematic and inappropriate from the community perspective. There are other acts that could be used such as the BDA, EPA and FRA, apart from other fisheries legislation. Much can be learned from examples from other countries.

There is need for two specific outputs—a coastal, marine conservation and livelihood security policy which states that coasts are essentially meant for biodiversity conservation and local livelihood security; and a coastal, marine conservation and livelihood security legislation. These were also suggested in the National Biodiversity Strategy and Action Plan (NBSAP), prepared several years ago which was, however, subsequently shelved.

Kothari pointed out that there is an opportunity in COPII. As the hosts to COPII, the Government of India would like to showcase its progress in meeting CBD goals in the marine area. The government should be asked to review each protected area, in terms of whether PoWPA guidelines have been met, before October. The government should also be asked to announce a plan for marine and coastal areas, keeping in mind all the issues highlighted.

Speaker: R K Patil, NFF

Patil reminded the workshop participants that NFF has for long pushed for good resource management so that depletion of stocks does not get out of hand. NFF has also been asking for legislation that recognizes the rights of fishing communities, given that communities have no legally recognized rights.

Stressing the need for good data and estimation methodologies, Patil said that though data indicates that India is yet to reach the maximum potential in its EEZ, from the perspective of fishers faced with declining catches, this does not seem to be an accurate estimate. Calling for a policy that balances conservation and livelihood needs, Patil said the government has moved from promoting bottom trawling to promoting pelagic fishing because of resource depletion in nearshore waters. Yet, even as commercial fishing is given a boost, traditional fishing activities are being restricted. If there is no move towards a more nuanced and equitable policy, fishers will be up in arms and will not support conservation measures.

ROHIT GUSAIN/ICSF



Advocate D Nagasaila, Deepak Apte of BNHS, V Vivekanandan of ICSF, B C Choudhury of WII, Ashish Kothari of Kalpavriksh and S K Niraj of GOMBR at the session on the way forward



RAMYA RAJAGOPALAN/ICSF

A fishworker organization leader and *dadandar* (trader) sorting nets at Jharkali in the Sundarbans in the State of West Bengal

CONCLUDING SESSION

In the last session of the workshop Sharma of ICSF sought responses to two queries: (a) Is there a possibility of enhancing co-ordination between the environment and agriculture ministries on marine and coastal issues, perhaps through a joint committee that looks at these issues on an ongoing basis?; and (b) Is it possible for the agriculture ministry to set up a task force to look at how the rights of fishing communities can be protected?

Speaker: J R Bhatt, Director, MoEF

Bhatt highlighted the need for better synergies and linkages between environmental laws and policies. He also highlighted the need for capacity building within the ministry, particularly on marine issues. He agreed with Kothari that there is a need to review the effectiveness of protected areas in India. There is also need to discuss how the CBD goal of sustainable use can be achieved. Bhatt concluded by requesting concrete suggestions from the workshop participants.

Speaker: Tarun Shridhar, Joint Secretary (Fisheries), DAHDF, MoA

Shridhar agreed that there is need for greater co-ordination and dialogue between the ministries on issues such as declaration of national parks and sanctuaries in marine and coastal areas, on listing of fish species under the WLPA, and so on. An institutional mechanism between the ministries would certainly be useful, and there is need to discuss how such a mechanism can be put in place, he said.

Noting the pressures on traditional fishers, Shridhar said that the number of marine fishers is decreasing while employment in aquaculture is on the rise. Fishing will remain a source of livelihood only if it is economically viable. In many situations, fishers themselves are looking for alternative sources of livelihoods. The larger issue, he said, is whether traditional fishers should bear the costs of conservation. On the issue of recognition of rights, Shridhar recalled that no progress had been made on an earlier draft legislation. Comprehensive legislation that recognizes the rights of fishers is needed, he said.



J R Bhatt of MoEF, Tarun Shridhar of MoA (DAHDF) and V Vivekanandan of ICSF at the Delhi Workshop's concluding session



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Children from a fishing village in the Bhitarkanika National Park and Wildlife Sanctuary, in the State of Odisha

Appendix I

REPORT OF THE NATIONAL FISHERWORKER'S FORUM (NFF) MEETING

On 29 February 2012, NFF held a preparatory meeting for the workshop. The meeting discussed the various problems faced by fishing communities living adjacent to, and fishing in, the five national parks and sanctuaries in mainland India—the Gulf of Mannar (Marine) National Park and Biosphere Reserve, the Gahirmatha (Marine) Wildlife Sanctuary, the Jamnagar (Marine) National Park and Wildlife Sanctuary, the Malvan (Marine) Wildlife Sanctuary, and the Sundarbans National Park and Biosphere Reserve. Suggestions and proposals were put forward and discussed. The meeting also helped coalesce the demands of the NFF regarding management of MCPAs. Advocate D Nagasaila presented her analysis of the WLPA and its provisions with regard to fishers' rights in national parks and sanctuaries.

In the meeting, the following priority areas were outlined:

- the need for legislation enshrining the rights of fishing communities;
- the need for guidelines for operationalizing existing provisions on occupational interests of fishers (in the WLPA);
- removal of bans on fishing certain species (like sea cucumber), while advocating for sustainable management of such resources;
- participation of fishing communities in the management and planning of national parks and sanctuaries, in particular, and conservation efforts, in general;
- assessment of the impact of other coastal threats such as pollution and industrial development and strict implementation of laws on environmental protection;
- punishment for illegalities/violations by industries in MPAs;
- the need for regulating coastal development;
- greater participation of fishers in ICZMP; and
- highlighting sustainable use and equity in resource access/management, and in conservation, when speaking of CBD, while also stressing equitable distribution of benefits.



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A fisherman at the Karaiyur landing centre near Rameswaram in the State of Tamil Nadu

Appendix II

Workshop on Fishery-dependent Livelihoods, Conservation and Sustainable Use of Biodiversity: The Case of Marine and Coastal Protected Areas in India

1 – 2 March 2012

Programme

DAY 1: 01 MARCH 2012, THURSDAY	
0930 – 1030 hrs	<p>Inaugural session <i>Chair: Y S Yadava, BOBP-IGO</i></p> <p>Welcome <i>V Vivekanandan, Member, ICSF</i></p> <p>Introduction <i>Chandrika Sharma, ICSF</i></p> <p>Inaugural address <i>Hem K Pande, Joint Secretary, MoEF</i></p> <p>Keynote address <i>Tarun Shridhar, Joint Secretary, Ministry of Agriculture</i></p>
1030 – 1100 hrs	TEA
1100 – 1230 hrs	<p>Legal framework for conservation and management of marine and coastal biological diversity (MCBD) <i>Chair: B C Choudhury, Wildlife Institute of India</i></p> <p>The Environment Protection Act and Biological Diversity Act <i>Kanchi Kohli, Kalpavriksh</i></p> <p>Coastal Regulation Zone Notification <i>Aarathi Sridhar, Dakshin Foundation</i></p> <p>Fisheries legislation <i>Sebastian Mathew, ICSF</i></p>
1230 – 1330 hrs	<p>Panel discussion: Forest, environment, biodiversity and fisheries legislation: Strengths, weaknesses, opportunities and threats for conservation and management of MCBD <i>Chair: M J Vijayan, Delhi Forum</i></p> <p>Speakers <i>Vishnu Bhat, Fisheries Development Commissioner, Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture</i> <i>J R Bhatt, Director, Ministry of Environment and Forests</i> <i>Bharat Patel, Machimar Adhikar Sangharsh Sangathan (MASS)/NFF</i></p>
1330 – 1430 hrs	LUNCH

1430 – 1630 hrs	<p>Social dimensions of marine and coastal protected area practice: Issues of concern to fishing communities <i>Chairs: S A Baba, Secretary (Fisheries), West Bengal and C M Muralidharan, Member, ICSF</i></p> <p>Presentations <i>Bharat Patel, MASS, Gujarat</i> <i>Pradip Chatterjee, NFF, West Bengal</i> <i>Narayan Haldar, OTFWU, Orissa</i> <i>A Palsamy, RFTU, Tamil Nadu</i> <i>Dilip Hari Ghare, Sindhudurg Schrajeevi Rampan Machhimar Utapada Co-operative Society, Maharashtra</i></p>
1630 – 1700 hrs	TEA
1700 – 1800 hrs	Discussion
DAY 2: 02 MARCH 2012 FRIDAY	
0900 – 1030 hrs	<p>Panel discussion: How to reconcile conservation of MCB and livelihood interests of coastal communities in MCPAs (Wildlife Sanctuaries, National Park, Biosphere Reserves)? <i>Chair: Deepak Apte, Bombay Natural History Society</i></p> <p>Speakers <i>S Balaji, Chief Conservator of Forests, Gulf of Mannar Biosphere Reserve Trust</i> <i>R D Kamboj, Chief Conservator of Forests (CCF), Jamnagar (Marine) National Park</i> <i>Sanjay Deshmukh, National Biodiversity Authority</i> <i>R K Patil, National Fishworkers' Forum (NFF)</i> <i>Sanjiv Gopal, Greenpeace</i> <i>Y S Yadava, BOBP-IGO</i></p>
1030 – 1045 hrs	TEA
1045 – 1145 hrs	<p>Community-based conservation and management of MCB: National and international experiences <i>Chair: Pramod Krishnan, United Nations Development Programme</i></p> <p>Presentations <i>V Vivekanandan, Member, ICSF</i> <i>Ashish Kothari, Kalpavriksh</i> <i>Ramya Rajagopalan, ICSF</i></p>
1145 – 1345 hrs	<p>Conservation and sustainable use of MCB: Recognizing rights of local communities <i>Chair: R D Kamboj, Chief Conservator of Forests (CCF), Jamnagar (Marine) National Park</i></p> <p>The way forward: Towards a peoples' democratic governance <i>C R Bijoy, Campaign for Survival and Dignity</i></p> <p>Legal provisions and proposals for recognizing rights and occupational interests of fishing communities in conservation and management of MCB <i>D Nagasaila, Advocate</i></p>
1345 – 1415 hrs	LUNCH

1415 – 1600 hrs	<p>Panel discussion: Recognizing social issues in conservation and management of MCBDD: Challenges and opportunities <i>Chair: Somenath Bhattacharyya, Assistant Project Director (Technical), ICZMP, West Bengal</i></p> <p>Speakers <i>Prakriti Srivastava, DIG (Wildlife), Ministry of Environment and Forests</i> <i>AA Hebbar, DIG (Fisheries & Environment), Indian Coast Guard</i> <i>Sebastian Mathew, ICSF</i> <i>Debi Goenka, Conservation Action Trust (CAT)</i> <i>Pradip Chatterjee, National Fishworkers' Forum (NFF)</i></p>
1600 – 1630 hrs	TEA
1630 – 1730 hrs	<p>Panel discussion: Way forward <i>Chair: V Vivekanandan, Member, ICSF</i></p> <p>Speakers <i>R K Patil, National Fishworkers' Forum (NFF)</i> <i>B C Choudhury, Wildlife Institute of India (WII)</i> <i>Ashish Kothari, Kalpavriksh</i> <i>Deepak Apte, Bombay Natural History Society (BNHS)</i> <i>D Nagasaila, Advocate</i> <i>S K Niraj, Director, GOMBR</i></p>
1730 – 1800 hrs	<p>Concluding session <i>Chair: Chandrika Sharma, ICSF</i></p> <p>Speakers <i>Tarun Shridhar, Joint Secretary (Fisheries), Department of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture</i> <i>J R Bhatt, Director, Ministry of Environment and Forests</i></p> <p>Vote of thanks <i>V Vivekanandan, Member, ICSF</i></p>



RAMYA RAJAGOPALAN/ICSF

Fisherwomen at the Malvan landing centre close to the Malvan (Marine) Wildlife Sanctuary in the State of Maharashtra

Appendix III

LIST OF PARTICIPANTS

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WORKSHOP ON

Fishery-dependent Livelihoods, Conservation and Sustainable Use of Biodiversity: The Case of Marine and Coastal Protected Areas in India

The lacunae in fishing-community engagement in the management and governance of marine and coastal protected areas (MCPAs) were discussed in the 2009 Chennai Workshop organized by the International Collective in Support of Fishworkers (ICSF). To continue the discussion, a second, two-day workshop to review existing legal and institutional mechanisms for implementation and monitoring of MCPAs, titled 'Fishery-dependent Livelihoods, Conservation and Sustainable Use of Biodiversity: The Case of Marine and Coastal Protected Areas in India', was held in New Delhi during 1-2 March 2012.

The objective was to understand the impact of MCPAs on fishing communities, from an environmental-justice and human-rights perspective, and make specific proposals for better conservation while securing the livelihoods of small-scale fishers. The workshop also served to underscore these issues in light of the upcoming Conference of the Parties (COP) to the Convention on Biological Diversity (CBD), to be held at Hyderabad in October 2012.



This publication contains the prospectus of the workshop and a report of the proceedings. It will be useful for fishworkers, non-governmental organizations, policymakers, trade unions, researchers and others interested in natural resource management and coastal and fishing communities.



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILPs Special List of Non-governmental International Organizations. It also has Liaison Status with FAO. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and action, as well as communications.

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