Proceedings

Prospectus

BACKGROUND

A workshop titled “Social Dimensions of Marine Protected Area Implementation in India: Do Fishing Communities Benefit?” was organized by the Internation 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.