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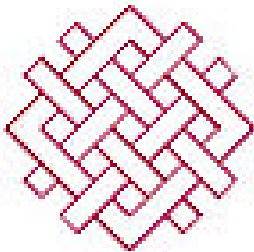## INSTITUTIONS AND GOVERNANCE PROGRAM

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# DECENTRALIZATION WHEN LAND AND RESOURCE RIGHTS ARE DEEPLY CONGESTED: A CASE STUDY OF THE MKAMBATI ECO-TOURISM PROJECT ON THE WILD COAST OF SOUTH AFRICA

**Ben Cousins and Thembela Kepe**
Programme for Land and Agrarian Studies, School of Government
University of the Western Cape
E-mail: bcousins@uwc.ac.za

# Decentralization When Land and Resource Rights Are Deeply Congested
## A case study of the Mkambati eco-tourism project on the Wild Coast of South Africa

Ben Cousins and Thembela Kepe

## 1. Introduction

This paper examines a failed community-based eco-tourism development project in one of the poorest rural regions of South Africa, the Wild Coast of the Eastern Cape province. In the Mkambati  project both local and non-local actors and agencies have been involved in a complex politics of land rights and natural resources, and the question of "who decides?" (and therefore "who benefits?") has been central to the many-sided conflicts which have erupted.

The project is located within the former Transkei "homeland" of South Africa, one of several targeted for high profile Spatial Development Initiatives (SDIs). These have been promoted by the state as a major vehicle for post-apartheid rural development. A poorly-defined version of decentralisation of decision-making to the local level is a central feature of the SDI model, in two respects: (a) the "empowerment" of local communities (and local entrepreneurs); and (b) government facilitation of "partnerships" between private sector investors and local communities.

In South Africa the distinction between decentralization and privatization is currently somewhat blurred, given the dominance of neo-liberal approaches to economic policy-making. Increasing pressure on governments everywhere to promote external investment, privatize service delivery, and thus to "outsource development", in the name of market efficiencies, mean that the Mkambati case may resonate with experiences elsewhere.

The reasons for the failure of the eco-tourism project in Mkambati are many and various (Kepe et al 2001; Kepe 2001), but include some which speak directly to debates on democratic decentralization. The devolution of effective decision-making powers from central bodies to local actors was not seen as a key issue and was barely addressed. Neither was the question of the accountability of various local bodies to the community members whose interests they have claimed to represent. Even for local residents, democratisation and accountability were not articulated as key issues. The stress on private sector partnerships and local enterepreurship within the SDI, as a form of (or substitute for?) decentralization, fostered the attempted capture of the development project by entrepreneurial elites, but this was generated resentment and was fiercely resisted.

Two other issues are key in making sense of the convoluted politics of land and development in Mkambati. They demonstrate how intertwined are questions of decentralization and natural resource use in African contexts. Firstly, the subtle realities of local livelihood strategies using natural resources, and the local institutional arrangements through which access to resources is gained, were barely recognized in SDI project planning or in attempts to set up an institutional framework for the project. Yet these were key to the motivations and actions of local residents. Secondly, efforts to clarify and secure land and resource rights, and resolve deeply-rooted disputes around these rights, were in practice (if not in rhetoric) accorded a low priority by national and provincial government departments. In cases such as these it is clear that the devolution of powers must be accompanied by tenure reforms. These must clarify which actors hold rights, but also strengthen their capacities to effectively exercise those rights.

Finally, the case provides some evidence for the argument that for democratic decentralization to work requires a strong central state that is committed to and provides adequate resources for the devolution of decision-making powers, and facilitates the creation of downwardly accountable local bodies.

## 2. Policy frameworks

Understanding the localised power dynamics in Mkambati is difficult without situating them within the national policy frameworks developed and implemented since 1994 by the post-apartheid government. These generally assert that there is an important role for decision-making by local actors (often "communities'), and notions of "participation" and "consultation" are common in policy documents such as White Papers. However, the locus of decision-making powers, and mechanisms to ensure accountability of decision-makers. are much less clearly articulated in these policies.

### Spatial Development Initiatives (SDIs)

From their inception in the mid-1990s, SDIs were seen as integral to the new government's macro-economic strategy. Emphasised were a 'paradigm shift' in economic policy towards international competitiveness, regional co-operation, and diversified ownership (Jourdan et al 1996), addressing the spatial distortions of apartheid, a 'fast-track and integrated approach' from within government, and the pivotal role of the private sector (Platzky 2000). The latter in particular clearly aligns the SDI concept with neo-liberal development doctrine (Crush and Rogerson 2001).

The SDIs are premised on the need to attract investment capital to previously neglected areas. Objectives include sustainable job creation, growth and development configured to suit a locality's inherent development potential, mobilizing private sector investment and lending, "economic empowerment" through small, medium and micro-enterprise (SMMEs), and exploitation of under-utilised local resources as basis for industry and export-oriented growth (Kepe et al. 2001; Crush and Rogerson 2001).

A number of SDIs are being implemented within the wider Southern Africa region. In South Africa thirteen SDIs in different parts of the country had been initiated by late 2000. On the Wild Coast of the former Transkei several development "nodes" were identified, including Dwesa/Cwebe/Nqabara, Coffee Bay/Hole in the Wall, Port St Johns, Magwa and Mkambati. The aim was to establish eco-tourism ventures in these "nodes", with the hope that improvements in infrastructure would encourage a range of spin-off initiatives (eg. small and micro-enterprises). It was assumed that the existence of five nature reserves, together with the scenic beauty of the coastal zone, created major potential for the expansion of both national and international tourism on the Wild Coast.

While the main focus of the Wild Coast SDI is tourism, agriculture and forestry have also been identified as enterprises that can contribute to development. Government estimates that in the Eastern Cape there are at least 120 000 hectares of land that can be afforested, mostly in the communal areas of the Wild Coast. Private companies are encouraged to enter into agreements with communities in these areas, with government acting as facilitator of the process.

In South Africa the notion of "empowerment" refers to increasing the level of participation in the mainstream economy by black South Africans. In the SDIs this is supposed to take place through:

- Community control over land
- Community involvement in the management of productive assets
- Community-held equity shares in new enterprises
- Support for SMME development.

A critical issue for the SDIs is the extent to which these features are compatible with significant levels of private investment, and the need for public agencies to facilitate "partnerships" between communities and investors. Increasingly, District Councils and local municipalities are being seen as the key levels of government which should play this role. Here decentralisation is explicitly allied with neo-liberal conceptions of market-driven development. Not at all clear in the SDI model is the institutional location of decision-making power at local or "community" level.

### Local government reform

Following the advent of majority rule in 1994, a transitional local government regime was installed until such time as the details of a more permanent system could be put in place. A two-tier system was devised, and in rural areas comprised *district councils* (as a third level of government, nested within national and provincial levels), and *transitional councils*[1] (as a fourth and primary level of government). Varying functions, roles and responsibilities were allocated to the two different levels of local government.

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[1] Either Transitionl Rural Councils, with full powers or Transitional Representative Councils, which played only a representative ad brokering role.

A great many problems emerged in the 1995-2000 period, notably a lack of experience and skills amongst elected councillors, and inadequate mechanisms for effective consultation with and feedback to constituents. More fundamentally, the capacity of lcal government bodies to engage in meaningful decision-making on development was undermined by inadequate financial resources, weak powers of decision-making, and lack of accountability mechanisms (Manor 2000).

Following new legislation and a second round of elections in 2000, a permanent new system of local government has replaced the transitional arrangements. The number of district councils and primary level bodies has been greatly reduced with the consequence that the "distance" between elected representatives and constituents is greatly increased. This, together with a proportional representation system and selection of candidates from party lists, makes accountability to those constituents difficult to achieve.

Local government is required to be 'developmental' and all municipalities must produce Integrated Development Plans. These must provide for extensive "public participation" in the planning process. Resource transfer to local government bodies in the poverty stricken former "homelands" which have a small or almost non-existent revenue base continue to be limited, which means that the problem of "unfunded mandates" has been perpetuated if not exacerbated. Unresolved in both the 'transitional' period and since 2000 was the issue of the roles and powers of traditional leaders in local government (Ntsebeza 2001).

### Land reform

The overarching goal of land reform in South Africa is redress of the racially-based land dispossessions of the apartheid era and the highly inequitable distribution of land ownership which resulted. Other goals include security of land tenure for all, and the enabling of land-based economic development. The three main components of land reform are land redistribution, land restitution, and tenure reform (Department of Land Affairs 1997). In Mkambati it is the latter two that have been most relevant to date.

Restitution policy aims to restore land and provide other remedies (eg alternative land or financial compensation) to people dispossessed by racially discriminatory legislation and practice. Policies and procedures are based on the Bill of Rights and the Restitution of Land Rights Act of 1994, which provides for claims to be investigated if the claimant was dispossessed of a right in land after 19 June 1913. Claims are investigated by a Commission for the Restitution of Land Rights, and then submitted to the Land Claims Court for adjudication.

While programmes for land restitution and redistribution have been in place since 1995/96, a programme of land tenure reform has been slow to emerge. The dominant tenure system in the former "homelands", is usually described as "communal", or "traditional" in character, but these terms are misleading. Pre-colonial systems were deeply impacted upon by South Africa's history of colonial conquest and subsequent policies of racial segregation and apartheid, and tenure systems were shaped by deliberate

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state interventions over two centuries. As elsewhere in Africa, traditional leaders formed an integral part of a system of indirect rule which involved the creation of "native reserves", in which customary law and "communal tenure" were administered by chiefs and headmen. In South Africa the main purpose of these reserves was to supply cheap migrant labour to the emerging mining and industrial economy, and continued access to land for household reproduction helped to lower the costs of that labour.

The legacy of this history is that the land rights of the occupants of communal land are not well defined and protected under current law. Underlying historical rights of occupation have never been fully recognised, and are still not acknowledged by bodies such as provincial departments or local government authorities. For most rural people, rights still take the form of permits (mostly known as a 'Permission To Occupy', or PTO), issued under highly restrictive conditions.

Tenure reform is urgently required in these areas. Land administration is in a state of chaos, registers of PTOs are no longer kept, and there is widespread confusion over who may make decisions on land in cases where development projects such as housing schemes are planned. Forced overcrowding under apartheid led to overlapping and conflicting rights in many areas, and instability and violence have resulted. Informal privatization by powerful elites is taking place, and the land rights of women are often not acknowledged.

In response to increasing political pressure, government is currently drafting a Communal Land Rights Bill, which may be legislated by Parliament in the course of 2002. Fierce debates on the Bill are now taking place: government officials argue that the law will clarify, strengthen and secure the independent land tenure rights of communities and individuals (Sibanda 2001), but critics argue that proposed mechanisms for the transfer of state land to "traditional African communities" will allow effective control over land by un-elected traditional leaders, and weaken the tenure security of those who do not align themselves with chiefs and headmen (Cousins 2001).

It is argued by some that in a democratic dispensation, functions of *ownership* (e.g. sale and lease of land) must be distinguished from those of *governance* (administration and management of land). In the colonial and apartheid eras, these functions were often deliberately blurred, especially in the tribal areas where the state was both the legal owner and, through Tribal Authorities, the administrator of land (Ntsebeza 1999). It is argued that where the rights to be confirmed exist on a group basis, land rights should vest in the people who are holders of the land rights and not in institutions such as tribal or local authorities. Members of particular groups would thus become 'co-owners' of land, with the freedom to choose how they want their land to be administered and managed on a day-to-day basis. This would make institutions and structures more representative and accountable to the rights holders.

Debates over the form, content and administration of land rights in the former "homelands" are thus highly relevant to local government reform and issues of decentralisation and accountability (Ntsebeza 1999).

**Nature conservation policy**

During the 1990s conservation policies emerged which stressed linking nature conservation with strategies for rural development and the enhancement of the standards of living of those who live in or near protected areas. National environmental and biodiversity policies now commit government to integrating nature conservation with sustainable rural development (Department of Environmental Affairs and Tourism, 1997).

At the provincial level, a policy document as early as 1994 committed the Eastern Cape provincial conservation agency to the 'socio-economic development of local and provincial communities'. Such development would include the sustainable use of various plant and animal resources from within protected areas by local people and the promotion of conservation-related income generation opportunities (Cape Nature Conservation, 1994: 8).

The vocabulary of a sustainable and equitable "people and parks" relationship is now well installed in South Africa, although it tends to give greater emphasis to income generation and resource off-take than it does to creating sustainable co-management arrangements (Mohamed and Isaacs 2001). Institution building and training are proving to be major challenges. Recent analyses of a number of pilot community-based conservation and development projects demonstrate clearly the need for clarity on land rights and the devolution of decision-making powers (Turner and Meer 2001).

**3. The case study area and local institutional frameworks**

Mkambati is situated in north-eastern Pondoland, on the Wild Coast of the Eastern Cape Province, in the district of Lusikisiki. It lies between two rivers, the Mtentu and the Msikaba, and includes three different tenure regimes: settlements under "communal tenure" to the west, 11 000 hectares of state land, formerly used by a parastatal agricultural project, in the centre, and the approx. 7 000 hectare state-owned Mkambati Nature Reserve to the east.

Mkambati receives a mean annual rainfall of 1 200 mm, with a rainfall peak in summer. While the area is highly rated by botanists and conservationists for its floristic diversity, it is largely sour grassland with small patches of subtropical, evergreen forest found along river gorges or along the dune systems on the coast. Forests and grasslands of this area contain a rich endemic/near-endemic element of at least 118 plant species (Van Wyk (1994).

In 1920 an area of approx. 18 000 hectares on the coast between the Msikaba and Mtentu rivers was identified by government as suitable land for a leper colony. The Khanyayo people who had earlier settled this land were forcibly removed to a village site further inland. It is this community which has fought fiercely for the restitution of their lost land rights. After the leper colony closed, the area was split into two: a state farm operated by a "homeland" agricultural development parastatal (TRACOR), and a nature reserve

(Mkambati Nature Reserve). The reserve currently supports 2 000 herbivores and offers self-catering facilities to tourists.

The communal area falls under the Thaweni Tribal Authority, headed by Chief Mhlanga, and comprises six "administrative areas", each under a headman. Khanyayo, the locus of many of the political struggles discussed in this paper, is one such administrative area. These in turn comprise several villages, which are further divided into several *izithebe* (singular - *isithebe*) or neighbourhood associations. The inhabitants of the area are Xhosa-speaking people (amaMpondo), who generate their livelihoods through a mixture of arable and livestock production, the collection of a range of natural resources, as well as variety of off-farm sources, including remittances and pensions (Kepe, 1997).

In Mkambati the land tenure system is "communal" in character, with rights to land (a residential plot, fields and access to the commons) flowing from accepted membership in an *isithebe*. Originally members of *izithebe* were people of the same lineage and most residents still hold land rights through inheritance. Newcomers from elsewhere can and do request community membership, and thus an allocation of land, through approaching the traditional leader of the *isithebe* (known as an *unozithetyana*, or sub-headman), who in turn will take the applicant to the headman for a final decision. A fee is normally paid to the headman, now mostly in the form of cash (in the past payment was mostly in the form of livestock or other products, or sometimes alcohol). As elsewhere in the Eastern Cape (Turner 1999), acceptance of the applicant by neighbours is supposed to be an important criterion for community membership. No documentary record of the allocation of land rights is issued to land rights holders[2]. The key role played by traditional leaders in this "communal tenure" system helps to buttress their power and authority.

Traditional leadership in Mkambati was challenged by the rise of local civic organizations in the early 1990s, after the opening up of political activity within the society at large. Former migrant workers established civic associations throughout eastern Pondoland, some as branches of the national South African National Civic Organisation (SANCO). Control over land allocation was a major bone of contention. In the Khanyayo area headman Makita initially offered little resistance, as the civic took the lead in the fight to regain rights to the 17 4000 ha of land within in the nature reserve and the area farmed by TRACOR.

The civic's fortunes have waxed and waned over time, with many local political activists elected as councillors in new local government bodies after 1995. In the Khanyayo area, however, the formation of the Khanyayo-Mkambati Development Forum (KMDF) in 1996, with the goal of pursuing the struggle for lost land rights, has seen the struggle for political leadership at local level continue. This has sometimes led to an alliance between the KMDF and headman Makita[3], which in turn has led to tensions within the hierarchy of traditional authority.

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[2] In Mkambati, in contrast to other districts in the Eastern Cape, the official "Permit to Occupy" (PTO) system is no longer in operation.
[3] Headman Makita died in 1997, and his son, who inherited the position and took it up in 2000, is much less supportive of the KMDF than his father was.

In Mkambati the formal structures of elected local government have not been major players in struggles over land and development. Between 1995 and 2000 a small number of councillors sat on the Lusikisiki Transitional Representative Council, but were not widely known to their constituents, and were not very active in promoting local development. This lack of a strong local presence by elected councillors has remained a feature since the restructuring of local government and the formation of new local municipalities and District Councils in 2000. Mkambati now falls within the Ingquza Hill local municipality, split into separate wards; neither of the two current councillors reside in any of the villages involved in the disputes over land and the SDI project. Government's continuing indecision on the roles and powers of traditional leaders contributes to ongoing uncertainty within Mkambati as to where real political and administrative authority at the local level resides.

## 4. Livelihoods and natural resources in Mkambati

### Diversity and complexity

In the Mkambati area, as elsewhere, households combine a range of livelihood sources in a socially differentiated manner. Relevant lines of social difference include wealth, age, health status, location and so forth. People generate their livelihoods through variable combinations of arable and livestock farming, the collection of a range of natural resources, and a range of off-farm sources, including remittances and pensions. A variety of livelihood "clusters" can be identified (Kepe 1997). Fuelwood collection, the use of water resources, the collection of thatch grass and subsistence agriculture tend to be present in all clusters. Building outward from these basic activities, the inclination of most households is to seek opportunities for cash income, in a variety of ways.

In the *first* cluster, the livelihoods of households are centred on migrant remittances, state welfare grants or pensions, and agriculture. In the *second* cluster, the main focus is on commuter employment combined with other activities, but time away from home constrains crop and livestock production, unless a very strong kinship assistance network is in place. A *third* important cluster is focused around skilled labour and self-employment. Most households associated with this cluster are headed by ex-migrant worker males. When jobs within the village are scarce some men engage in illegal hunting in Mkambati Nature Reserve.

A *fourth* cluster is beer brewing and small groceries sales, mainly by female-headed households. Many households, often the poorest, are found within a *fifth* cluster that has piece jobs (weeding, house cleaning etc) for cash or food, together with dependence on kin, as the main livelihood sources. Most of the households in this cluster are headed by widowed or unmarried women. A *sixth* livelihood cluster of increasing significance for the rural poor who live in high rainfall areas along the coast, particularly women, is centred on trade in plant material (medicinal plants, thatch grass, fuel-wood and baskets made from sedges).

Four broad conclusions emerge from this analysis of rural livelihoods in Mkambati. Firstly, *rural livelihoods are diverse and complex*. Secondly, the time and energy invested in *crop and livestock production* is highly variable and is crucially influenced

the wealth status of the household, with the wealthier households cultivating larger fields than less wealthy ones. For few is commercial agriculture a main source of livelihood. Thirdly, *access to cash income from wage labour and pensions* is important. Most of the poor households do not have access to these sources of cash income. Wealthy households, on the other hand, usually have access to wage income and pensions or have had access to these in the past whilst they were building up their current asset base. Fourthly, access to *land-based natural resources*, located within both the communal areas where people reside and within the area of state-owned land (the former TRACOR estate and the nature reserve), is crucial for many households.

### Institutions, property rights and access to natural resources

Access to natural resources in Mkambati is mediated by a range of formal and informal institutional frameworks. These include national and provincial laws and regulations, official land and resource tenure regimes, embedded (but not officially recognized) systems of property rights, customary norms and practices around resource sharing, and illegal (but socially structured and locally legitimate) means of access. Far from constituting a coherent matrix of complementary rules, procedures and regimes, components parts are often in conflict, either overtly or covertly, or simply "pass each other in the night". Together they constitute a "messy matrix" (Cousins 1997; Leach et al 1997) within which authority and legitimacy is often contested, and into which new institutional frameworks (eg, those proposed by the SDI) have to be inserted. This complicates enormously the task of institutional innovation, including devolution of authority over natural resources to local levels.

In Mkambati one key informal institution, at the centre of the politics of land and resources, is that of *ukujola*. This refers to an illegal but locally-legitimate form of natural resource use. The term is taken from that used when a love relationship between two young people of the opposite sex must be kept hidden from parents or other relatives of respectable status. *Ukujola* means that the two lovers have reached an understanding , but do everything in their power to keep it secret because of the possible consequences. They firmly believe, however, that they are doing nothing wrong. Two examples involving *ukujola* and natural resources, which demonstrate just how "messy" the local institutional matric is, are examined here (see Kepe 1997 for a wider analysis).

*Hunting*

Unemployed men from neighbouring villages hunt wildlife in Mkambati Nature Reserve, mainly in order to supplement their maize-based diet. However, in recent years a growing number have been motivated by the increasing demand for certain animal species in the traditional medicine business, and trade in animal parts to supplement their income. Another group of illegal hunters is comprised of wealthier men who come from distant areas to hunt for trophies.

Local hunters justify their actions by reference to the notion of *ukujola*: hunting in Mkambati Nature Reserve does not constitute a crime, given the historical claim that villagers have to the land and its resources. But *ukujola* is non-confrontational, and the

hunters ensure that they avoid direct confrontation with officials from the nature reserve. In the past, traditional authorities assisted government in enforcing its laws and regulations, but since the political changes in the 1990s their role in this regard has become increasingly uncertain.

The rise of local civic organizations has affected the hunting activities of local communities in Mkambati Nature Reserve in a number of ways. In their attempt to assert their authority over that of the chiefs and headmen of the area and to be seen as an effective local leadership which strives for development and justice, the civic organizations have encouraged *ukujola*. There are however, some traditional authorities who, although not directly encouraging *ukujola*, turn a blind eye to it and are reluctant to co-operate with the authorities.

In addition to *ukujola*, a range of informal institutional arrangements mediate access to these resources: local hunters organize themselves into hunting parties (*ingqina*) drawn from homesteads, within neighbourhood groupings (*isithebe*). Guns for hunting are made locally, borrowed or bought. Mutual aid (*ukuncedisana*) is important as hunters burn grass strips close to the reserve boundary to encourage new growth that will attract wildlife.

External poachers make no claim to legitimate access to wild game in Mkambati. . They hunt as individuals or very small groups, using high powered guns. Their access amounts to skilful theft of game, bringing them into conflict with the locals, who view them with contempt

*Thatch Grass Collection*

The second example is that of thatch grass collection within Mkambati Nature Reserve. Certain grass species such as *Cymbopogon validus* (*umqungu*), *Miscanthus capensis* (*umthala*) and *Hyperrinia hirta.* (*Umngcele*) are highly valued as thatching material. Of these three grasses, *Cymbopogon validus* is the most preferred, due to its smooth finish (Johnson, 1982). Spatial and temporal variation in ecological sites in the case study area result in regular shortages of *Cymbopogon validus*. However, patch distribution of this grass is better inside the reserve than in the village area.

Poor women from neighbouring villages collect grass from the reserve for personal use, for sale, and as hired labourers. Rights of access to the grass are through payment of cash to the reserve officials, bribery of guards by unmarried women offering sexual favours, and *ukujola*. Co-operative labour institutions such as work parties (*amalima*) and mutual aid are important for transporting grass to the village. Uncontrolled burning activities in both village and reserve environments have resulted in increasing scarcity of thatch grass. Consequently villagers protect grass patches close to their homesteads through creation of firebreaks. Those villagers with large fields even plant seeds of C. *validus* in order to harvest and sell the grass within the village.

These two cases are illuminating in relation to the complexity of the relationships between formal and informal institutions and resource tenures in Mkambati. They shed light on the longstanding contestation over authority at the local level between traditional leaders and civic associations; the conflicts between national legal frameworks and local definitions of what is legitimate (e.g. legislation on nature reserves vs *ukujola*); and the high degree of complementarity between informal institutions mediating access to natural resources. For example, kinship networks, neighbourhood groupings (*isithebe*), mutual aid norms (*ukuncedisana*), work parties (*amalima*) and so on, complement each other in mobilizing labour for resource harvesting or use.

## 5. The politics of land and development in Mkambati

Given the importance of land-based resources to the livelihoods of people in Mkambati, it is not surprising that a tempestuous politics of land and development has emerged in recent years, centred around the restitution claim and the eco-tourism project proposed by the Wild Coast SDI. This section briefly summarises key processes and events in these political struggles, identifies the main actors and their strategies, and analyses the major axes of conflict

### Sit-ins, committees and land claims

In the 1970s and 1980s there were a great many restrictions on political activity in the Transkei, but from 1990 on the political changes sweeping the country manifested in Mkambati in a locally radical form. Flexing their newly found political muscles, residents from Khanyayo managed to negotiate access to grazing rights in an area of about 3 500 hectares within the TRACOR estate. This was only a very small section of the land from which they were removed in 1920. Their next goal was to regain rights to the land within Mkambati Nature Reserve as well.

A political march organised by the African National Congress (ANC) in 1992 provided an opportunity for the Khanyayo, supported by the residents of other areas falling under the Thaweni Tribal Authority, to stage a nine-day sit-in inside the nature reserve offices. Two key demands were made. Firstly, the marchers demanded the re-opening of the Mkambati Hospital, which for many decades had provided employment to local communities. Secondly, they wanted to clarify the ownership status of the TRACOR and nature reserve land.

A committee comprising elected villagers and government officials was elected to monitor the process of dealing with the demands. This was named the Joint Monitoring Committee (JMC), with the idea that it would provide regular feedback to villagers concerning the progress of the negotiations. It soon became clear that bringing together educated government officials, wealthy local business people and uneducated, poor villagers in a single committee was extremely problematic. By 1993 the JMC had become internally divided and meetings were no longer held on a regular basis. General community meetings to provide feed-back to villagers never took place. Instead members of the JMC sought to exploit their position by building political power bases for themselves.

In keeping with this strategy, the JMC vigorously pursued the re-establishment of the hospital inside the reserve, with the hope that it would be seen as having brought back the jobs which were lost when the hospital closed. This put the JMC in direct conflict with the Khanyayo villagers, who remained focused on regaining the lost land as their first priority. Consequently, in July 1996 the Khanyayo-Mkambati Development Forum (KMDF) was formed by the Khanyayo villagers to carry forward the struggle for land rights and deal with any future development on the contested land. The KMDF prepared to lodge an official restitution claim, but so did the JMC, on behalf of all the areas under Thaweni Tribal Authority. As this conflict flared up government began to plan implementation of the Wild Coast Spatial Development Initiative (SDI) in the area.

### SDI plans for Mkambati

The nature reserve was central to SDI plans for encouraging large-scale external investment in eco-tourism ventures in this "developmental node". Private sector investment would focus on the extension and upgrading of tourist facilities to cater for local and international tourists and sport hunters. The government's contribution would be to improve infrastructure in the reserve area, including roads and telephones. Outside the nature reserve, forestry companies were encouraged to consider planting commercial forests in sections of the former state land, as well as in the surrounding communal areas. It was envisaged that local people would benefit from SDIs in a number of ways, including employment, opportunities for local entrepreneurs, and rental payments to the community by investors.

The SDI implementing team in Mkambati saw a clear role for a local organisation, representing "community interests", in the formation of a "community-private sector partnership". This body would enable the eco-tourist project to connect to local development planning processes, and actively facilitate projects to produce the spin-off benefits which they hoped would flow from external investment in upgraded tourist facilities in the nature reserve. To fulfil this role, it should have powers to negotiate on behalf of the beneficiary community, distribute income from leases or other sources of revenue, and oversee the allocation of employment in public works programmes such as road-works.

In 1997 the SDI implementing team formed an Mkambati SDI Committee, to act as a link between the "local community", the SDI team and investors. This committee had many members who were also on the JMC, and the two bodies worked closely together. The KMDF and this committee were often locked in dispute. Two members of the Khanyayo village elite sat on the SDI Committee, but were not elected by residents. Rather, they were co-opted by the SDI Committee in an attempt to provide an appearance of representivity. However, for most Khanyayo residents the legitimacy of the JMC and the SDI Committee was always in question.

### Axes of contestation

The advent of the SDI soon after the lodging of a land restitution claim exacerbated the conflict between Khanyayo residents and leaders of other areas under the Thaweni Tribal Authority, but also brought new tensions and disputes of its own.  Largely unresolved to date, these have effectively stalled the proposed eco-tourism development. A host of actors and interest groups has pursued a variety of competing objectives. In doing so they have engaged in a number of power plays, and entered into complex and shifting relationships with each other at different moments in time, ranging from alliances or collaboration, at one end of the spectrum, through wary neutrality or relative indifference, to outright hostility and confrontation, at the other end. Since 1990 the political terrain in Mkambati has become steadily more complex - and less stable - over time. Five main axes of contestation can be identified.

(i) *Which "community" is to be the beneficiary of the SDI ?*

When the SDI was introduced into the area the "Mkambati community" was an abstract concept, adequate perhaps for purposes of initial planning.  The SDI's first definition of the "local community" was based on geographical location (Kepe 1998), and thus favoured the Khanyayo villagers, who are the immediate neighbours of the nature reserve.  Excluded villages were unhappy with this, and campaigned through the JMC for all six administrative areas under the Thaweni Tribal Authority to be defined as the beneficiary community. With the JMC (now composed mainly of the local business and political elite, including some in government posts) threatening violence, the SDI implementation team quickly yielded to their demands. This decision has contributed in great part to the ongoing tensions between Khanyayo villagers, the KMDF grouping, and the JMC. Lack of clarity on this fundamental issue persists, despite attempts to find a mediated solution to the centrally important and still unresolved problem of the land claim.

*(ii) Who owns the land on which the SDI eco-tourism project was to be located?*
The Khanyayo people lodged a land restitution claim for both the TRACOR and nature reserve land in July 1997, followed by a counter-claim lodged by the JMC in September 1998 on behalf of the wider "community" under the Thaweni Tribal Authority.  This was followed in 1999 by attempts at mediation by facilitators on behalf of the provincial office of the Department of Land Affairs, promises by the Khanyayo residents that they would share with other administrative areas any benefits from development, and the JMC grouping agreeing to withdraw its claim.

Government officials then pushed hard for the restitution claim to be lodged in the names of descendants of only those 50 or so households directly affected by the forced removals in the 1920s, rather than all households within the Khanyayo community. This caused a great many tensions and strains within Khanyayo. The land claim is still unresolved, although it appears government may be considering offering financial compensation rather than return of the land itself.

Further layers of complexity were added by illegal occupations of the TRACOR portion of the disputed land. Firstly, from 1996/7 headman Makita from Khanyayo and the

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KMDF, working closely together, allocated TRACOR land to four farmers and to "squatters" seeking work in the reserve. Their strategy was to strengthen the restitution claim by showing that Khanyayo was the *de facto* owner. Then in late 1999, after TRACOR was finally liquidated and its staff left the area, business men and villagers from outside Mkambati began looting natural resources such as trees from the eucalyptus plantations and building sand. This prompted a counter-invasion by Khanyayo residents, who installed a management committee to guard the TRACOR premises and natural resources. Buyers of trees and sand now had to pay the Khanyayo committee. Six months later the JMC and the SDI Commmittee drove out the Khanyayo; soon after guards were hired by the Department of Public Works to protect the buildings. The JMC/SDI Committee now earns revenue from the sale of resources.

*(iii) Who owns, controls and receives the benefits from natural resources?*

As described above, natural resources found within the nature reserve or on the land formerly farmed by TRACOR, such as grazing, thatching grass, trees and shrubs used for medicinal purposes, and wildlife, are "poached" by local residents but this is justified as *ukujola.* Severe tensions thus continue to exist between the management of the nature reserve and the local community that is supposed to form a "partnership" with investors in an upgraded and lucrative SDI eco-tourism project.

Struggles over ownership and control of other resources have taken place within the "communal area" as well. An example is the tension over alluvial river sand taken from the KwaDlambu River, in which the chief protagonists are once again the JMC and the Khanyayo people represented by the KMDF. The river runs through Khanyayo and Thahle villages, and in 1993 the residents in these areas decided to charge R10 per truckload of sand collected from the river. The JMC, then a body with widespread support within the area, was given responsibility for managing these funds. It was agreed that the money would be shared out equally at a later stage. It then became unclear what had happened to the money. Noting this, leaders from Khanyayo and Thahle suggested that each administrative area should collect their own levies from the trucks. But with the JMC controlling the finances, and its leadership coming from areas which do not have sand in their rivers, the suggestion fell on deaf ears. The JMC has since claimed that the sand belongs not to Khanyayo or Thahle but to all the people under the Thaweni Tribal Authority. This dispute is still unresolved.

*(iv) Which institution represents local people's interests?*

The question of which local body can claim to legitimately represent the interests of the "local community" has been a central point of contention in the muddied waters of Mkambati's institutional landscape. Perhaps surprisingly, the main contenders have been neither local government bodies nor traditional leaders.

Local government bodies have been only peripherally involved in the struggles over land rights and SDI planning in Mkamabati, perhaps because of their "distance" from the local level, and the fact that most ward councillors were not themselves residents of any of the affected villages. Traditional leaders have aligned themselves with either the JMC and the SDI Committee (Chief Mhlanga of the Thaweni Tribal Authority) or with the KMDF

(headman Makita), but have generally not asserted an active leadership role for themselves. They have attempted to maintain their status as accepted local leaders, with a central role inland allocation, dispute resolution etc, but have not been willing to risk losing support by attempting to take the lead in high-profile land struggles or arguments over the distribution of benefits from the SDI eco-tourism project.

The contestants for local leadership have been the JMC/SDI Committee alliance, on the one hand, and the KMDF on the other. Originally the JMC comprised government officials as well as locals, but subsequently the precise make-up of the JMC has been much less clear. It is widely viewed within Mkambati as a vehicle for an ambitious local business and political elite, which has seen the SDI eco-tourism project as a potentially lucrative source of income for themselves. However, external support has helped buttress their claims to being a representative body. Thus the SDI implementing team initially recognized the JMC as the local body they would work through, although (in close co-operation with the JMC) the Mkambati SDI Committee was subsequently established. JMC and SDI Committee members have included influential individuals (including a local councillor on the 1995-2000 Lusikisiki TRC), with political connections to senior officials in the ruling ANC party and in provincial government, connections which they have not hesitated to draw on in their disputes with the KMDF.

The JMC claims to represent all six of the administrative areas under the Thaweni Tribal Authority, but no elections have ever taken place, and no formal mandate from local populations to represent them in their negotiations with the wider world has ever been given.

The JMCs chief protagonist, the Khanyayo-Mkambati Development Forum (KMDF), has a constitution, and a mission statement endorsed by the Paramount Chief of Pondoland, and initially had the active support of the traditional leader in Khanyayo, headman Makita. Although initially its members were elected at a well-attended community meeting, no further elections have taken place, and its support within Khanyayo has waned since 1998/99. The main source of support for the KMDF in recent years has been the people who live along the boundaries of the TRACOR land, who feel strongest about the land claim. Its leadership is widely seen as weak and ineffective, and some committee members are perceived as participating only in order to pursue their own private interests. Within Khanyayo, as elsewhere in Mkambati, there is deep skepticism about the motivations and actions of the village elites who tend to dominate local politics.

*(v) What powers should local bodies enjoy?*

As described above, the SDI needed to identify a local body to represent community interests in the partnership it was promoting. Given the weakness and "distance" of the local council from Mkambati, and continuing uncertainty as to the official status of traditional leaders, the SDI team, backed by both a powerful national government department and the provincial government, were willing to recognize another, more locally-based, representative body in this role. The JMC (and later the Mkambati SDI Committee) received such recognition and attempted to exercise the powers listed here, despite having no statutory status, and in the absence of any formal set of guidelines as to what their decision-making powers were. No mechanisms to ensure transparent and accountable decision-making were set in place either.

The KMDF (sometimes acting in concert with the Khanyayo headman) has refused to acknowledge the powers of the JMC/SDI Committee in these matters or in relation to control of the flow of income from natural resources such as trees and river sand. For them, such powers clearly derive from ownership of the land and the resources on it. Thus the KMDF and the headman together allocated plots to farmers on the disputed TRACOR land. The KMDF has also asserted control of the allocation of public works employment within Khanyayo.

Which body should have powers to regulate the use of common property resources such as grazing, forests, medicinal plants, thatching grass and river sand? In the past this was the role of traditional leaders, either acting in support of conservation regulations (eg. in relation to tree felling) or as part of the traditional system of controls (eg. of grazing), but regulatory regimes have fallen away in recent decades (Kepe and Scoones 1999). Currently government conservation bodies are attempting to control the harvesting of threatened species sold as medicinal plants. In the most recent past controls by local bodies have been asserted only when direct financial gain was possible, as with river sand.

The common property component of the "messy matrix" of institutions and property regimes in Mkambati would become a site of local struggle if a body such as the local council attempted to assert regulatory powers. Such attempts would have to contend with the powerful discourse of *ukujola*, which poses a challenge to any attempt at external regulation, but is perhaps also a potential source of legitimacy for "internal" controls.

## 6. Conclusions

The story in Mkambati is one of contestation over land, natural resources and the spoils of development. Different actors have engaged in a diverse set of strategies and tactics aimed at increasing the power at their disposal, and using this power to further their objectives. Central to all these strategies has been an appeal to one or more legitimating discourses, or narratives - centred on, for example, "rights", or "development", or "tradition", or "conservation of biodiversity", or "economic partnerships". In many cases these narratives have been used to justify the assertion of direct control over the resources in question - and sometimes, of the threat of physical force. Striking by its absence is the recourse by *any* of the actors to a discourse of democratic governance. (Why this should be so is a key question and a challenge to analysis not taken up here.)

The absence of a politics of democracy has been key to the stalling of development in Mkambati. Central issues in democratic decentralisation are the establishment of downwardly accountable bodies, with appropriate powers, and composed of appropriate actors. As the Mkambati story shows, failure to explicitly address these issues can create "opportunities for opportunists", resistance, and intractable conflict, rather than concerted collective action in community-based development planning and natural resource management.

Another lesson from Mkambati relates to land and natural resources. Where these are central to people's livelihood strategies, and in particular where they are not held in private property regimes, then the institutional arrangements (both formal and informal)

which mediate their use will deeply influence local decisions and actions. External agencies and local decision-making bodies have to understand these realities and make them central in development planning. Prospects for such "realism" would be enhanced by the establishment of downwardly accountable institutions.

On the evidence of this case, privatisation as a form of decentralization can be highly problematic. An emphasis on external investment and "community-private sector partnerships" without a clear role for representative decision-making bodies that are accountable to their constituencies can lead to elite capture, local resistance to such capture, and an impasse of unresolved disputes which stalls investment and development.

The Mkambati case also suggests that there are key roles for the central state in facilitating democratic decentralization, and in clarifying and supporting rights to land and resources. Poorly planned and implemented programmes such as the Wild Coast SDI and ineffective interventions by provincial and national government agencies have hindered rather than assisted local processes, and helped entrench intractable conflict. Tenure reform and land restitution programmes have failed miserably in attempts to clarify and secure rights. Government weakened rather than strengthened prospects for democratic governance, as the local political and business elite used their connections to provincial politicians to secure recognition of the committees used as vehicles for their accumulation ambitions. This suggests that accountability of central agencies is as vital to democratization as accountability of local bodies to their constituents.

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