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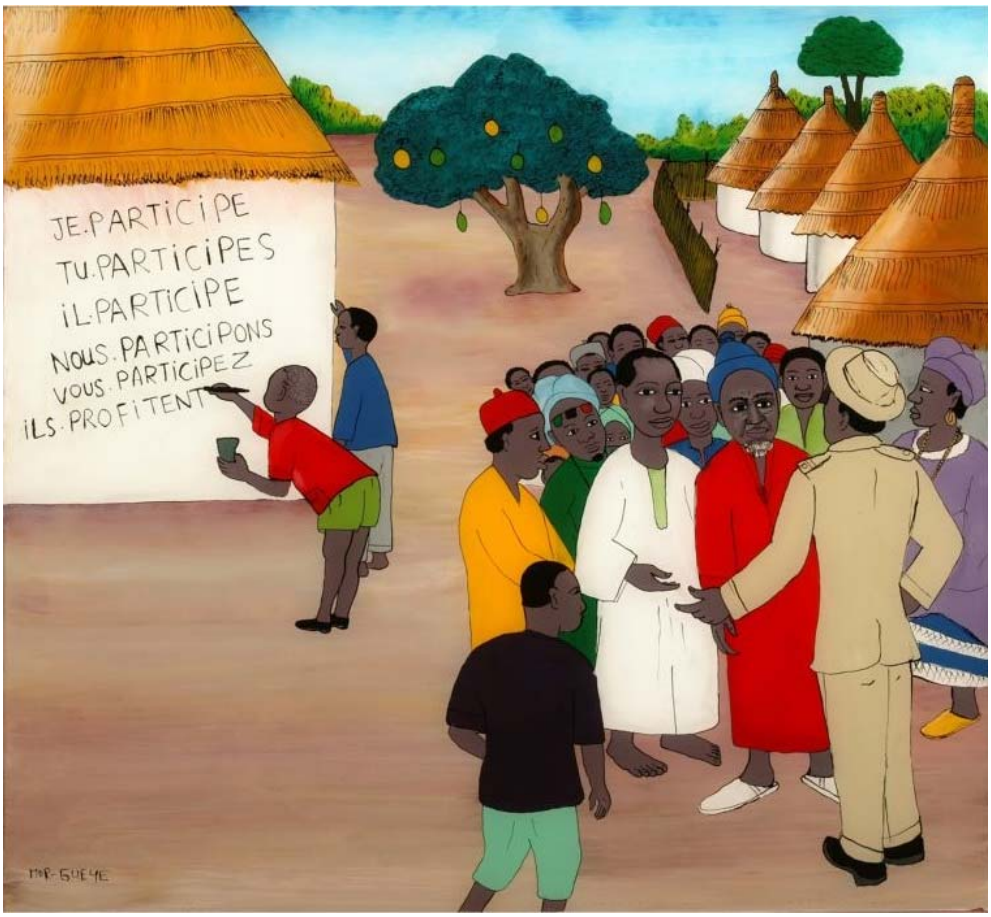

WP # 26

Enclosing the Local for the Global Commons: Community Land Rights in the Great Limpopo Transfrontier Conservation Area

by

Marja Spierenburg, Conrad Steenkamp & Harry Wels

August 2007

WORLD RESOURCES INSTITUTE

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ABSTRACT

The Great Limpopo is one of the largest TransFrontier Conservation Areas (TFCAs) in the world, encompassing vast areas in South Africa, Zimbabwe, and Mozambique. By arguing that residents living in or close to the TFCA will participate in its management and benefit economically, TFCA proponents claim social legitimacy for the project. The establishment of the Great Limpopo required negotiations among the three nation states, different government departments within these states, and various donors contributing funds. This paper explores how these negotiations and interactions affected the institutional choices made with regards to the management of the Great Limpopo and how these shaped the control and benefits of local residents. This paper examines the differences among the different actors in terms of power and capacities, which are often ignored in the promotion of TFCAs. By comparing the experiences of local residents in the South African part of the TFCA with those in Mozambique the cases show how international negotiations interact with national policies of decentralization to shape and sometimes even disable local government institutions.

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INTRODUCTION

From the 1980s onwards, environmental organizations increasingly promoted decentralized, community-based approaches to nature conservation (Hulme and Murphree, 2001; Hutton et al., 2005). Protected area management was no longer supposed to exclude those residing in their proximity, but to reach out and provide 'benefits beyond boundaries' – this phrase became the title of the Fifth World Parks Congress held in Durban in 2003.[1] Many authors, including Hutton et al. (2005: 345), argue that the popularity of the approach partly stems from the fact that it fit with the neo-liberal 'New Policy Agenda' that stressed the need for a reduction of the role of the central state, and assigned an important role to the market in service delivery. The idea was to foster an entrepreneurial spirit among communities, individuals and households to exploit the economic values of conservation resources. Decentralized natural resource management hence was supposed to contribute not only to democratization, but also to sustainable development (Agrawal and Ribot, 1999).

Numerous studies, however, have shown that countries and agencies claiming to support democratic decentralization often fail to empower democratic local governments (Ribot, 2007; see also Evers et al., 2005). Instead, public powers are transferred to a plethora of institutions, including NGOs, private associations, and customary authorities (Ribot and Larson, 2005). Ribot (2007) argues that such transfers are detrimental to the legitimacy of local democratic institutions, leading to a fragmentation of authority at the local level as well as an enclosure and diminishing of the public domain, which he defines as the domain of democratic public decision-making. He calls for close scrutiny of what he refers to as institutional choice, an examination of which institutions are granted authority and what the impacts are of those choices on the legitimacy, representation, and accountability of local democratic institutions. This paper aims to do so in the context of the establishment of a transfrontier conservation area (TFCA) in southern Africa, the Great Limpopo, which links up conservation areas in South Africa, Mozambique and Zimbabwe.

Around the turn of the millennium, conservation was moving even further 'beyond the boundaries' and transfrontier conservation became a dominant theme. Practically all international conservation organizations have embraced the concept (Aberly, 1999; Wolmer, 2003). The rationale for this support is that ecosystems generally do not conform to national, political boundaries. There has been some debate about what the move towards transfrontier conservation means for decentralized natural resource management. In a provocative article, Chapin (2004) has argued that the focus on the transnational is a deliberate move away from the local, away from involving local communities in nature conservation. The promotion of TFCAs, Chapin maintains, was a reaction to the difficulties environmental organizations experienced with community-based conservation, and a way to escape from local partners that the organizations considered not such good ecological stewards after all (see also Hutton et al., 2005). Proponents of TFCAs, however, insist that local people living in or close to TFCAs will benefit from the

[1] See http://www.iucn.org/themes/wcpa/wpc2003/.

opportunities for economic growth that these areas offer, and that they will participate in the management of TFCAs. TFCA development allegedly still follows the global conservation priority of 'people and parks', set in the wake of the Bali declaration of 1982, and the 1987 report of the Brundtland Commission.

Governments and (international) conservation organizations supporting TFCAs believe that TFCAs will generate significant economic growth. This growth is to come mainly from tourism development, and public-private partnerships are seen as the main vehicle for this growth (Ramutsindela, 2004a and 2004b). The management of the TFCA hence involves the co-operation of state agencies with private sector companies, but also with environmental and development NGOs (local and international), and local communities. In 2001, Faikir, then director of IUCN South Africa, made a passionate plea in favour of such 'CPPPs', Community Public Private Partnerships, as a way forward for community-based conservation. He believed the private sector to be more efficient in exploring and developing local possibilities for economic development and service delivery to local communities. Three years later, Faikir warns that powerful (transnational) companies are using the partnerships to appropriate natural resources on a large scale, especially in developing countries (Faikir, 2004). Similar arguments were made by Dzingirai (2003) and Hughes McDermott (2002). These resonate with Ribot's (2007) fears about privatization, the fragmentation of the public domain leading to a loss of (democratic) control by local communities over the natural resources they depend on.

Control over natural resources in transfrontier conservation is highly complex. The establishment of the Great Limpopo TFCA (see map 1) required negotiations among three nation states, but also among different government departments within these states, and various donors contributing funds to the initiative. This paper explores how these negotiations and interactions affected institutional choices made with regards to the management of the Great Limpopo and how these shaped local people's control and benefits. To understand local outcomes, it is crucial to look at the differences between the power and capacities of the actors involved; yet, these are often glossed over in the promotion of TFCAs (see also Duffy, 1997). Differences in power among the states involved in the Great Limpopo instigated fears among several partners regarding a loss of sovereignty and control over the revenues generated by tourism in the TFCA (ibid.). Debates ensued about which powers should be transferred to a tri-partite management body, and which were to remain at the national level. The outcome of these debates ensured that national-level policies and legislation still matter. This paper explores the differential impacts of the TFCAs on the control of natural resource decisions and benefits for local communities in the states involved and the different institutional choices they made. However, the interpretation and implementation of national policies and legislation were influenced by concomitant international negotiations about the establishment and the management of the Great Limpopo. By comparing the experiences of local residents in the South African part of the TFCA with those in Mozambique we will show how these negotiations interact with national policies of decentralization to influence local government institutions.

INSTITUTIONAL CHOICES IN THE GREAT LIMPOPO TFCA

The land incorporated in the Great Limpopo TFCA has been the locus of drawn-out conflicts between Zimbabwe, South Africa, and Mozambique (Koch, 1998; Vines, 1991). Despite (or perhaps because of) continued violence in the borderlands, the idea of merging

Map 1. Great Limpopo TFCA. Source: Peace Parks Foundation (www.peaceparks.org)

the transfrontier zone into a single 'Peace Park' kept cropping up.[2] Chances for establishing a TFCA improved once the first steps toward the abolishment of apartheid were taken. Two months after Nelson Mandela's release from prison in 1990, the late Anton Rupert, founder of the Peace Parks Foundation (one of the main promoters of and fundraisers for TFCAs in the region) met with the Mozambican President, then Joaquim Chissano, to discuss the idea of cooperation in the field of nature conservation (www.peaceparks.org). In 1992, a Peace Accord was signed in Mozambique to end the civil war, and in 1994 the first multi-party elections took place in South Africa. Both events were crucial in the process of establishing a TFCA.

Negotiations about the establishment of the Great Limpopo started in earnest in 1998, when an Interim International Technical Committee was set up, consisting of government officials of the three states involved (Munthali and Soto, 2001). The conception of this interim committee was that the Great Limpopo would become a vast conservation area, including the Kruger National Park in South Africa, Gonarezhou National Park in Zimbabwe, Banhine and Zinave National Parks and Coutada Sixteen in Mozambique (a Wildlife Utilization Area), in addition to a number of communal areas in Zimbabwe and Mozambique. The idea was that the Great Limpopo would be a multiple use zone. This changed, however, when in 1999 the ministers for the environment of the three countries established a Ministerial Committee. Despite some misgivings by the two other ministers, the South African Minister Vali Moosa managed to shift the focus almost entirely to the national parks and Coutada Sixteen, which was bordering on Kruger National Park. The Ministerial Committee established an International Technical Committee (ITC) which was to develop the drafts of the conceptual plan, the action plan and a draft trilateral agreement. The ITC was working under strict supervision of the Ministerial Committee. The ITC initially had been given one year to develop the drafts. It had repeatedly asked for more time to consult all stakeholders involved, but these requests were turned down. The close supervision and the lack of time did not have a positive effect on the possibilities for communities to have their voices heard (see Munthali and Soto, 2001: 9). Late 2000 a Memorandum of Understanding (MoU) was signed by the ministers, approving the action plan. This plan proposed the establishment of several Working Groups, each dealing with specific issues such as wildlife conservation, and tourism; a Working Group was also established to deal with 'community issues'.[3]

In November 2001, about a year after the signing of the MoU, Coutada Sixteen was declared a national park. This was done without much thought about the approximately 27,000 people living on the land concerned. A World Bank consultant who initially was involved in the TFCA remarked:

> This was supposed to be a transfrontier *conservation area*, now it is becoming a transfrontier park. That is not the same thing, that is not what we had agreed

[2] Already in 1926, when Kruger National Park was established, the South African government tried to persuade the Portuguese colonial authorities to establish a contiguous conservation area on the other side of the border (Mavhunga and Spierenburg, 2004).

[3] Interviews with the International Coordinator of the Great Limpopo and a member of the Community Working Group, 14-16 April 2005.

> upon. This was supposed to bring benefits to the local communities, but the way it is going now it will not.[4]

A member of the Mozambican National Steering Committee and the ITC concurred that the TFCA was becoming something 'completely different' from that which they worked so hard for five years to establish.[5] The World Bank consultant explained the shift in focus: 'The South Africans were becoming impatient. They were anxious to show that NEPAD[6] was working, and the transfrontier park would be a concrete example of interregional cooperation, so they needed it'.[7] Some South African participants and observers agreed that 'massive political pressure' was being placed on the TFCA implementers to speed up the process:

> I think if asked in a sensitive way that the Mozambican and Zimbabwean senior people involved in the process will admit that the Technical Committee was not allowed the time to implement the 'Action Plan' or timetable that they had initially developed and which the Ministerial Committee had slashed in half.[8]

Representatives of various organizations (directly and indirectly) involved in the implementation of the TFCA[9] felt that the Great Limpopo had also become a matter of prestige for the Peace Parks Foundation (PPF), which had played an important role in the initiation of the Great Limpopo: it would be the largest TFCA on the continent and contain a park of world fame. Therefore a lot of pressure was put on the various partners to make it happen. The PPF used the success of Kruger National Park in terms of attracting tourists to enlist support for the TFCA, showing PowerPoint presentations about the Kruger and its tourism facilities to Mozambican government officials.[10] In doing so it also appeared to be promoting the Kruger's land use and management model. The PPF was assigned an important role in implementing this change: the foundation deployed some of its personnel to serve on the Project Implementation Unit in Mozambique that implemented the park concept in what is now Limpopo National Park. The brochure that the PPF published in collaboration with SANParks (South Africa National Parks Service) to celebrate the signing of the final treaty on the Great Limpopo between the heads of state in December 2002 shows how both organizations interpret the concept 'park':

> All a Transfrontier *Park* means is that the authorities responsible for the areas in which the primary focus is wildlife conservation, and which border each other across international boundaries, formally agree to manage those areas as one integrated unit according to a streamlined management plan. These authorities

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[4] Interview at the World Bank, Maputo, 6 August 2003. The term 'conservation area' generally indicates an area where conservation is important, but where sustainable use of natural resources is possible. The term 'park' has a much more protectionist connotation (Hulme & Murphree, 2001).

[5] Interview at Endangered Wildlife Trust (EWT), Maputo, 2 February 2001

[6] New Economic Partnership for African Development: the South African government was an important driving force in forging this pan-African partnership.

[7] Interview at the World Bank, Maputo, 6 August 2003.

[8] Interview with a Senior South African conservation official, July 2005.

[9] Interviews in Maputo, April/May 2005.

[10] Interviews with government officials in Maputo, NGO representatives and villagers in Limpopo National Park, April-May 2005.

> also undertake to *remove all human barriers* within the Transfrontier Park so that animals can roam freely
> (SANP/PPF 2003, italics added).

The statement does not correspond with the initial statements about the importance of community participation and benefits. A further indication of the increased sideling of the interests of residents adjacent to and living in the TFCA is that, after the signing of the treaty, the Community Working Group ceased to play any role in the management of the TFCA. The ITC was transformed into a Joint Management for the Park. All Working Groups were transformed into Management Committees, except the Community Working Group (Makuleke, 2007; see also http://www.greatlimpopopark.com). The reason provided by the International Coordinator of the Great Limpopo was that the ministerial committee had decided that community issues should be dealt with at the national level.[11]

Nevertheless, despite the removal of the Community Working Group from the Joint Management Board, and the adoption of the park concept on both the South African and Mozambican sides of the TFCA, the impacts of the Great Limpopo on local residents' control over natural resources and the management of the area vary between the two countries. The two cases will show that these different outcomes are influenced by struggles within and between different government agencies, the interactions between these agencies and local government institutions, as well as negotiations within the 'communities'.

A COMMUNITY REGAINING PART OF THE GREAT LIMPOPO: THE MAKULEKE LAND CLAIM, SOUTH AFRICA

A group of residents, referred to as the Makuleke community, managed to reclaim the part of Kruger National Park they had been evicted from in the 1960s. The restitution of the land was a long process, in which different government departments were sometimes pitted against each other. These struggles had consequences for the conditions under which the restitution took place, as well as for the institutions chosen to manage the community's part of the park. The incorporation of the reclaimed land into the Great Limpopo TFCA, may, as will be shown below, lead to a (further) weakening of the community's control over its land.

After South Africa's transition in 1994 to a democratic government, communities that had been displaced under discriminatory legislation such as the Group Areas Act of 1950 could file land claims. Such claims greatly strengthened the bargaining power of local people relative to that of the conservation authorities, increasing their chances of extracting benefits from the parks included in the TFCA, some of which were established by way of forced removals. In 1996 the South African Minister for Land Affairs announced that land claims are one of the strongest mechanisms for correcting the imbalance of power between communities and conservation authorities (Reid, 2001: 138).

[11] Interview 15 April 2005.

One of the most widely publicized claims, and one that is often cited by both SANParks and the PPF as proof that communities are benefiting from the Great Limpopo,[12] is the claim lodged by the Makuleke community. In May 1998 the Makuleke and SANParks announced that they had reached a negotiated settlement of the Makuleke's claim for the restitution of what was then known as the 'Pafuri Triangle', the northern-most section of the Kruger National Park (De Villiers, 1999: 59). This area is central to the Great Limpopo, bordering on all three of the countries involved in the TFCA. The community was able to prove that it occupied the area until August 1969, when it was removed by the then Department of Native Affairs to an area sixty kilometres to the south and only 6,000 hectares in size (Harries, 1987). At the official signing ceremony at Makuleke village, the new CEO of SANParks announced the settlement as a 'breakthrough for South African conservation' and promised that something like the Makuleke removal 'will *never again* take place'. A new paradigm, he said, had been established within the SANParks that aimed at 'transforming' the relationship with its neighbours (Steenkamp, 2001; Spierenburg et al., 2006).

This celebrated statement, however, obscured the conflictual process that preceded the settlement in which the community was pitted against the state, yet also showed divisions within the community as well as the state. NGOs at times strengthened the position of the Makuleke, and sometimes undermined it.

The process started with the introduction of the Transform (Training and Support for Resource Management) Project, a joint venture between the Department of Land Affairs and the German development agency GtZ. The project, introduced in 1995, initially provided the Makuleke with possible allies in their struggle with SANParks to regain control over the land they claimed. Transform supported the 'Makuleke Ecotourism Project', a proposal to establish a community game lodge on the disputed land in partnership with the private sector.

In 1996 the nature of Transform's support to the Makuleke project changed dramatically. In what was described as a 'positive move' by the GtZ project manager, SANParks was invited by GtZ to become part of the Transform steering committee. Within the 'multi-stakeholder' format used by Transform, which did not make a distinction between primary and secondary interest groups (Walley, 2004: 195), it was now possible for SANParks to participate directly in the planning of the projects affecting them. The result was a re-orientation of the GtZ funding away from the community game lodge towards a range of alternative projects. Furthermore, notable emphasis was placed on the development of a buffer zone along the western periphery of the Kruger, using Makuleke land. This would restrict the community's possibilities to use part of the—limited—land that had been allocated to them after their eviction from Kruger.

The issue of the buffer zone clearly reflected SANParks's interests, and was repeatedly rejected by the Makuleke. Despite growing tensions, the Makuleke continued to participate in the GtZ-Transform steering committee, motivated by the perception that

[12] See e.g., http://www.peaceparks.org/new/news.php?pid=161&mid=429, *The Star* August 6, 2003, or Koro (2005).

they could still benefit from the process. This expectation gradually diminished as a result of logistical difficulties experienced by GtZ in making the promised funding available. Meanwhile, without informing the communities, GtZ-Transform had discussions with SANParks to resolve the land claim. Eventually, the Makuleke requested GtZ not to involve themselves in their land claim (Steenkamp, 2000).

Contrary to GtZ-Transform, which sought to reduce the tensions between Makuleke and SANParks through the multi-stakeholder platform, the Land Claims Commission (the government institution assessing land claims) recognized and made explicit the conflict of interests between the Makuleke and SANParks and structured the decision-making process accordingly. A rigorous distinction was made between Makuleke and SANParks interests, a step that clearly undermined existing power relations between the two and strengthened the community's overall bargaining position (Steenkamp, 2000). A particularly energetic land claims commissioner ensured that the Makuleke claim was taken to its fullest logical extent. The Commission intervened directly by helping the community put in place the Makuleke Communal Property Association (CPA) as the vehicle for community ownership of the land claimed. Through the CPA, an elected body representing the community, the Makuleke could acquire, hold, and manage property communally (Reid, 2001).

The CPAs were originally designed to replace the politically discredited 'tribal authority' system of the apartheid era and to democratize land ownership and community development. The objective was to set in place accountable, transparent, and representative institutions and thereby 'transform' community-level power relations. Early 2004, however, the Communal Land Rights Bill was passed by parliament, granting significant rights to 'traditional authorities' in land allocation and administration (Ntsebeza, 2005: 287). In many parts of South Africa, this Act seriously undermined the CPAs (see Cousins and Claassens, 2005).[13] In Makuleke the situation is a little different owing to both the land claim procedure as well as a long-standing conflict among traditional authorities in the region.

Chief Makuleke serves as the elected chairperson of the Makuleke CPA and as chairperson of the tribal council. The two authorities have almost merged. The 'merger' can be interpreted as the unintended consequence of the long-standing dispute with the Mhinga chieftaincy. This chieftaincy claims jurisdiction over the Makuleke, relegating chief Makuleke to the status of a mere headman (Steenkamp, 2001). When the Makuleke lodged their land claim in 1996, chief Mhinga insisted that it should go through his office. When the Makuleke refused, the Mhinga chieftaincy lodged a counter claim for the upper third of Kruger, which also included the Makuleke claim at Pafuri. As a consequence, the community rallied to the support of chief Makuleke with an enormous degree of social cohesion and single purpose versus the outside threat posed by chief Mhinga. At the same time, this process resulted in a blurring of the distinctions between the duties and responsibilities of the CPA and those of the tribal council, to the extent that the members

[13] See for similar struggles between elected local government institutions and 'traditional' authorities Evers et al. (2005) and Ribot (2004).

of the latter sometimes felt that they were 'gradually being cannibalized by [their] younger brother, the CPA'. The irony is that one of the reasons for this direction of the process, which in some ways contradicts what is happening elsewhere in South Africa, is that the Makuleke chieftaincy, is 'formally still only a headman under Mhinga' (Steenkamp, 2000).

Although the Makuleke land claim was successful, a number of conditions were attached to the restoration of land ownership. The land had to be used for conservation purposes for the next ninety-nine years. No mining, prospecting, residence, or agriculture would be permitted and no development was allowed to take place without an environmental impact assessment. SANParks retained a right of first refusal should the land ever be put up for sale. Importantly, the Makuleke entered into a twenty-five year contractual national park agreement with SANParks. To manage the contractual park a Joint Management Board was established which consists of three SANParks and three community representatives. SANParks is responsible for all of the management costs of the Makuleke part of the park for an initial period of five years. After that, the CPA of the Makuleke community shall be liable for fifty percent of these costs, as long as these do not exceed half of their income from the land. These conditions amount to a compromise between the Makuleke and the state, encouraged by a statement made by the then Minister of Land Affairs that he was willing to support the Makuleke claim as long as they were willing to compromise and not be 'greedy'. Such conditionality did put the community into a situation of dependence; they become forced, as Conyers (2002) argues, to respond to the needs of those institutions that transfer the (conditional) authority to them. While the land claims commissioner tried to assure the community's authority over the land, his Minister demanded that SANParks interests be taken into account, and that the latter be assigned a significant role in the management of the reclaimed land.

The Makuleke's quid pro quo for accepting such restrictions was that the CPA was given the right to make sustainable use of the natural resources of the land, which included hunting. This was unheard of in South Africa at the time and formed the basis of later conflicts between the Makuleke and the state. The Makuleke gained exclusive commercial rights to the land, a right that they are able to exercise independently of SANParks. This is expressed by a clause in the Agreement that specifies that a commercial decision by the Makuleke CPA is considered a decision of the Joint Management Board once tabled there. SANParks is able to object only to the environmental dimensions of any proposed activities and may engage in the process through an environmental impact assessment. In effect, this places the Makuleke on the same footing as the private game reserves adjacent to the park.

Among the first steps taken by the Makuleke was to establish a highly profitable hunting camp on their land, which they used for a limited number of high profile hunts per year. As a second step, an agreement was made with a private sector partner to develop a game lodge, called The Outpost, on the western section of their land. Recently, however, the Makuleke signed a surprisingly unfavourable agreement with another safari operator, Wilderness Safaris. The duration of this concession is forty-five years; a very long period, especially considering that the contract does little to hold the private sector partner to a certain level of performance and does not contain clear exit clauses that would allow the

Makuleke to extract themselves from an unprofitable relationship. It also effectively prevents the Makuleke from hunting on the land, as is expressed by one of the Makuleke representatives on the Joint Management Board:

> We have 24,000 hectare, we had all the rights, including the right to hunt. I am not afraid to say that the contract stopped the Makuleke from hunting. It is not SANParks that stopped us, but it is the way they develop the contract with the private sector. … [These companies have] been in business for a long time, they are negotiating with communities who have very little experience. You need very good advisors to compete with these big guys. Somewhere, somehow the community overlooked a few things in the contract.[14]

The community, however, did have access to competent legal advisors. From 1997 onwards, an NGO-like structure called 'The Friends of Makuleke' provided the community with technical expertise in the land claims process, supporting the community's Legal Resources Centre attorney, and as such played an important role in the success of the claim. The FoM had been disbanded shortly before the signing of the contract, but some of its former members continued to advise the Makuleke. Responses from former members were mixed. One felt that this was the best deal that the Makuleke were likely to get; another advised the Makuleke not to sign the agreement as it stood. However, this advice came one day before the signing ceremony and was not followed.

The game lodge currently generates less than what was generated by the hunting operation and it remains to be seen whether Wilderness Safari's much higher projected income figures will eventually be achieved. Until such time, it is difficult to judge from the outside whether the decision made by the Makuleke was the right one. In the interim, however, it is difficult to avoid the impression that the private sector had more experience with the negotiation of contracts in this sector than did the Makuleke legal advisor.

In sum, the alliances the communities concluded with development agencies and the private sector to strengthen their claim and their possibilities to benefit from it once it was settled generated mixed results. Apparently fearing environmental consequences once the Makuleke would regain sole control over the area they claimed, the development agency initially supported the community in its attempts to benefit from Kruger but later undermined their bargaining position relative to SANParks. A local NGO helped the Makuleke secure their land and resource use rights such as hunting, but also oversaw the signing of an agreement with the private sector that reduced these rights.

Dealing with national conservation agencies and policies is not easy for communities either, as the case shows. This was complicated by the fact that the state was not uniform in its approach to the communities, and some forces within the state strongly opposed the Makuleke claim. The Land Claims Commission and SANParks differed fundamentally about the exact meaning and consequences of substantiating a land claim in a national park. The Commission argued that the land belongs to the CPA and that decision-making

[14] Presentation by and interview with a representative of the Makuleke community at a workshop on tourism, 14-16 April 2005, Wits Rural Facility, South Africa.

about land use and economic exploitation rests primarily with the CPA. But, SANParks officials considered themselves custodians of *global* commons, i.e. national parks, that should be protected and preserved, hence their initial attempts to deflect the issue of the land claim and to promote the establishment of a *buffer* zone instead (see also Neumann, 1998). These conflicting interests and interpretations of the consequences of granting land claims in national parks led to the establishment of a joint management model in which the Makuleke had to hand some of their powers over the land to SANParks. The conflicting interests and interpretations continue to play a role in the board. SANParks fears some possible forms of commercial exploitation of the contractual park (notably hunting), while the Makuleke fear a veto from SANParks to its efforts to make money out of their claim (see also De Villiers, 1999). The effects on the public domain are somewhat complicated. While the reward of the Makuleke land claim could be considered as the privatization of a part of Kruger to a community, the Joint Management Structure brings it in some ways back to the public domain. Nevertheless, this move did weaken the communities' direct, democratic control over its reclaimed land (cf. Manin et al., 1999) reducing the direct control of the CPA over the land.

Reportedly, SANParks' attitude towards land claims on—parts of—protected areas suggests that other communities that have filed such claims will experience even greater difficulties in settling their claims. In 2005, a SANParks' official was quoted by journalists Yolandi Groenewald and Fiona Macleod in the *Mail & Guardian* saying that 'national parks exist to protect biodiversity and are not a development agency'. Reading the article, 'Land claims 'could kill Kruger'' it becomes clear that Makuleke is no longer considered as an example for SANParks of how to negotiate with other communities claiming land within Kruger. Head of Communications Wanda Mkutshulwa of SANParks insists bluntly that

> SANParks … cannot settle the [land] claims by entering public-private eco-tourism partnerships, as it did with the Makuleke people in 1998. This would bankrupt the Kruger. … SANParks insists the Cabinet policy [on land claims] should not apply to national parks … [and] wants new guidelines drawn up for settling claims in national parks.

In the course of the negotiations, the planned transfrontier park was repeatedly used by SANParks as a reason for the state to retain control over the land. Despite land ownership by the Makuleke, the community is not participating in the management structure of the TFCA. At a workshop on tourism in the Great Limpopo TFCA in April 2005 at Wits Rural Facility in South Africa, a representative from Makuleke remarked:

> If there is a representative of the joint management board of our land in the [TFCA Joint Management] board that does not mean that the community is represented, it is the management structure of our conservation area that is represented. There are lessons to be learned. We must ensure that communities are represented, and that this area is not dominated by the elite.

As already shown above, community issues were considered national issues. Not only are the communities affected by the Great Limpopo not directly represented in the Joint Management Board of the TFCA, the working group that tried to defend their interests has

become defunct. Yet, in the future, the Joint Management Board will receive part of the powers relating to the land in the area that are now residing at the national level. At this stage however we only guess what the consequences will be for the Makuleke.

RELOCATING COMMUNITIES FROM THE LIMPOPO NATIONAL PARK IN MOZAMBIQUE

The situation in Mozambique appears to be a mirror image of South Africa. Instead of reclaiming a part of the TFCA from which they had been evicted in the past, here communities are facing the threat of being evicted, like the Makuleke in 1969.

The acceptance of the 'park model' by the Mozambican government led to a change of status of Coutada Sixteen, placing the area under the authority of the Ministry of Tourism, which is responsible for all national parks in Mozambique. The management of the park is the responsibility of the Project Implementation Unit (PIU), which is coordinated by a Park Warden appointed by the Mozambican government, and a South African Project Manager employed by the PPF – hence one could argue that the management has been partly privatised to an NGO (see also Norman, 2005). A land use plan has been developed for the park by a USAID consultant, and the PPF commissioned a study on tourism development. The USAID and PPF consultants concluded that the area most suitable for sustaining viable wildlife populations and tourism development was in the south east of the park, along the banks of the Shingwedzi River. About 7,000 residents are living in this area, and the PIU concluded that to fully develop the potentials of the area, these should be relocated outside of the park. Removal of the villages would render the area more attractive to private tourist operators.[15]

The donors funding the park—including the German Development Bank—have insisted that no forced relocation will take place and that the resident communities will be consulted. The Ministry of Tourism maintains that it adheres to this request.[16] However, in practice, measures directly affecting residents' ability to stay in the park were implemented without any consultation. Residents were not consulted, or even adequately informed, about the change of status of the area (see RRP, 2002); nor were they consulted about restrictions placed on their livelihood strategies. According to the Forest and Wildlife Act, cultivation and cattle keeping is forbidden in national parks. Exceptions were made for those already present in the park, but within limits; crop rotation can no longer be practiced and emergency pastures have become inaccessible. Furthermore, to restock the park, wildlife was translocated from Kruger into Limpopo park. More than 3,000 animals, including 115 elephants and some lions, were released in the area.[17] These animals are threatening the lives and livelihoods of those living in the park. As a result of the restrictions and increasing conflicts with wildlife, many people living along the Shingwedzi now believe that resettlement is inevitable; as some said: 'They say that the

[15] Interview with staff of PPF, April 2005, and interviews with members of the PIU of the Limpopo National Park, May 2005, see also www.limpopopn.mz.
[16] Interviews at the Ministerio de Turismo and German Embassy, Maputo, June 2002 and May 2005.
[17] Initially, these animals were kept in a semi-enclosed sanctuary, but with the opening of the new border post in the park and the arrival of more tourists, the fences of the sanctuary have been taken down.

resettlement is not forced, but that is not true. We are forced because we are no longer allowed to live our lives as before, we can no longer cultivate where we want, we can no longer take our cattle out to graze. Yes, we agreed to move, but we did not do so freely'.

Consultation is, however, taking place about compensation that the relocated residents are to receive. The PIU has established a Consultation Committee on Resettlement (CCR) in which each village that will be relocated is represented, as well as a number of development NGOs working in the park. In the majority of cases the village representatives are the newly elected community authorities. The election of these *autoridades comunitiárias* in 2003 officially was part of the implementation of decentralization processes in the rural areas (Gonçalves, 2005). The community authorities were to replace the village secretaries whom till then had been appointed by the ruling party. However, due to the creation of the park, local government institutions have been disabled rather than empowered; their role has been reduced to negotiating about the compensation residents are to receive for the inevitable relocation. The government of Mozambique chose to place the area under the authority of the Ministry of Tourism, through the PIU. A foreign environmental NGO like the PPF was given a prominent place in the PIU, but local government institutions were not.

As in the Makuleke case, attempts have been made to establish links with NGOs to assist the communities in their struggle to maintain control over their land. A number of national and international NGOs active in the area have organized themselves in a forum, trying to secure funding (from the EU) to facilitate coordination and better service to the communities. However, the NGO representatives admitted that, given the area has already been declared a national park, it is impossible to help local people retain land rights in the park. As one of them remarked: 'It is now a park, what can we do? We cannot touch the park, we will not touch the park, it is too sensitive. All we can do is to make sure that the resettlement will be done in a proper way, to ensure that people will be sufficiently compensated'.[18]

CONCLUDING REMARKS

In this paper we analyzed the sometimes contradictory consequences for local residents of transnational cooperative processes and institutional choices involving national governments, wider networks of national and international NGOs, and private companies, all in the context of the establishment of the Great Limpopo TFCA. The different experiences by residents in the South African part of the TFCA and those in the Mozambican part can be explained by a number of factors influencing and contextualizing the various institutional choices. First of all, political and ideological pressures to speed up the establishment of the TFCA, including successful lobby and marketing work from a powerful environmental NGO, the PPF, led to a focus on the protected areas to be included, and to a neglect of adjacent rural areas and their residents. A shift-away from the concept of the initial ideas for a 'conservation area' to that of a 'park' on the supranational level—and following the specific interpretation of what national parks are (areas where

[18] Interview with a member of the NGO Forum, May 2005.

'human barriers' are removed)—had profound consequences for residents, especially those in the Mozambican part. The (lack of) control by residents over natural resources was, as was shown, also influenced by institutional choices and resulting negotiations at the national and local level.

In South Africa, SANParks struggled with the Land Claims Commission to retain control over a part of the Kruger/Great Limpopo that was claimed by the Makuleke community. The claim was rewarded, but conditions were attached (the area had to be used for conservation purposes). The community was not entirely at liberty to decide on how it wanted to use its land, but it was free in deciding how it would economically exploit the conservation values, and it managed to obtain the right to give out hunting concessions (in the traditional non-hunting area of Kruger National Park). The case demonstrates how the outcome was affected by struggles within government, but also how NGOs and bilateral development agencies alternately strengthened and weakened the position of the Makuleke. The conclusion that can be drawn from the case somewhat complicates the argument made by Ribot (2004; 2007) that in many decentralization programmes for natural resource management the involvement of a plethora of actors, including NGOs and 'traditional' authorities, undermines the legitimacy of democratically elected local government institutions and encloses the public domain. In many parts of South Africa, the introduction of the Communal Land Rights Bill, transferring authority over land to the chiefs and their councils, did indeed undermine the authority of democratically elected institutions (see Cousins and Claasens, 2005; Ntsebeza, 2005). In the case of the Makuleke the outcome was a bit different. The struggle between SANParks and the Land Claims Commission, but also the conflict between different 'traditional' authorities about the land claim, strengthened the position of the elected Communal Property Association and its control over the claimed land vis-à-vis the position of the chief and his council. The result of the process was the privatization of a part of the Kruger to the benefit of the Makuleke community. Representatives of the community, however, fear that through the incorporation of the area in the Great Limpopo this privatization to the community will be partly undone: the community will not be directly represented in the overall management structure of the TFCA, but only through the Joint Management Board managing the claimed land, which also contains SANParks members. One could say that the area through this incorporation is drawn into the public domain again, and withdrawn from the community's control. Another challenge to the community's authority over the land came from the private sector, indicating that caution is needed when it comes to the widely advocated public-private partnerships. The community's negotiations with a private-sector partner that appeared more skilful in drafting legally binding contracts resulted in the community's loss of profitable hunting rights, despite NGO support concerning legal matters.

The communities on the Mozambican side of the TFCA are clearly in a much worse position. They have little to no bargaining power and though the official policy is not to relocate them forcibly, the restrictions on land-use options and the increased presence of wild animals in the area is threatening their livelihoods. The change of status of the area they are living in, from a Wildlife Utilization Area to a National Park, has further undermined their rights to the land. Local government institutions, as a result of the change of status, have in fact lost jurisdiction over the area. Since most development and

land rights organizations find it difficult to challenge the state on this issue, the communities' alliances with NGOs can serve only to improve their compensation once they have been resettled. While local government institutions were disabled, an environmental organisation (the PPF) was allowed to influence the management of the park, assisting in the process that will eventually clear a large area for private investment.

Though the case of the Makuleke seems more positive than the case of park residents in Mozambique, future plans for the management of the Great Limpopo TFCA indicate that in both cases, contrary to the official rhetoric, communities become (even further) marginalized as a result of the institutional choices made in relation to decentralization and natural resource management.

Public-private partnerships are increasingly advocated in development in general, as well as in CBNRM (Community Based Natural Resource Management) and TFCA. However, in the CBNRM process, large tracts of land that are—or will be—under conservation, are effectively brought under the control of networks of primarily non-state organizations and institutions, thus challenging local government institutions. This paper showed that local communities are, despite the conservationists' rhetoric, under-represented, under-respected, under-skilled, and under-resourced actors in this power game. Despite their resistance and their alliances, they constantly risk—and often experience—further marginalization. The global commons become an even more embattled zone under the ironic rhetoric of the need to conserve them for humankind and future generations.

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