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TO : DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

: Mr Khrommbi Matibe

: Director-General

: Enviroment House, 473 Steve Biko Road, Arcadia, Pretoria, 0083

BY EMAIL: nbes@dffe.gov.za

RE: NATURAL JUSTICE COMMENTARY OF THE NATIONAL BIODIVERSITY
ECONOMY STRATEGY (Government Notice No. 4448)

1. PART 1: INTRODUCTION

Natural Justice is a non-profit organization, registered in South Africa since 2007. Our vision is the conservation and sustainable use of biodiversity and resources through the self-determination of indigenous peoples and local communities. Our mission is to facilitate the full and effective participation of indigenous peoples and local communities in the development and implementation of laws and policies that relate to the conservation and customary uses of biodiversity and the protection of associated cultural heritage. Natural Justice works at the local, national, regional, and international levels with a wide range of partners. We strive to ensure that community rights and responsibilities are represented and respected on a broader scale and that gains made in international fora are fully upheld at lower levels.

Natural Justice wishes to submit its comments to the Department of Forestry, Fisheries and the Environment. We further express our request to make a verbal submission or participate in any meaningful engagements with the Department when an opportunity arises.

This submission is set out in the following sections:

- Part 1: Introduction
- Part 2: General Comments
 - Commentary and critique on Action 1.1 of the Government Proposal to establish Mega Living Conservation Landscapes:
 - Human Rights Perspective
 - **International Law and Conservation**
 - **Rights-Based Approach**
 - **Reforming Laws and Policies**
 - **Canadian Example: Thaidene Nene National Park**
 - **Incorporating Multiple Knowledge Systems**
 - **Community-Based Management**
 - Commentary and critique on the Government Proposal to call for tight infrastructure development and viable enterprises in the community reserves and areas adjacent to formal big 5 areas such as Kruger park, suitable state protected areas and private game reserves.
 - Commentary and critique on the Government Proposal regarding action 2.3, to adopt formal, large scale enterprises harvesting and processing game meat from extensive wildlife systems, including from substantial plains game on community owned land, growing the collective game meat industry.
 - Commentary and critique on the Government Proposal regarding action 3.1. to develop and implement an inclusive and transformative sustainable harvesting strategy for all components of the commercial marine fisheries.
 - Commentary and critique on the Government Proposal regarding action 3.2. to develop and implement a small scale sustainable harvesting strategy that addresses barriers to entry, ensures economies of scale, and promotes transformative value chains
 - **Significance of climate crisis**
 - **Importance of Small-Scale Sustainable Harvesting**
 - **Barriers to Entry**
 - **Addressing Economic and Social Barriers**
 - **Legal and Regulatory Considerations**
 - **Transformative Value Chains**
 - **Conservation and Sustainable Use Management considerations.**
 - Commentary on Action 4.4 relating to the identification of mechanisms, in consultation with traditional harvesters and healers, to scale cultivation of indigenous medicinal plants for sustainable use within the traditional medicine sector
 - **Recognition of Traditional Knowledge**
 - **Protection of intellectual property**
 - **sustainable practices**
 - **legal frameworks and access and benefit sharing**

- **Land tenure security**
 - **Monitoring and evaluation**
 - **Market access and fair trade**
- Commentary on Action 5.1 to expand the areas of land under conservation land use by acquisition, partnering, stewardship and other OECMs
 - **Support for inclusive approach**
 - **securing land tenure for sustainable future**
 - **Co-management agreements**
 - **Inclusive governance**
 - **Economic opportunities**
 - **Conflict resolution mechanisms**
- Part 3: Conclusion and recommendations

1. Commentary and critique on Action 1.1 of the Government Proposal to Establish Mega Living Conservation Landscapes:

- 1.1. The proposal to establish Mega Living Conservation Landscapes marks a pivotal moment in our collective commitment to safeguarding biodiversity and natural ecosystems. As South Africa embarks on this endeavour, it is important to for the Department to acknowledge the intricate balance between conservation efforts and the protection of human rights, particularly for those indigenous peoples and local communities who are often vulnerable to climate change, insecure land tenure and human rights violations and are subsequently left marginalized within the context of conservation efforts.
- 1.2. Recent reflections on conservation practices reveal a disconcerting reality exclusionary conservation strategies have inadvertently led to human rights violations, disproportionately impacting already marginalized groups, particularly rural women and children. The consequences of displacement resulting from these conservation initiatives extend beyond mere environmental concerns; they encompass a range of fundamental human rights, from access to sufficient food and safe drinking water to preservation of cultural practices and traditional knowledge
- 1.3. The commentary on this action aims to delve into the multifaceted implications of conservation displacement, shedding light on the challenges that will be faced by vulnerable communities, particularly rural women and children. As we the government seeks to advocate for the establishment of Mega Living Conservation Landscapes, we must critically examine the ethical and human rights dimensions of our conservation strategies, seeking equitable

and inclusive approach that respects and protects the rights of all community members.

2. Human Rights Perspective:

2.1. A prevailing mode of modern conservation, is often based on the belief that biodiversity protection is “best achieved by creating protected areas where ecosystems can function in isolation from human disturbance”.¹ This modern type of conservation can be characterized by the following actions:

2.1.1. the creation of a protected area from which local people dependent on the natural resource base are often excluded

2.1.2. the enforcement by park rangers patrolling boundaries, often utilizing measures that amount coercion or excessive force to ensure compliance

2.1.3. only tourism, safari hunting and scientific research are considered appropriate uses within protected areas.²

2.2. While not all protected areas have resorted to fortress conservation strategies, many that overlap with indigenous territories ultimately result in policies that restrict indigenous peoples’ access to and traditional use of their ancestral lands to the detriment of indigenous livelihoods.

2.3. The establishment and expansion of protected areas often has the consequences of the displacing indigenous peoples and local communities from land that the communities have identified and managed as ancestral land, without their consent in the name of conservation. This forced displacement often poses severe threats to the survival of these indigenous peoples and local communities, resulting in traditional livelihoods for which they depend on to be jeopardized, cultural heritage and communal bonds severed and lost. Additionally the imposition of this modality of conservation can exacerbate further consequences such as famine, disease, and loss of life and traditional knowledge.³

2.4. Displaced by the creation of conservation-based protected areas, indigenous peoples and local communities face life-threatening risks when re-entering these once-ancestral lands to hunt, gather food, collect medicinal plants, or gather firewood.⁴ A mounting body of evidence

¹ Plumwood, V. Decolonizing relationships with nature. In *Decolonizing Nature Strategies for Conservation in a Post-Colonial Era*; Adams, W., Mulligan, M., Eds.; Earthscan Publications: London, UK, 2012; pp. 51–78, ISBN 978-1-136-56862-6.

² Fortress conservation. *Encyclopedia of Environment and Society*; Robbins, P., Doolittle, A.A., Eds.; Sage Publications: Thousand Oaks, CA, USA, 2012; ISBN 978-1-84972-555-2.

³ Colchester, M. Conservation policy and indigenous peoples. *ENVSCI Environ. Sci. Policy* 2004, 7, 145–153

⁴ Klawitter, N. A Killing in Congo Reveals Human Cost of Conservation. Spiegel Online 2017. Available online: <https://www.spiegel.de/international/world/killing-in-park-in-congo-raises-questions-about-conservation-a-1175574.html>; Minority Rights Group MRG, Environnement Ressources Naturelles et Développement, and Rainforest Foundation Norway strongly condemn killing of a Batwa man and park guard in DRC national park and demand a prompt investigation. 2019. Available online: <https://minorityrights.org/2019/05/03/mrg-environnement-ressources-naturelles-et-developpment-and->

reveals that the existing conservation approach unjustly displaces indigenous peoples and local communities from their ancestral lands. This not only harms the environment but also fundamentally undermines the land's capacity for sustainable management. This approach fails to curb deforestation and degradation while hindering biodiversity management, all at a significantly higher cost compared to community-driven conservation efforts.⁵

2.5. A growing consensus among experts⁶ highlights the effectiveness of indigenous custodianship and local stewardship in land management. These community-driven strategies not only represent the most knowledgeable and sustainable methodologies for land use and conservation but also provide unparalleled biodiversity protection. Importantly, these approaches come at a fraction of the cost compared to alternatives.⁷ In stark contrast to traditional fortress conservation methods which may be applicable to the proposed Government Proposal to Establish Mega Living Conservation Landscapes, they align seamlessly with international human rights obligations.⁸

2.6. In conclusion, the proposed establishment of Mega Living Conservation Landscapes prompts a critical examination of prevailing conservation paradigms, particularly the fortress conservation model. This modern approach, rooted in the belief that biodiversity protection thrives in isolated ecosystems free from human disturbance, often leads to exclusionary practices, coercive measures, and limited land uses within protected areas. While not all conservation initiatives adopt fortress strategies, those intersecting with indigenous territories tend to restrict access, disrupting indigenous livelihoods.

2.7. The consequences are stark: the forced displacement of indigenous peoples and local communities from ancestral lands in the name of conservation. This displacement poses severe threats to their survival, jeopardizing traditional livelihoods, cultural heritage, and communal bonds. The risks intensify as displaced communities navigate life-threatening challenges when re-entering these lands for essential activities. Importantly, the prevailing conservation approach not only harms the environment but also undermines the land's capacity for sustainable management.

[rainforest-foundation-norway-strongly-condemn-killing-of-a-batwa-man-and-park-guard-in-drc-national-park-and-demand-a-prompt-investigation](#)

⁵ Ding, H.; Veit, P.G.; Blackman, A.; Gray, E.; Reytar, K.; Altamirano, J.C.; Hdogdon, B. Climate Benefits, Tenure Costs: The Economic Case for Securing Indigenous Land Rights in the Amazon; World Resources Institute: Washington, DC, USA, 2016.

⁶ Dowie, M. Conservation Refugees: The Hundred-Year Conflict Between Global Conservation and Native Peoples; MIT Press: Cambridge, UK, 2009; ISBN 978-0-262-01261-4.

⁷ Tauli-Corpuz, V.; Alcorn, J.; Molnar, A. Violations of Indigenous Peoples' and Local Communities' Rights and Steps Towards Reform in 27 Countries. Available online: <https://www.indigenouspeoples-sdg.org/index.php/english/all-global-news/779-violations-of-indigenous-peoples-and-local-communities-rights-and-steps-towards-reform-in-27-countries>; Frechette, A.; Reytar, K.; Saini, S.; Walker, W. Toward a Global Baseline of Carbon Storage in Collective Lands: An Updated Analysis of Indigenous Peoples' and Local Communities' Contributions to Climate Change Mitigation; Rights and Resources Initiative: Washington, DC, USA, 2016

⁸ Knox, J. Report of the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, Un Doc A/Hrc/31/52; UN Human Rights Council: Geneva, Switzerland, 2017

2.8. Amidst these challenges, there is growing consensus among experts regard the efficacy of indigenous custodianship and local stewardship in land management. These community-driven strategies, cost effective and aligned with international human rights obligations, emerge as superior alternatives. As the Department of Forestry, Fisheries and Environment contemplates the poposed Mega Living Conservation Landscapes strategy, it is imperative to embrace inclusiveness, rights based approaches. These approaches ensure that conservation effort do not inadvertently perpetuate human rights violations but instead foster a harmonious coexistence between nature and indigenous communities, preserving cultural heritage, livelihoods, and the delicate balance of biodiversity.

3. International Law and Conservation:

3.1. International law plays a crucial role in the preservation and protection of human rights for indigenous and local communities in the context of conservation. Respecting and protecting human rights, especially those of Indigenous Peoples and local communities, is not only an obligation under international law but also an effective, equitable, and cost-efficient conservation strategy applicable to all nature conservation efforts.⁹

3.2. The foundation of virtually all human rights in international law therefore lies in the right to a safe, clean and healthy and sustainable environment, especially for indigenous peoples and local communities. Their rights are intrinsically linked to the health of the biodiversity and ecosystems. As such, ensuring the protection, support and affirmation of the rights associated with children and future generations within the familial structures of indigenous peoples and local communities' hinges on the swift implementation of transformative biodiversity conservation and sustainable development measures within South Africa's national biodiversity economy strategy within the next three decades.

3.3. This imperative is reinforced by the Kunming-Montreal Global Biodiversity Framework, which calls upon parties and Governments (in this case South Africa) supported by the intergovernmental and other organisations as appropriate, to implement the Framework. Specifically, it encourages participation at all levels of governance to ensure the meaningful contributions of women, youth, indigenous peoples, and local communities. Furthermore, it emphasizes the importance of respecting and upholding the rights of indigenous peoples and local communities in implementing the Kunming-Montreal Global Biodiversity Framework (KNGBF).¹⁰

3.4. Section H of the Global Targets for 2030 addresses the objectives of the KNGBF which seeks to ensure the broad successful achievement of target 1¹¹ and 3¹², that is

⁹ Article 8(j) of the Convention on Biodiversity; Section 7(a) of the Kun-ming Global Biodiversity; Art 12(3) and 17(3) of the African Convention on Conservation of Nature and Natural Resources

¹⁰ Section 4 and section 6 of the decision adopted by the conference of the parties to the Convention on Biological Diversity regarding the Kunming-Montreal Global Biodiversity Framework

¹¹ Ensure that all areas are under participatory, integrated and biodiversity-inclusive spatial planning and/or effective management processes addressing land and sea use change, to bring the loss of areas of high biodiversity importance, including ecosystems of high ecological integrity, close to zero by 2030, **while respecting the rights of indigenous peoples and local communities**

biodiversity-inclusive spatial planning and Area Based Conservation. These targets emphasize the importance of inclusive spatial planning and effective management to minimize biodiversity loss by 2030, while safeguarding the rights of indigenous peoples and local communities. This commitment is reiterated through the KMGBF, which explicitly acknowledges the crucial role and rights of indigenous peoples and local communities in biodiversity conservation efforts. The framework underscores the need for the full and effective participation in decision making processes, ensuring respect for their traditional knowledge and practices with free, prior and informed consent. Moreover, the K NGPF sets ambitious goals for area based conservation, aiming to conserve at least 30% of terrestrial and marine areas by 20-30, recognizing indigenous and traditional territories and integrating them into border conservation strategies. By prioritizing the rights and contributions of indigenous peoples and local communities, the KPMG BF strives for equitable and sustainable biodiversity conservation within South Africa.

The proposal of action 1.1 for the establishment of five mega living conservation landscapes through state, private, and community areas may potentially contradict the principles and targets emphasized by the Kunming Montreal Global Biodiversity Framework incorporated into South Africa's national biodiversity economy strategy. This will result for the following reasons:

3.4.1. Lack of inclusivity: the KPMG BF underscores the importance of inclusive spatial planning and management processes, ensuring the participation of indigenous peoples and local communities in decision making. Establishing legal conservation landscapes solely through state, private, and community areas may exclude certain stakeholders, particularly indigenous peoples and local communities, whose rights and contributions are crucial for effective biodiversity conservation.

3.4.2. Lack of equity: The KPMGBF promotes equitable governance and recognizes the rights of indigenous peoples and local communities over their traditional territories. The establishment of mega conservation landscapes without adequate consideration for these rights may perpetuate iniquities and undermine the principles of fairness and justice embedded in the KMBGF.

3.4.3. Ineffective conservation: while the proposal may aim to conserve biodiversity on the large scale, it must align with the KMG BF targets for effective area based conservation. This includes ensuring that conservation efforts are ecologically representative, well connected, integrated into wider landscapes and seascapes. Failure to adhere to these principles may compromise the conservation effectiveness of the proposed major landscapes .

¹² Ensure and enable that by 2030 at least 30% of terrestrial and inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and **equitably governed** systems of protected areas and other effective area-based conservation measures, **recognizing indigenous and traditional territories**, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, **recognizing and respecting the rights of indigenous peoples and local communities, including over their traditional territories**.

3.5. While the proposal for mega living conservation landscapes may align with certain aspects of South Africa's national biodiversity economy strategy, it must be carefully assessed to ensure compatibility with international principles and targets emphasized by the KMGBF, particularly regarding inclusivity, equity, and conservation effectiveness.

4. Rights-Based Approach:

4.1. Recognizing the vital connection between nature's health and the human rights of indigenous and rural communities highlights the urgent need to address South Africa's wildlife landscape degradation. Strategies to restore and sustainably utilize nature's resources should prioritize:

- 4.1.1. Adopting human rights-based approaches in all biodiversity conservation efforts within the national strategy, with allocated funding for proposed initiatives.
- 4.1.2. Acknowledging the crucial roles of indigenous peoples, local communities, farmers, rural women, and youth as stewards of South Africa's biodiversity. Their rights, wisdom, and contributions to conservation require full recognition and robust support.
- 4.1.3. Promoting everyone's right to a safe, clean, healthy, and sustainable environment, with tangible targets driving this fundamental right within the national strategy.

5. Reforming Laws and Policies:

5.1. Beyond mere knowledge integration, partnerships, and adaptive engagement, it is essential for the government represented by the Department of Environment, Forestry and Fisheries, and non-governmental organizations such as SANBI; Cape Nature; isiMangaliso; Ezemvelo etc, for example to take concrete actions. These include:

5. 1.1. Legally empowering relatively autonomous indigenous and locally managed territories;
5. 1.2. Genuinely embracing, embedding, and prioritizing indigenous and local knowledge systems; and
- 5.1.3. Advocating for indigenous rights to land, resources, diverse livelihoods, and traditional ways of life.

5.2. In order to give effect to the above we propose the following measures:

5.2.1 Regarding the proposed strategy outlined under action 1.1, it is crucial to consider the establishment of co-management frameworks within the five identified mega living conservation landscapes. This approach ensures that indigenous peoples or local communities residing in these areas have decision-making authority alongside government agencies responsible for managing them. To achieve this, it is necessary to review existing permitting processes in

these areas and assess the suitability of implementing benefit-sharing agreements related to biodiversity and ecological resource management within the conservation landscapes.

5.2.2. It is imperative that the proposed strategy includes provisions for the documentation, storage, and utilization of traditional ecological knowledge pertaining to biodiversity conservation and protected area management. These measures should be integrated within the legislative frameworks of the National Environmental Management: Biodiversity Act (NEMBA) and the National Environmental Management: Protected Areas Act (NEMPA), which will govern the management of these conservation landscapes.

5.2.3. Finally, it is crucial that, as part of the comprehensive strategy for conservation landscape areas, the government actively considers, through the National Environmental Management: Protected Areas Act (NEMPA), the implementation of mechanisms to secure access and ownership rights for indigenous peoples and local communities residing in the parks. This may entail the establishment of models such as indigenous peoples' or local community stewardship areas within the conservation landscape areas.

Conclusion:

5.3. These interventions could be effectively facilitated by establishing a National Advisory Council on Conservation, comprising representatives from communities that have historically inhabited or had access to areas now designated as protected lands. This Council would play a crucial role in advising the government on policy development and implementation concerning the national biodiversity economy strategy.

6. Canadian Example: Thaidene Nene National Park:

6.1. Thaidene Nene Indigenous Protected Area, established in 2019 on the traditional territory of Lutsel K'e Dene First Nation, encompasses A territorial protected area and a Wildlife Conservation area.¹³ Which imperial forest, tundra, and freshwater systems, Thaidene Nene provides habitat for caribou, muskoxen, wolves, and various fish species. Guided by the customary law of the Dene, the Canada National Parks Act, the Territorial Protected Areas Act, and the Wildlife Act, Lutsel K'e Dene First Nation endeavors to safeguard the land water wildlife and their Denesoline cultural way of life.

6.2. In 2019, Lutsel K'e Dene First Nation members crafted a strategic plan to oversee Thaidene Nene's implementation. The establishment agreements for Thaidene Nene confer upon Lutsel K'e Dene First Nation the right to self-governance rooted in their

¹³ Lutsel K'e Dene First Nation and Government of Northwest Territories (2019). Agreement to establish Thaidene Nene Indigenous Protected Area, Territorial Protected Area, and Wildlife Conservation Area. Available at https://www.enr.gov.nt.ca/sites/enr/files/resources/tdn_-_lkdfn_agreement_final_signed.pdf

indigenous worldviews, values, and traditional ecological knowledge.¹⁴ These agreements underscore a commitment to reconciliation and acknowledge the ongoing presence and inherent right of self-governance of the Lutsel K'e Denesoline.

6.3. Furthermore, the establishment agreement prioritize the preservation and promotion of the ecological integrity of Thaidene and the Denesoline way of life for the Benefits, education, and enjoyment of future generations.¹⁵ They also emphasize the incorporation of relevant and accessible Lutsel K'e Denesoline knowledge in decision making processes, interpretation, and promotional materials for Thaidene Nene. The recognition of Lutsel K'e Denesoline Knowledge as scientific or technical information underscores the importance of indigenous ways of knowing and managing indigenous protected and conserved areas.

6.4. The above case study examples Thaidene Nene Indigenous Protected Area hold significant relevance for government consideration, even amidst the interest in implementing the five major living conservation landscapes, due to the several key factors:

6.4.1. Indigenous Governance and Rights: Thaidene Nene exemplify successful indigenous governance and self determination over land and resources. The case demonstrates the importance of recognizing and upholding indigenous rights and sovereignty and conservation initiatives, aligning with international principles of indigenous rights highlighted in frameworks like the Kunming Montreal Global Biodiversity Framework. This serves as a crucial reminder for governments to engage in meaningful consultation and collaboration with indigenous communities and conservation efforts, ensuring the protection of indigenous lands, cultures, and ways of life.

6.4.2. Traditional Ecological Knowledge: incorporation of traditional ecological knowledge in the Thaidene Nene's management underscores the value of indigenous knowledge systems in biodiversity conservation. This aligns with the KPMG PDF offices on integrating diverse knowledge systems into conservation practices. Governments can learn from Thaidene Nene's approach to incorporate TEK into the conservation strategies, fostering more holistic and effective approaches to biodiversity protection.

6.4.3. Community led Conservation: Thaidene Nene's community LED approach to conservation highlights the importance of local participation and stewardship in biodiversity conservation. Engaging local communities and conservation efforts fosters a sense of ownership and responsibility, getting to more sustainable outcomes. This aligns with the KMGBF emphasis on

¹⁴ Lutsel K'e Dene First Nation (2019). 2020-2025 Strategic Plan Thaidene Nene. Available at www.landoftheancestors.ca/uploads/1/3/0/0/130087934/thaidene_nene_strategic_plan_2020-2025.pdf

¹⁵ See note 15.

inclusive decision making and participation at all levels of governments. Governments can draw insights from Thaidene Nene's model to empower local communities and their conservation initiatives, promoting social equity and environmental sustainability.

Conclusion:

6.5. While the government's interest in implementing 5 mega living conservationist landscapes is significant, the Thaidene Nene case study offers valuable lessons on indigenous governance, TEK integration, and community led conservation that can enhance the effectiveness and inclusivity of conservation efforts. By considering and incorporating these principles into the initiatives, the South African government can ensure more sustainable and equitable biodiversity conservation outcomes.

7. Incorporating Multiple Knowledge Systems:

7.1. The wisdom and traditions of indigenous and local communities should be recognized as inherently unique. Shaped by their lived experiences, these practices are deeply intertwined with their respective environments, inseparable from the landscapes they inhabit. They are not static but rather dynamic, evolving alongside livelihoods and social dynamics, demanding continual interaction and adaptation within their surroundings over time and space.¹⁶ Understanding the acquisition and perpetuation of this knowledge through cultural activities like song, dance, storytelling and political engagement, as well as their integration within ecosystems, is essential for grasping the intricate relationship between people and their environments in conservation endeavours.¹⁷

7.2. In addition to integrating diverse indigenous and local knowledge systems at various scales into ecosystem and landscape management strategies, prioritizing the preservation and enhancement of indigenous and local livelihoods, traditions, and languages is imperative. These aspects serve as vital repositories of environmental wisdom and beliefs, enriching practices that sustain and nurture lands, forests, and waters.

7.3. To ensure the effective integration of indigenous peoples' knowledge, wisdom, and traditions into the management of the proposed five mega living conservation landscapes and their surrounding areas, it is essential to develop and implement monitoring and evaluation indicators. These indicators should align with international principles established in agreements such as the Convention on Biological Diversity and the Kun-Ming Global Diversity Framework. The following suggestions outline key areas for consideration:

¹⁶ B. Coombes, J. T. Johnson, R. Howitt, Indigenous geographies I: Mere resource conflicts? The complexities in Indigenous land and environmental claims. *Prog. Hum. Geogr.* **36**, 810–821 (2012).

¹⁷ N. Theriault, T. Leduc, A. Mitchell, J. M. Rubis, N. Jacobs Gaehowako, *Living Protocols: Remaking Worlds in the Face of Extinction* (Taylor & Francis, 2020).

7.3.1. Diversity of knowledge systems: Measurements of the variety and number of indigenous and local knowledge systems involved in the strategy.

7.3.2. Collaborative Decision-Making Processes: Tracking of the proportion of decisions made jointly by scientific experts in indigenous slash local representatives.

7.3.3. Call development of management plans: Counting the number of conservation plans jointly developed by scientific experts and indigenous slash local communities.

7.3.4 Integration of traditional practices: Monitoring the number of adoption of traditional ecological knowledge practices in conservation activities.

7.3.5. Cultural vitality and well-being: Monitoring or observing the changes in cultural practices, language retention, and the community health and livelihoods within the implementation of the management of the mega living conservation landscapes.

7.3.6. Biodiversity conservation outcomes: Tracking the changes in biodiversity metrics in order to evaluate conservation effectiveness utilizing indigenous or traditional ecological knowledge.

7.3.7. Social equity and inclusivity: Measuring the levels of inclusivity in decision making and resource allocation processes.

7.3.8. Knowledge exchange and capacity building: Evaluating the frequency and quality of knowledge sharing activities between state, private stakeholders and indigenous and local community governance structures.

7.3.9. Adaptive management practices: The extent to which local or traditional ecological knowledge assists the flexibility and responsiveness of management strategies to change conditions within the conservation landscapes

7.3.10. Recognition and respect for indigenous rights: Monitoring the levels of acknowledgement and support of indigenous land rights and governance systems.

7.4. The effective integration of indigenous people's knowledge, wisdom, and traditions into the management of the proposed 5 mega living conservation landscapes and their surrounding areas necessitates the development and implementation of comprehensive monitoring and evaluation indicators. These indicators should be aligned with international principles outlined in agreements such as the conventional biological curiosity and the coming global diversity framework. The suggested indicators, ranging from assessing the diversity of knowledge systems to measuring social equity and inclusivity, offer structured approach to ensure the inclusion and respect for the indigenous perspective and rights. By actively incorporating indicators into conservation strategies, South Africa can strive towards more holistic and sustainable management practices that honor both ecological preservation and cultural heritage.

8. Community-Based Management:

8.1. Within the context of international and regional development of strategies to address conservation and the recognition and protection of the rights of indigenous peoples and local communities, an approach has emerged known as indigenous and community conserved areas or ICCAs as they are better known.¹⁸ These initiatives/modalities of conservation and land management represent a significant step toward decolonizing conservation practices. By recognizing ICCAs and related efforts, indigenous and local communities are able to gain greater agency, autonomy, and sovereign control over the management of natural and cultural resources within their territories.

8.2. Under the appropriate government and private support, ICCAs can offer indigenous peoples and local communities the opportunity to safeguard their ancestral territories while strengthening linguistic and cultural ties to their lands. Additionally, the formal recognition and support of ICCAs within the proposed strategy for the establishment of the conservation landscapes, will facilitate the development of local economic and political networks crucial for preserving and revitalizing the under utilized environmental knowledge and practices essential for current and future generations. Therefore, integrating ICCAs into the existing legal framework for conservation represents a crucial opportunity to promoting biodiversity conservation, whilst respecting indigenous peoples and local communities rights thereby fostering sustainable development.

Conclusion:

8.3. In the broader context of international regional efforts to address conservation and uphold the rights of indigenous peoples and local communities, the emergence of indigenous and community conserved areas (ICCAs) presents a promising approach. These initiatives represent a significant shift towards more inclusive and participatory conservation practices, empowering indigenous and local communities to assert control over their ancestral territories and resources. By embracing ICCA's within the proposed model for Wildlife Conservation and sustainable biodiversity management in South Africa's mega living conservation landscapes, the Department of Environment, Forestry and Fisheries not only recognizes inherit rights and knowledge systems of these communities but also pave the way for their economic and political empowerment.

8.4. With appropriate government and private sector support, ICCA's can serve as vital mechanisms for safeguarding biodiversity, revitalizing cultural connections to the land, and fostering sustainable development. Therefore, the integration of ICCA's into the conservation framework offers a unique opportunity to promote biodiversity conservation while upholding the rights and well-being of indigenous peoples and

¹⁸ T. C. Tran, N. C. Ban, J. Bhattacharyya, A review of successes, challenges, and lessons from Indigenous protected and conserved areas. *Biol. Conserv.* **241**, 108271 (2020).

local communities, ultimately contributing to the holistic and equitable stewardship of our natural heritage.

Commentary and critique on the Government Proposal to call her tight infrastructure development and viable enterprises in the community reserves and areas adjacent to formal big 5 areas such as Kruger park, suitable state protected areas and private game reserves.

The above-mentioned suggestions outlined for action 1.1 would also apply to actions proposed by the strategy regarding specifically Action 1.2

Commentary and critique on the Government Proposal regarding action 2.3, to adopt formal, large scale enterprises harvesting and processing game meat from extensive wildlife systems, including from substantial plains game on community owned land, growing the collective game meat industry.

The proposals to develop formal common large scale enterprises for harvesting and processing gaming from extensive wildlife systems, including substantial game populations from community owned land, raises several concerns that warrant careful consideration.

1. Likely ecological Impact: While the intention to leverage wildlife resources for economic gain is understandable, the emphasis on large scale harvesting and processing inadvertently lead to ecological degradation and biodiversity loss. Intensive harvesting could disrupt delicate ecosystem and jeopardize the long term viability of wildlife populations, running counter to the conservation objectives outlined in national international biodiversity framework such as the Kunming Global Biodiversity Framework.¹⁹
2. Disruption of habitat integrity: Expanding game meat enterprises may necessitate the conversion of natural habitats into commercial landscapes, posing a threat to biodiversity range areas. Such habitat transformation could fragment ecosystems, diminished habitat quality, and exacerbate human wildlife conflicts, undermining the principles of ecosystem integrity and habitat and conservation advocated by international²⁰, regional²¹ and national biodiversity frameworks. These include:

¹⁹ Kun-Ming Montreal Global Biodiversity Framework.

²⁰ Kun-Ming Montreal Global Biodiversity Framework.

²¹ Article 2 of the African Convention on Conservation of Nature and Natural Resources which states that the objectives of the Convention are to (1) to enhance environmental protection (2) to foster the conservation and sustainable use of natural resources and (3) to harmonize and co-ordinate policies in these fields with a view to achieving ecologically rational, economically sound and socially acceptable development policies and programs.

- 2.1. Taking the necessary administrative or policy measures to encourage and enable business to (b) provide information needed to consumers to promote sustainable consumption patterns in order to progressively reduce negative impacts on biodiversity, increase positive impacts, reduce biodiversity-related risks to business and financial institutions, and promote actions to ensure sustainable patterns of production.²² Actions to reach target 15 of the KMGBF should be implemented consistently and in harmony with the Convention on Biological Diversity and its Protocols.
- 2.2. Minimize extinction risk and preserve biodiversity by conserving and restoring diverse native, wild, and domesticated species. This involves both in situ (on-site) and ex situ (off-site) conservation efforts, along with sustainable management practices. Additionally, effective management of human-wildlife interactions is essential to reduce conflicts and ensure species survival.²³
3. Lack of clarity around community engagement: While the proposal mentions harvesting from community owned land, there is a need for critical clarity on the extent of community involvement and the mechanisms for equitable benefit sharing. Without meaningful engagement and adequate safeguards, there is a risk of marginalizing local communities undermining their rights to land and resources, contradicting principles of social equity and community empowerment.
4. Invasive Species Risk: Introducing or intensifying game populations, particularly in community areas, may inadvertently introduce invasive species or exacerbate existing invasive species threats. This could have profound ecological consequences, disrupting native ecosystems and jeopardizing biodiversity conservation efforts which are fundamental tenets of biodiversity economic strategies.
5. Robust institution of sustainability and governance: The proposed expansion of the game meat industry should be accompanied by robust sustainability criteria and effective governance mechanism. This includes measures to ensure sustainable harvesting practices, transparent resource management, and equitable distribution of benefits. Without such safeguards, there is a risk of over exploitation, resource depletion, and social inequity, undermining the long-term viability of both the game meat industry and biodiversity conservation efforts.

While action 2.3 of the biodiversity economy strategy offers economic and wildlife utilization opportunities, its ecological, social, and governance impacts must be carefully assessed in the national biodiversity strategy review. This ensures alignment with the Kunming-Montreal Global Biodiversity Framework for effective implementation.

²² Section H. Target 15 of the Kunming-Montreal Global Biodiversity Framework

²³ Section H. Target 4 of the Kunming-Montreal Global Biodiversity Framework.

Commentary and critique on the Government Proposal regarding action 3.1. to develop and implement an inclusive and transformative sustainable harvesting strategy for all components of the commercial marine fisheries

1. While proposed action 3.1 on the national biodiversity economy strategy aims to enhance the sustainability and transformation of commercial remaining fisheries, so critical concerns arise at warrant attention:
 - 1.1. The proposed action appears to lack explicit provisions for meaningful involvement of indigenous peoples and local communities and decision making processes related to marine resource management. This oversight could perpetuate historical injustices in marginalization, undermining the rights of these communities to access and manage marine resources in alignment the cultural heritage and ecological knowledge.
 - 1.2. **Ambiguity on Conservation Measures:** The action plan lacks specificity regarding concrete conservation measures to address overexploitation and illegal harvesting within commercial marine fisheries. Without clear strategies to regulate fishing activities and enforce compliance, the sustainability of marine stock remains at risk, jeopardizing conservation objectives and the long term viability of marine ecosystems.
 - 1.3. **Equity Concerns and Barriers to Entry:** There is insufficient emphasis on addressing barriers to entry and promoting equity within the commercial fisheries sector. Failure to address these concerns may perpetuate inequalities in access chief fishing rights and resources, hindering the meaningful participation of all stakeholders, particularly indigenous peoples and local communities, in marine resource management and conservation efforts.
2. In conclusion, while proposed action 3.1 seeks to advance the sustainability and transformation of commercial marine fisheries, it is essential to address the aforementioned critiques to ensure alignment with principles of conservation and the protection of human rights as outlined by the Global Biodiversity Framework, particularly those of indigenous peoples in local communities. By incorporating inclusive decision making processes, concrete conservation measures, and efforts to promote equity within the sector, the strategy can better contribute to the sustainable management of marine sources and the well-being of all stakeholders involved.

Commentary and critique on the Government Proposal regarding action 3.2. to develop and implement a small scale sustainable harvesting strategy that addresses barriers to entry, ensures economies of scale, and promotes transformative value chains

1. Significance of climate crisis:

- 1.1. Climate change, pollution, and unsustainable fishing practices, such as over exploitation of marine sources, are increasingly putting strong pressure on the

marine environment.²⁴ the seriousness of climate variability represents potential threat to small scale fisheries by fitting not only fishery resources in the livelihoods of the fishermen but also changes in fish stocks and production value per fishermen as well.²⁵²⁶ Climate change further disrupts in a number of ways, with impacts cascading across the ocean, ecosystems, and economies. Warming waters can shoot fish migration patterns, leading to earlier or later fishing season and forcing some fish populations to relocate. This, coupled with increasingly unpredictable weather patterns and higher risks associated with venturing out to sea during storms which often leads to damaging of fishing equipment, vessels, and infrastructure²⁷, which contributes to uncertainty in fisherman's income and livelihoods. On the ecological front, climate change threatens biodiversity loss, with potential population declines and even extinctions of fish species critical to the marine ecosystem.²⁸

1.2. Although ocean ecosystems are strained by climate change are strained by climate change, overfishing and more, studies nevertheless suggest that seafood can be expanded sustainably to meet future food demands.²⁹ Small scale operations tend to deliver both food and income directly to the people who need them the most, and locals have a strong incentive to make their practices sustainable.

1.3. Overall, the climate crisis imposes significant barriers on small-scale fishers' capacity to implement sustainable harvesting strategies and limits economies of scale by increasing operational costs, reducing productivity, and exacerbating risks and uncertainties associated with fishing activities. Addressing these challenges requires coordinated efforts to strengthen resilience, enhance adaptive capacity, and support sustainable livelihoods in coastal communities dependent on marine resources

²⁴ G20 Contribution to the 2030 Agenda, Progress and Way Forward (2019)

<https://www.oecd.org/dev/OECD-UNDP-G20-SDG-Contribution->

²⁵ M.R. Payne, M. Kudahl, G.H. Engelhard, M.A. Peck, J.K. Pinnegar Climate risk to European fisheries and coastal communities Proc. Natl. Acad. Sci. USA, 118 (40) (2021), [10.1073/pnas.2018086118](https://doi.org/10.1073/pnas.2018086118)

²⁶ A. Mbaye, J. Schmitte, M.C. Cormier-Salem Social construction of climate change and adaptation strategies among Senegalese artisanal Fishers: between empirical knowledge, magico-religious practices and sciences Soc. Sci. & Hum. Open, 7 (2023), Article 100360, [10.1016/j.ssaho.2022.100360](https://doi.org/10.1016/j.ssaho.2022.100360)

²⁷ R. Patriana Fishermen Adaptation Patterns to Climate Change (Case Study of Fishermen in Ciawitali Hamlet, Pamotan Village, Kalipucang District, Ciamis Regency, West Java). 2011. IPB University, Bogor Regency, Indonesia.

²⁸ IPCC Pörtner, H.-O., Roberts, D.C., Poloczanska, E.S., Mintenbeck, K., Tignor, M., Alegría, A., Craig, M., Langsdorf, S., Löschke, S., Möller, V., Okem, A. (Eds.)

D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (Eds.), Summary for Policymakers. Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, Cambridge University Press In Press (2022).

²⁹ Costello, C. *et al.* *Nature* **588**, 95–100 (2020).

2. Importance of Small-Scale Sustainable Harvesting:

2.1. Small operations tend to deliver both food and income directly to the people who need them most, and locals have a strong incentive to make their practices sustainable. What's more, these fisheries can be remarkably efficient. Almost everything that hand-to-mouth fisheries catch is consumed. By contrast, around 20% of the fish caught by industrial fleets is estimated to be wasted, mainly because of unwanted by-catch.³⁰ So, whereas large-scale operators land more fish, small-scale fisheries provide a larger share of the fish that is actually consumed.

3. Barriers to Entry:

3.1. Small-scale fishers' rights to access are often poorly defined, ineffectively enforced or unfairly distributed.³¹ Plagued by inadequate enforcement, the borders of exclusive economic zones- coastal regions under nation's jurisdiction- are frequently plundered by large scale vessels that devastate the ocean floor with bottom trawling, a destructive practice rarely employed by small scale fishers. Large scale bottom trawlers account for a staggering 26% of the global fisheries catch.³² Worse yet, more than 99% of this destructive activity occurs within the very EEZs designated to protect the marine resources of coastal nations. Even when there are well-meaning policies to protect local and indigenous fishing communities, foreign vessels often take advantage of the permitted scale of fisheries catch.

3.2. Another barrier to entry for local and indigenous fishing communities, is the lack of government subsidies. Often times large scale fishing operations receive about three and half times more subsidies than small scale fishers do.³³ This often results in existing advantages for larger operators in terms of the financing of vessels, gear and infrastructure (including cold storage), processing capacity and access to cheap fuel. The subsidies that are offered to or made available to large scale fishing industries, diminish the capacity of small-scale fishers to expand their access to markets. Current funding for fishery conservation projects comes from development partners, regional banks, the World Bank, private foundations and other conservation agencies — with some entities also providing microloans to small-scale fisheries — but these efforts are uncoordinated and inadequate. Uncoordinated and inadequate

³⁰ High-level Panel of Experts on Food Security and Nutrition. *Sustainable Fisheries and Aquaculture for Food Security and Nutrition* (HLPE, 2014).

³¹ See note above.

³² Wageningen University & Research. (2021). ECOSYSTEM EFFECTS OF BOTTOM TRAWL FISHING. Retrieved from <https://edepot.wur.nl/352929>

³³ Schuhbauer, A., Skerritt, D.J., Ebrahim, N., Le Manach, F. and Sumaila, U.R., 2020. The global fisheries subsidies divide between small-and large-scale fisheries. *Frontiers in Marine Science*, 7, p.539214.

funding limits small-scale fishers' capacity to invest in sustainable practices, technology adoption, market access, and value chain development, hindering efforts to achieve economies of scale and transformative change.

Conclusion:

3.3. The barriers to entry described above pose significant challenges to the implementation of a small-scale harvesting strategy that ensures economies of scale and promotes transformative value chains. Addressing these barriers requires enhanced legal and regulatory mechanisms, equitable distribution of subsidies, and increased funding for small scale fisheries development initiatives.³⁴ As outlined **by target 18 and 19 of the GBF**, the strategy ought to articulate the elimination, phasing out or reformation of incentives, including subsidies in a proportionate, just, fair, effective and equitable way by the year 2030, starting with the most harmful incentives as discussed above. By addressing these systematic challenges, policymakers can create an enabling environment for small scale fishers to thrive, by scaling up positive incentives and subsidies for conservation and sustainable use of biodiversity, thus contributing to sustainable resource management, and participation in inclusive and resilient value chains.

4. Addressing Economic and Social Barriers:

4.1. To address economic and social barriers, the national biodiversity economy strategy should focus on creating transformative value chains with economies of scale, ensuring greater efficiency and profitability for small-scale fisheries. The implementation of the strategy could prioritize the facilitation of the creation of partnership, involving government, with international or national funding institutions to offer grants or national and provincial subsidies, . These funds could be used to establish direct contracts to supply food programs for schools, hospitals, and similar facilities. This would provide small-scale fisheries with large, consistent markets and storage infrastructure that boosts local consumption of fresh seafood and does not incentivize overfishing. This approach creates a win-win situation, supporting both the economic well-being of small-scale fishers and the interests of conservation and sustainable use as outlined in the GBF and white Paper.

4.2. To address training and capacity building, the draft biodiversity economic strategy is encouraged to design and implement community led training programs tailored to specific needs and aspirations of indigenous and local small-scale fisherfolk communities. These programs should ideally be co-designed with community members to ensure cultural relevance and inclusivity.³⁵ Training and capacity building could encompass a focus on market access, value-added processing,

³⁴ Target 19(b) and (c) of the Global Biodiversity Framework

³⁵ Target 19(f) of the Global Biodiversity Framework which makes provision for the enhancement of the role of collective actions, including by indigenous peoples and local communities, Mother Earth centric actions and non-market based approaches including community based natural resource management and civil society co-operation and solidarity aimed at the conservation of biodiversity.

quality control, marketing, sustainable fishing techniques, entrepreneurship skills all of which could be funded through government subsidies or private partnerships. Furthermore, this type of capacity building and training could be conducted in collaboration with experts, local governmental institutions, and industry partners in order to provide comprehensive training and mentorship opportunities.³⁶ This could be facilitated through international public funding, including official development assistance for conservation and sustainable use of biodiversity from private individuals or corporations which could be leveraged for biodiversity related financing. Lastly to address training and capacity building, the strategy is encouraged to consider the implementation of support mechanisms which promote access to essential resources and infrastructure needed for sustainable fishing and value chain development.³⁷ Such mechanisms could facilitate the investment of funding into community owned enterprises and co-operative structures in order to improve access to capital, technology, and markets thereby enhancing economies of scale and collective bargaining power.

By implementing these proposed measures in tandem with sustainable harvesting approaches that address barriers of entry in small-scale fishing value chains, it is possible to empower indigenous and local fisherfolk communities, promote economic development of marine resources, and ensure long term sustainability of marine resources.

Conclusion:

4. 3. An integrated marine management strategy should ensure the **inclusive participation of small-scale fishers**. This means incorporating their knowledge and experience into key decision-making processes. For example, they should have input into the development of marine protection plans, a crucial component of the national biodiversity economy strategy. This strategy, in turn, should be aligned with international frameworks promoting biodiversity conservation, such as the Convention on Biological Diversity and the post-2020 Global Biodiversity Framework (GBF)³⁸, as well as national policy documents like the White Paper.³⁹ By including small-scale fishers in these processes, we can ensure a more sustainable and equitable approach to managing our marine resources, whilst ensuring economies of scale, and promotion of transformative value chains.

5. Legal and Regulatory Considerations

³⁶ Actions to reach Target 19 should take into account all of the considerations for implementation identified in section C of the Kunming-Montreal Global Biodiversity Framework. Furthermore according to Section I, articles 14 and 15 outline that the Kunming-Montreal Global Biodiversity Framework aims to be successfully implemented with the support from the Convention on Biological Diversity and its Protocols. This entails providing sufficient and reliable financial resources, cooperation, and capacity building, particularly for developing countries, to achieve the Framework's goals and targets.

³⁷ Section I, articles 14 and 15 of the Kunming-Montreal Global Biodiversity Framework

³⁸ Section I, articles 14 and 15 of the Kunming-Montreal Global Biodiversity Framework

³⁹ Guiding principles 3 (c) and (d) of the White Paper which outlines that "Evidence based-decision making is decision making that takes into account context and complexities and integrates science, indigenous and local knowledge systems and practices, within ongoing monitoring and evaluation, learning and adaptive management.

5.1. Streamlining licensing processes for the small scale fishing sector plays a crucial role in achieving multiple goals. First, it helps ensure sustainable management of marine areas by encouraging the use of biodiversity friendly practices. These practices, in turn, contribute to the resilience and long term productivity of fisheries, ultimately benefiting food security in South Africa. Second, simplified licensing procedures can improve access to marine areas and resources for small scale fishes. This empowers them to contribute more effectively to the overall health and productivity of South Africa's marine resources, ensuring a sustainable future for this vital sector. The Small-Scale Fisheries Policy⁴⁰ lays out several key principles⁴¹ that can guide the streamlining of licensing processes. These principles emphasize practices that promote sustainability, recognize the valuable knowledge of local fishers, and encourage their participation in fisheries management. This aligns perfectly with the goals of target 10 of the GBF⁴² and relevant articles of the Africa Convention on Conservation of Nature and Natural Resources⁴³, which promote

⁴⁰ Small Scale Fisheries Policy (Act No 474 of 2012).

⁴¹ Adopting a multiple species approach in allocating fishing rights to small-scale fishers- a basket approach to species and the adoption of a co-management approach to managing the small-scale fisheries sector. This will ensure that the integrity of the ecosystems and sustainability of the resource is not compromised

⁴² *Ensure that areas under agriculture, aquaculture, fisheries and forestry are managed sustainably, in particular through the sustainable use of biodiversity, including through a substantial increase of the application of biodiversity friendly practices, such as sustainable intensification, agroecological and other innovative approaches contributing to the resilience and long-term efficiency and productivity of these production systems and to food security, conserving and restoring biodiversity and maintaining nature's contributions to people, including ecosystem functions and services;*

“The Parties shall ensure the conservation of species and their habitats within the framework of land-use planning and of sustainable development Management of species and their habitats shall be based on the results of continued scientific research and Parties shall:

(j) provide for fair and equitable access to genetic resources, on terms mutually agreed between the providers and users of such resources”;

⁴² “The Parties shall ensure that in the formulation of all development plans, full consideration is given to ecological, as well as to economic, cultural and social factors in order to promote sustainable development”

⁴³ *The Parties shall promote the establishment by local communities of areas managed by them primarily for the conservation and sustainable use of natural resources”;*

“The Parties shall ensure that in the formulation of all development plans, full consideration is given to ecological, as well as to economic, cultural and social factors in order to promote sustainable development”;
The Parties shall promote the establishment by local communities of areas managed by them primarily for the conservation and sustainable use of natural resources”

“The Parties shall promote the establishment by local communities of areas managed by them primarily for the conservation and sustainable use of natural resources”;

The Parties shall ensure that in the formulation of all development plans, full consideration is given to ecological, as well as to economic, cultural and social factors in order to promote sustainable development”

similar objectives like sustainable use and equitable participation. By aligning these efforts, South Africa can ensure a streamlined and efficient licensing system that supports a thriving small-scale fisheries sector while safeguarding marine resources for the future.

5.2. To enable fishing communities and indigenous fisherfolk to fully participate in the biodiversity economy strategy, securing their tenure rights is essential. This means ensuring they have recognized rights to access and manage fishing grounds. The strategy should prioritize securing these rights through government-led co-management arrangements or the recognition of Indigenous Community Conserved Areas (ICCAs). ICCAs are areas of land and/or water traditionally managed by Indigenous Peoples and local communities that contribute significantly to the conservation of biodiversity. The UN Convention on Biological Diversity's (CBD) post-2020 Global Biodiversity Framework (GBF) recognizes this through Target 3, which calls for the integration of the rights of custodians of territories of life, those who traditionally manage and conserve their lands and waters (such as Indigenous Peoples and local communities).⁴⁴ The importance of this recognition is further bolstered by Article 12(3) of the Africa Convention on Conservation of Nature and Natural Resources, to which South Africa is a signatory and has adopted the principles. By adopting the language of Target 3 of the GBF and article 12(3) of the Africa Convention within the biodiversity economy strategy, particularly action 3.2, the Department can ensure secure tenure rights for these communities. This, in turn, recognizes their crucial role in protecting biodiversity and fostering a truly transformative and just approach to managing our natural resources.

6. Transformative Value Chains:

6.1. Transforming the value chains of small-scale sustainable harvesting strategies within the biodiversity economy strategy requires a human rights-based approach that prioritizes inclusivity and fair labour practices. This means designing and implementing labour standards that protect the rights and well-being of small-scale fishers. This approach aligns perfectly with the principles of the Kunming Montreal global biodiversity framework⁴⁵, which emphasizes both environmental sustainability

⁴⁴ ICCA Consortium (2021). Territories of Life: 2021 Report. Executive Summary. ICCA Consortium: worldwide. Available at: report.territoriesoflife.org

⁴⁵ Section 7(g) "The Kunming-Montreal Global Biodiversity Framework, including its Vision, Mission, Goals and Targets, is to be understood, acted upon, implemented, reported and evaluated, consistent with the following:

(g) *"The implementation of the Framework should follow a human rights-based approach, respecting, protecting, promoting and fulfilling human rights. The Framework acknowledges the human right to a clean, healthy and sustainable environment"*

Target 14 *"Ensure the full integration of biodiversity and its multiple values into policies, regulations, planning and development processes, poverty eradication strategies, strategic environmental assessments, environmental impact assessments and, as appropriate, national accounting, within and across all levels of government and across all sectors, in particular those with significant impacts on*

and social justice. By prioritizing the well-being of small-scale fishes, the national biodiversity economy strategy can create a more equitable and sustainable future for this vital sector. In addition to the above suggestions, further measures that could be adopted include:

6.1.1. The promotion of gender equality and social inclusion within the small scale fishing sector by addressing gender disparities, empowering women and marginalized groups, and promoting their active participation in leadership decision making processes, cooperatives, and value chains. This will ensure the recognition and support of the contributions of women fisherfolk to sustainability and resilience of marine ecosystems and coastal communities within the context of climate change.

6.1.2 Providing social safety nets, life insurance programs for families in case of accident at sea, foster security and Peace of Mind for small scale fishers.

6.1.3 The acknowledgment and upholding of rights of indigenous peoples to access and manage natural resources in accordance with their customary laws, traditions, and cultural practices. This could be developed to implement legislative mechanisms which support the: (i) respect and protection of small scale fisher folk, particularly the indigenous fisherfolk and local communities fishing rights (ii) the establishment of fishing territories⁴⁶⁴⁷ and customary governance systems thereby ensuring that their rights are legally recognized and upheld in all the aspects of the sustainable harvest strategy, and (iii) promotion of equitable permits and resources for small-scale fisherfolk, particularly indigenous and local communities, by addressing barriers to entry faced by small-scale fishers through simplifying regulations,

biodiversity, progressively aligning all relevant public and private activities, and fiscal and financial flows with the goals and targets of this framework”

Target 18 “Identify by 2025, and eliminate, phase out or reform incentives, including subsidies, harmful for biodiversity, in a proportionate, just, fair, effective and equitable way, while substantially and progressively reducing them by at least \$500 billion per year by 2030, starting with the most harmful incentives, and scale up positive incentives for the conservation and sustainable use of biodiversity

⁴⁵ *Substantially and progressively increase the level of financial resources from all sources, in an effective, timely and easily accessible manner, including domestic, international, public and private resources, in accordance with Article 20 of the Convention, to implement national biodiversity strategies and action plans, mobilizing at least \$200 billion per year by 2030, including by:*

Target 19(f) Enhancing the role of collective actions, including by indigenous peoples and local communities, Mother Earth centric actions and non-market-based approaches including community based natural resource management and civil society cooperation and solidarity aimed at the conservation of biodiversity.

⁴⁶ Section 19 (1)(a) of the Marine Living Resources Act no 5 of 2014 which states “ The Minister, in order to achieve the objectives contemplated in section 9(2) and 39(3) of the Constitution, by notice-

- (a) Must, subject to any law relating to marine protected areas, establish areas or zones where small-scale fishers may fish

⁴⁷ Section 5(1) and 5(2)(a) of the Regulations on Small-Scale fishing (DAFF) 2016 which states-

“In order to facilitate the establishment of areas where small scale fishers may fish, the Department must set up a procedure to engage and consult with the small-scale fishing community in proposing demarcated areas that may be established as areas where small-scale fishers may fish.”

reducing licensing fees, and streamlining bureaucratic processes. This will ensure fair, transparent and non-discriminatory access to fishing areas and resources.

6.2 In addressing community engagement and empowerment, the government proposal regarding action 3.2 support inclusive stakeholder engagement through facilitating active participation of indigenous peoples, local fisherfolk communities and marginalized groups in the design, planning and decision making processes related to the sustainable harvest strategy. Government is encouraged to establish mechanisms for meaningful consultation, dialogue and collaboration to incorporate diverse perspectives, incorporate traditional knowledge and cultural values into the strategy's development.

Conclusion:

6.3. By integrating these proposed measures into the South Africa's national biodiversity economic strategy, the country can adopt a human rights based approach that promotes inclusivity, fairness and sustainability in the development and implementation of small scale sustainable harvest strategy. This approach will not only safeguard the rights and well-being with indigenous peoples and local communities but also contribute to the conservation and sustainable use of the resources from present and future generations.

7.1. Co- Development of Resource Management Plans

7.1.1. Our oceans face increasing demands, with various activities competing for space and resources. To address these challenges, a cross-sectional approach to the development of resource management plans within the context of small-scale harvesting strategies, is essential. This means considering the needs and values of all stakeholders, particularly indigenous peoples and local communities who possess a wealth of traditional ecological knowledge (TEK). TEK refers to the body of knowledge, practices, and beliefs accumulated by these communities over generations through living in close interaction with their environment.

Effective integrated and participatory spatial planning, where all stakeholders are involved, allows us to strike a balance. We can safeguard marine ecosystems, particularly the ecosystems that small-scale fishers are dependent on, while promoting sustainable development, ensuring food security and human well-being, and respecting the rights of indigenous communities.

To achieve this balance, particularly in the context of Target 1 of the GBF, the development of small-scale sustainable harvesting strategies must integrate several key considerations:

- (a) scientifically informed biodiversity considerations which ensure that harvesting practices for a economy strategy supported small-scale harvesting, are ecologically sound and protect marine biodiversity

- (b) The integration of knowledge and wisdom of indigenous and local communities who have traditionally stewarded the marine resources
- (c) Addressing barriers and promoting efficiency by removing obstacles of entry for small-scale fishers, achieving economies of scale, and fostering transformative value chains within the fisheries sector.

7.1.2. Collaborative planning culminates in a co-creation of fisheries resource management plans. These plans should address key issues like quotas, restrictions on gear types, establishment of protected areas, and monitoring protocols. Developing these resource management plans for the small-scale sector, requires open communication and willingness to find common ground. Therefore, it is encouraged that establishing clear conflict resolution mechanisms will ensure that differing viewpoints can be addressed constructively, and mutually agreeable solutions can be reached.

2. For resource management plans to remain adaptive to changes brought on by climate change, pressures brought on by human activities, and unsustainable practices regular meetings should be held between all stakeholders to provide updates on the implementation of the plans and address any concerns that may arise. This will require that co-developed management plans are made publicly available in different languages, thereby ensuring easy access for all stakeholders including indigenous peoples and local fisherfolk communities involved in the small-scale harvesting economy.

7.2. Community Involvement in Conservation

7.2.1. The foundation of collaborative planning lies in effective stakeholder engagement. A key aspect of collaborative planning is the sharing and integration of knowledge. Traditional Ecological Knowledge (TEK) held by indigenous peoples and local fisher folk communities represents a valuable source. Workshops facilitated by conservation government agencies and private entities, involving indigenous and local community fisher folk, could be organized where these communities can share their insights on fisheries practices, seasonal variations, and habitat health. This TEK could be combined with scientific data on fish stocks, environmental conditions, and habitat vulnerability to create a holistic understanding of the ecosystem.⁴⁸

Furthermore, collaborative fact-finding missions involving all stakeholders, (ie inclusive of indigenous peoples and local communities) can be organized. These missions offer a firsthand opportunity for stakeholders to observe the challenges and opportunities associated with resource management. By sharing experience during these missions, a sense of collective responsibility can be fostered, leading to more effective collaborative decision-making processes.

⁴⁸ According to the UNEP/CBD/COPDEC/XII/12 B ANNEX of the Plan of Action on Customary Sustainable use of Biological Diversity general principle 3 of the plan outlines that traditional knowledge should be valued, respected and considered as useful and necessary for biodiversity conservations and sustainable use as other forms of knowledge.

7.2.2. Community-Based Monitoring and Enforcement

7.2.3. A long term approach is vital for ensuring the sustainability of our oceans. A successful national biodiversity economy strategy that influences the small-scale fishing sector should include a monitoring program where all stakeholders, in this case the involvement of community based monitoring by indigenous peoples and local fisherfolk communities, participate in data collection monitoring and evaluation.⁴⁹ This data can then be used to evaluate the effectiveness of the community based management over time, allowing for adjustments as needed.

Conclusion:

7.2.4. In conclusion when updating the national biodiversity strategy and action plans relating to the draft national biodiversity economy strategy which governs the small-scale fishing sector, the draft should be aligned with the Kunming Montreal global biodiversity framework. This alignment ensures synergy with the planning and implementation mechanisms of other biodiversity related agreements. For example, aligning with the African convention and Conservation of Nature natural resources, conventional biological diversity, and then the United Nations framework convention on climate change promotes maximum efficiency and coherence and she wrote global biodiversity goals.

Commentary on Action 4.4 relating to the identification of mechanisms, in consultation with traditional harvesters and healers, to scale cultivation of indigenous medicinal plants for sustainable use within the traditional medicine sector

Introduction:

Natural Justice expresses its encouragement of government commitment to supporting the invaluable contributions of traditional medicine to healthcare, whilst preserving traditional healing practices of traditional harvesters and healers. The proposed action 4.4 within the national biodiversity economy strategy represents a commendable step towards advancing

⁴⁹ Art 18(1) and (2) of the African Convention on Conservation of Nature and Natural Resources which state:

18 (1) "The Parties shall strengthen their capabilities to carry out scientific and technological research in conservation, sustainable utilization and management of natural resources paying particular attention to ecological and socio-economic factors as well as their integration, and shall ensure the application of research results to the development and implementation of their environmental conservation policies.

and

18(2) The Parties shall promote cooperation in scientific and technological research, as well as in economic and marketing systems, between themselves and with third parties in the field of environmental conservation and sustainable use of natural resources.

sustainable practices within the traditional medicine sector. By focusing on identifying mechanisms to scale the conservation of indigenous medicinal plants while promoting ecological conservation, this initiative embodies a harmonious blend of cultural preservation and environmental stewardship. Natural Justice however seeks to highlight critical some principles below that require further attention within the implementation of action 4.4

Recognition of Traditional Knowledge:

1. In light of the above, it is crucial to emphasize the importance of recognizing and respecting the traditional knowledge held by indigenous and local community healers and traditional harvesters as enshrined in both the Kunming-Montreal Global Biodiversity Framework⁵⁰ and the African Convention on Conservation of Nature and Natural Resources.⁵¹ These international agreements underscore the invaluable role of traditional knowledge in biodiversity conservation and sustainable resource management. It is therefore necessary for national biodiversity strategies and action plans to be strengthened by integrating the traditional knowledge of indigenous and local healers and harvesters. This knowledge, alongside scientific data, can contribute to more effective and culturally appropriate conservation strategies.

To effectively implement the GBF and the African Convention on Conservation of Nature and Natural Resources, Natural Justice encourages the inclusion of mechanisms for recognizing and respecting the role of traditional knowledge of indigenous and local harvesters and healers within the medicinal sector. These mechanisms could include:

- 1.1. Establishing advisory councils composed of indigenous and local traditional community harvesters and healers.
- 1.2. Supporting research projects that integrate traditional knowledge with scientific research.
- 1.3. Developing educational programs that raise awareness about the value of traditional knowledge in biodiversity conservation.

⁵⁰ Target 21 of the Kunming-Montreal Global Biodiversity Framework which outlines that the best available data, information and knowledge are accessible to decision makers to guide effective and equitable governance, and which is integrated within the context of participatory management of biodiversity. This target is important because All countries need data, information and knowledge to identify threats to biodiversity, and determine needs and priorities, plan and take evidence-based decisions and actions, set benchmarks and monitor and report on progress for the conservation and sustainable use of biodiversity and the fair and equitable benefits arising from the utilization of genetic resources. Accessible biodiversity-related data, information and knowledge are critical for creating baselines, regularly assessing progress and taking necessary action.

⁵¹ Article 14(b) of the Convention which outlines that “parties to the Convention shall ensure that in the formulation of all development plans, full consideration is given to ecological, as well as to economic, cultural and social factors in order to promote sustainable development. In addition article 17(1) and (2) of the Convention outline that “parties must enact laws to protect traditional and intellectual property rights of local communities, including farming rights, as per this Convention. They must also ensure that access to indigenous knowledge is granted with prior informed consent of the communities involved and with regulations acknowledging their rights and the economic value of such knowledge”.

2. Inclusive Stakeholder Engagement:

2.1. Natural Justice commends the proposal of the establishment of a multi-stakeholder working group for the facilitation of inclusive stakeholder consultations. Any initiative aimed at scaling the cultivation of indigenous medicinal plants within the traditional medicine sector must prioritize the active involvement and empowerment of indigenous and local traditional harvesters and healers. By honouring their traditional knowledge systems, practices, and cultural heritage, we not only uphold their rights but also harness their expertise to achieve holistic and sustainable outcomes. Thus, it is imperative that action 4.4 of the national biodiversity economic strategy integrates mechanisms for meaningful engagement of indigenous and local traditional and local healers and harvesters, ensuring that their voices are heard and respected throughout the decision-making process.⁵²

3. Protection of Intellectual Property Rights:

3.1. National biodiversity strategies and action plans should advocate for robust measures to protect the intellectual property rights of indigenous and local traditional healers and harvesters of medicinal plants during the documentation process. This is critical to ensure compliance with the Kunming Montreal global biodiversity framework and the African convention on Conservation of Nature natural resources, which both recognize the rights of indigenous peoples and local communities to control their knowledge and benefit from its utilization. To ensure the protection of intellectual property rights, the documentation process should prioritize the following measures.

- 3.1.1. Informed consent and prior consultation through FPIC (Free, Prior, and Informed Consent) with traditional healers and harvester before documenting their knowledge and practices.⁵³
- 3.1.2. Prioritizing the recognition and protection of intellectual property rights through collective copy right or sui generis systems that prohibit the unauthorized use, exploitation and misappropriation of traditional knowledge, in order to safeguard the intellectual property rights associated with traditional medicine knowledge.⁵⁴
- 3.1.3. Prioritizing the establishment of community-based governance structures and participatory mechanisms for the management and

⁵² Target 5 of the Kunming-Montreal Global Biodiversity Framework which outlines that the implementation of the GBF must ensure that the use, harvesting and trade of wild species is sustainable, safe and legal, preventing overexploitation, minimizing impacts on non-target species and ecosystems, and reducing the risk of pathogen spillover, applying the ecosystem approach, while respecting and protecting customary sustainable use by indigenous peoples and local communities. Elements of Target 5 are addressed in the targets of the SDGs, including targets 12.2., 14.4, 14.7, 15.2 and 15C.

⁵³ Article 17(1) and (2) of the Convention outline that “parties must enact laws to protect traditional and intellectual property rights of local communities, including farming rights, as per this Convention. They must also ensure that access to indigenous knowledge is granted with prior informed consent of the communities involved and with regulations acknowledging their rights and the economic value of such knowledge.

⁵⁴ See note 55 above.

protection of traditional knowledge associated with traditional medicine.⁵⁵

Conclusion:

By advocating for robust measures to protect intellectual property rights of indigenous and local traditional healers and harvesters of medicinal plants, we can ensure that their knowledge is respected, preserved, and valued as a vital component of global biodiversity conservation efforts.

4. Sustainable Practices:

4.1. Incorporating sustainable cultivation practices and implementing capacity building programs for traditional and indigenous healers and harvesters, is paramount in the development of mechanisms to scale the cultivation of indigenous medicinal plants within the medicinal sector. The significance of these efforts worth considering, lies in several key areas as highlighted below:

- 4.1.1. Sustainable cultivation practices can ensure the long-term viability of medicinal plants by minimizing environmental degradation, habitat loss and overexploitation. Through the process of capacity building of ecosystem based adaptation methods⁵⁶ such as agroforestry, organic farming, and biodiversity friendly cultivation techniques, traditional healers and harvesters can contribute to the conservation of plant species diversity and ecosystem resilience.
- 4.1.2. By building the capacity of traditional healers and harvesters through economic empowerment and livelihood diversification programs, the biodiversity economy strategy can achieve two key goals:
 - (a) These programs can equip traditional healers and harvesters with the skills and knowledge to cultivate medicinal plants sustainably. This will allow them to access local and global markets for their products. They can also develop value-added products increasing their earning potential.

⁵⁵ Actions taken to implement target 3, 5 of the GBF and article 17(2) of the African Convention on Conservation of Nature and Natural Resources, should take into account indigenous and local systems for the control, use and management of natural resources, and they should not restrict such customary sustainable use. Customary use of biological resources includes spiritual, cultural, economic and subsistence functions.

⁵⁶ Target 5 of the GBF which affirms the idea of ecosystem approach which is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way. Application of the ecosystem approach helps to reach a balance of the three objectives of the Convention. It is based on the application of appropriate scientific methodologies focused on levels of biological organization that encompass the essential processes, functions and interactions among organisms and their environment. It recognizes that humans, with their cultural diversity, are an integral component of ecosystems. The ecosystem approach is the primary framework for action under the Convention on Biological Diversity

- (b) Through the support of the healers and harvesters community, the indigenous and traditional healers and harvesters will be equipped to create a sustainable and profitable source of income broadening economic opportunities within the communities they operate.

4.1.3. Scaling up the capacity building of indigenous and traditional healers and harvesters in sustainable cultivation practices for medicinal plants is crucial. By prioritizing this effort, the biodiversity economy strategy can achieve significant benefits for both healthcare providers and communities. These include the following:

- (a) Improved supply of medicinal plants as a result of a larger pool of skilled cultivators. This will ensure that there is a steady supply of high-quality medicinal plants which are capable of meeting the needs of traditional healers and healthcare practitioners.
- (b) Through the prioritization of scaling the capacity building of indigenous and traditional healers and harvesters of sustainable cultivation of plants for the traditional medicinal sector, within the context of health and wellness benefits, traditional healers and harvesters are likely to ensure the availability, quality and accessibility of medicinal resources for communities.⁵⁷ This will contribute to the overall health and wellbeing of communities.

4.1.4. Incorporating sustainable cultivation practices and implementing capacity building programs for traditional indigenous healers and harvesters is essential for scaling the cultivation of indigenous medicinal plants within the traditional medicinal sector. The above mentioned efforts not only contribute to biodiversity conservation, ecosystem health, and cultural preservation but also foster economic empowerment, livelihood diversification, and improved health and wellness outcomes for indigenous peoples and local communities.

⁵⁷ Target 10 of the GBF which outlines that implementation of the target must ensure sustainable management of agriculture, aquaculture, fisheries and forestry by promoting biodiversity friendly practices like sustainable intensification and agroecology. These approaches will enhance productivity, resilience, and efficiency while conserving biodiversity, restoring ecosystems, and maintaining nature's contributions to people. Biodiversity-friendly practices are those that help to increase the positive effects and reduce the negative effects of production practices on biodiversity. They largely overlap with practices that make enhanced use of biodiversity on farm to support the productivity and resilience of agriculture. They can take different forms depending on the production systems being considered

- 4.1.5. By integrating sustainability principles and capacity building initiatives into the development of cultivation mechanisms, the national biodiversity economy strategy can promote the resilience, integrity, and sustainability of traditional medicine systems for the benefit of present and future generations.

5. Legal Frameworks and Access-Benefit Sharing:

5.1. The development and implementation of strong legal frameworks within the ambit of the strategy regulating the scaling of the cultivation of indigenous medicinal plants for sustainable use, within the traditional medicine sector, are crucial to securing fair compensation for the use of traditional knowledge of medicinal plants within the traditional medicinal sector. These frameworks should fully align with the principles of the Kunming- Montreal Global Biodiversity Framework and the African Convention on Conservation of Nature and Natural Resources⁵⁸, which recognize the rights of indigenous and local communities and promote equitable benefit sharing⁵⁹ Key components of these legal framework should include:

- 5.1.1. Clear regulations governing access and benefit sharing of traditional knowledge related to medicinal plants.
- 5.1.2. Well-defined benefit sharing mechanisms that provide indigenous and local harvesters and healers with fair compensation, such as monetary rewards, capacity building opportunities, investment in community development projects, or legal ownership of intellectual property rights derived from their traditional knowledge.
- 5.1.3. The implementation of the principles of free, prior, informed consent requirements with respect to the knowledge that is accessed or utilised in commercial products or research.⁶⁰

Conclusion:

5.2. Effective effective implementation of these frameworks within the national biodiversity economy strategy, requires active stakeholder engagement, particularly with indigenous and local community harvesters

⁵⁸ Target 13 of the GBF which seeks to give effect to Article 8(j) of the CBD affirms the position that the sharing of benefits that arise from the utilization of genetic resources and associated traditional knowledge is one of the three objectives of the Convention and a key pillar for the success of its implementation. In addition to target 13 of the GBF, Article 17(3) of the also outlines that the “*parties shall take the necessary measures to enable active participation by the local communities in the process of planning and management of natural resources upon which such communities depend with a view to creating local incentives for the conservation and sustainable use of such resources*”.

⁵⁹ See target 13 and article 18 which outlines that “*The Parties shall strengthen their capabilities to carry out scientific and technological research in conservation, sustainable utilization and management of natural resources paying particular attention to ecological and socio-economic factors as well as their integration, and shall ensure the application of research results to the development and implementation of their environmental conservation policies.*”

⁶⁰ See note above.

and healers. Transparency and accountability throughout the process are essential. Additionally, establishing mechanisms to monitor compliance and enforce penalties for violations is crucial for ensuring the frameworks function effectively.

6. Land Tenure Security:

6.1. The Kunming-Montreal Global Biodiversity Framework⁶¹ and the African Convention on Conservation of Nature and Natural Resources⁶² both recognize the crucial role of indigenous peoples and local communities in biodiversity conservation and knowledge systems. Securing land tenure for indigenous peoples and local communities aligns perfectly with these frameworks' commitment to respecting customary land rights and promoting the equitable sharing of benefits from biodiversity resources. A national biodiversity economy strategy aiming to scale cultivation of indigenous medicinal plants hinges on secure land tenure for indigenous peoples and local communities. Without secure access to land, scaling up cultivation efforts becomes significantly more challenging.

Given the above, Natural Justice encourages the following recommendations:

- 6.1.1. The cross-sectoral review of national, provincial and local policies and legislation on natural resource management, conservation, adaptation and associated land tenure policies in order to ensure that they recognize and uphold the customary land rights of indigenous peoples and local communities, particularly those related to accessing and using medicinal plants.
- 6.1.2. The development of collaborative management models where indigenous peoples and local communities participate in decision making processes affecting the use of and management of land containing medicinal plants.

Conclusion:

⁶¹ Target 3 of the GBF which outlines that Well-governed, effectively managed and representative protected areas and other effective area-based conservation measures (OECMs) are a proven method for safeguarding both habitats and populations of species and for delivering important ecosystem services and multiple benefits to people. They are a central element of biodiversity conservation strategies at local, national and global levels. Protected areas and OECMs can take various forms, ranging from strictly protected areas to areas that allow sustainable use consistent with the protection of species, habitats and ecosystem processes. Ideally target 3 must be aligned with target 1 and 2 within the implementation of restoration, land and water governance, spatial planning and relayed land and resource management.

⁶² Article 12(3) of the Convention which outlines that "the parties shall promote the establishment by local communities of areas managed by them primarily for the conservation and sustainable use of natural resources"

6.2. Securing land tenure for indigenous peoples and local communities is not just about upholding their rights, it's an investment in the future of the traditional medicinal sector and the sustainable use of biodiversity. By aligning national strategies with international frameworks and implementing the recommendations outlined above, the national biodiversity economy strategy can create an enabling environment where indigenous peoples and local communities can flourish as stewards of traditional knowledge and contribute to a thriving and sustainable national biodiversity economy. This will also result in the preservation of cultural heritage and traditional ecological knowledge for the benefit of present and future generations, particularly in the context of addressing climate change impacts through ecosystem based adaptation.

7. Monitoring and Evaluation:

7.1. Kunming Montreal global partnership framework and the African convention and Conservation of Nature natural resources both and the traditional ecological knowledge in achieving biodiversity conservation goals. Natural Justice encourages the consideration of the following recommendations for establishing a comprehensive monitoring and evaluation system that assesses the impact of the scaling of cultivation, whilst also aligning with the above-mentioned international commitments:

- 7.1.1. Inclusive participation of indigenous and local traditional harvesters and healers within the design, implementation and evaluation of the M&E system alongside government agencies, scientists, and other relevant stakeholders.⁶³
- 7.1.2. The integration of traditional ecological knowledge indicators and methodologies in order to create a more holistic understanding of the impacts of cultivation practices on medical species. This will go a long way in developing standardized protocols for monitoring changes in species populations, habitat health and ecosystem functioning in areas where medicinal plant cultivation is taking place.
- 7.1.3. Incorporating monitoring and evaluation indicators that monitor the socio-economic impacts of cultivation on the livelihoods and wellbeing of indigenous and local traditional harvesters and healers, including changes in income, food security and cultural practices.

⁶³ Art 18(1) of the African Convention on Conservation of Nature and Natural Resources which state:

18 (1) "The Parties shall strengthen their capabilities to carry out scientific and technological research in conservation, sustainable utilization and management of natural resources paying particular attention to ecological and socio-economic factors as well as their integration, and shall ensure the application of research results to the development and implementation of their environmental conservation policies.

- 7.1.4. Establishing monitoring and evaluation mechanisms that evaluate the effectiveness of existing benefit sharing mechanisms in order to identify areas of improvement for conservation and sustainable use, as well as benefit sharing.
- 7.1.5. Developing standardized data collection methods in consultation with indigenous and local community harvester and healers, in order to facilitate data comparability across different regions. This will require capacity building programs for indigenous and local traditional community harvesters and healers, in order to ensure transparent, equitable and fair participation in data collection and management activities.⁶⁴
- 7.1.6. Lastly, adopting the use of monitoring and evaluation results to inform adaptive management decisions regarding cultivation practices and broader policies related to the traditional medicinal sector.

Conclusion:

7.2. By establishing a comprehensive monitoring and evaluation system that incorporates the principles outlined above, the national biodiversity economy strategy can ensure that the cultivation of medicinal plants aligns with the GBF and the African convention. This system will provide valuable insights into the impacts of cultivation and biodiversity and the well-being of indigenous and local communities, ultimately contributing to a more sustainable and equitable management of our natural resources.

8. Market Access and Fair Trade:

8.1. The traditional medicinal sector offers a wealth of knowledge and resources for healthcare, particularly in regions with limited access to conventional medicine. However, indigenous and local communities (ILCs) who are the stewards of this knowledge and practice often face challenges in accessing markets and securing fair compensation for their products. These challenges often relate to barriers to market access and fair trade which includes; limited market knowledge, unfair pricing practices and the lack of certification and standardization. In order to ensure these challenges are overcome, the current biodiversity economy strategy is encouraged to reconsider the establishment of mechanisms that improve

⁶⁴ Target 21 of the Kunming-Montreal Global Biodiversity Framework which outlines that the best available data, information and knowledge are accessible to decision makers to guide effective and equitable governance, and which is integrated within the context of participatory management of biodiversity. This target is important because All countries need data, information and knowledge to identify threats to biodiversity, and determine needs and priorities, plan and take evidence-based decisions and actions, set benchmarks and monitor and report on progress for the conservation and sustainable use of biodiversity and the fair and equitable benefits arising from the utilization of genetic resources. Accessible biodiversity-related data, information and knowledge are critical for creating baselines, regularly assessing progress and taking necessary action.

instances where indigenous and local traditional harvesters and healers can benefit from sustainable harvesting whilst reducing any likely impacts to wild species. Natural Justice proposes the integration and support of the following measures for improved market access and fair trade:

- 8.1.1. Market access facilitation programs which connect indigenous and local traditional harvesters and healers with potential buyers. Through these programs, support could be garnered by various stakeholders in partnership with government to train the harvesters and healers benefiting from harvesting activities with marketing techniques and facilitating participation in trade fairs and other marketing opportunities.
- 8.1.2. Fair trade certification schemes that promote and support the adoption of fair trade certification schemes for harvested products harvested through traditional or cultural practices by traditional harvesters and healers. This will assist in ensuring fair prices and transparent practices.

8.2. The above mentioned measures are likely to result in a number of benefits that are envisaged by the GBF, the African Convention on Conservation of Natural Resources as they find articulation in NEMBA. These include the following:

- 8.2.1. Improved livelihoods as a result improved market access and fair trade which contributes to increased income.
- 8.2.2. Biodiversity conservation through the fair compensation which incentivizes and bolsters sustainable harvesting practices which ultimately results in a reduction on pressure on wild plant populations.

8.3. Prioritizing market access and fair trade for indigenous and local (ILC) traditional harvesters and healers is not just a matter of economic empowerment; it aligns perfectly with international commitments to biodiversity conservation and equitable benefit-sharing. By implementing the recommendations outlined above, the national biodiversity economy strategy can facilitate a more just and sustainable future for the traditional medicinal sector, ensuring that ILCs are recognized and rewarded for their invaluable contributions to healthcare and biodiversity conservation.

9. Conclusion:

9.1. The proposed strategy for an inclusive, integrated, and formalized biodiversity based harvesting and production holds immense promise. This comprehensive approach fosters not only the sustainable use of natural resources but also the empowerment of local communities, particularly through the identification of mechanisms to scale the cultivation of

indigenous plants. This focus on community benefit aligns perfectly with the growing global recognition of the vital role indigenous and local communities play in biodiversity conservation and traditional medicine practices.

The proposed strategy to identify mechanisms for scaling the cultivation of indigenous plants within the traditional medicine sector is particularly noteworthy. This approach offers several advantages:

- 9.1.1. Cultivation reduces pressure on wild populations, ensuring a reliable source of medicinal plants for future generations.
- 9.1.2. By cultivating plants, indigenous and local community harvesters and traditional healers can generate income, improve their livelihoods, and contribute to local economic development.
- 9.1.3. Scaling traditional and cultural harvesting practices embedded in a rich culture and heritage of ecological preservation safeguards traditional knowledge and practices associated with medicinal plants, ensuring their continuity for future generations.

9.2. Consulting directly with indigenous and local community harvesters and traditional healers during the development of these mechanisms is crucial. Their expertise in sustainable harvesting practices, plant identification, and ecological knowledge is invaluable. This collaboration fosters a sense of ownership and ensures that the scaling up process respects their cultural values and traditional ways of life.

9.3. Natural Justice endorses the proposed strategy for an inclusive, integrated, and formalized biodiversity-based harvesting and production sector. By prioritizing community benefit and focusing on scaling cultivation in collaboration with indigenous and local community harvesters and healers, this approach offers a promising pathway towards a sustainable and equitable future for biodiversity management and the traditional medicine sector.

Commentary on Action 5.1 to expand the areas of land under conservation land use by acquisition, partnering, stewardship and other OECMs

10. The proposed strategy for conservation estate expansion and the recognition of the importance of involving indigenous and local communities within South Africa's national biodiversity strategy are commendable steps towards achieving holistic conservation goals and fostering inclusive stewardship of natural resources. By expanding conservation estates, the strategy acknowledges the critical need to protect and restore ecosystems, safeguard

biodiversity, and mitigate the impacts of climate change. Moreover, by actively involving indigenous and local communities and conservation efforts, the strategy attempts to honor their traditional knowledge, cultural heritage and inherent rights to access and manage their ancestral lands. This inclusive approach will not only enhance the effectiveness and sustainability of conservation initiatives but also promote social equity, economic empowerment, and community resilience. It is through collaborative partnerships and shared stewardship that South Africa can address the interconnected challenges facing our planet of fostering a future with both nature and people thrive.

11. Support for Inclusive Approach:

- 11.1. The emphasis on action 5.1, promoting an inclusive approach that recognizes the vital role indigenous peoples and local communities play in the stewardship of natural resources, is a commendable step forward in South Africa's conservation efforts. By prioritizing partnerships, stewardship, and other effective area based conservation measures (OECMs), this action not only acknowledges the traditional ecological knowledge and cultural practices of indigenous peoples and local communities but also leverages their invaluable contributions to biodiversity conservation and sustainable resource management.
- 11.2. Indigenous peoples and local communities have long been the custodians of diversity systems, producing unique insights into their intricate workings and interdependencies. Their deep connection to the land, coupled with centuries of accumulated wisdom, positions them as essential partners in conservation endeavors. By actively involving them in decision making processes, land management initiatives, and conservation projects, the strategy not only honors their rights and responsibilities but also harness their expertise and commitment to achieving conservation goals.
- 11.3. Furthermore, an inclusive approach to conservation fosters greater equity, social justice, and empowerment within indigenous and local communities.⁶⁵ Involving indigenous peoples and local communities in biodiversity conservation and the recognition of their perspectives and expertise can contribute to the development of context-specific and effective conservation strategies. Therefore by recognizing their customary land rights, traditional governance systems, and cultural heritage the strategy affirms their intrinsic connection to the land and strengthen their

⁶⁵ Target 22 of the GBF which outlines that Indigenous peoples and local communities have a cultural and holistic understanding of nature based on their traditional knowledge, practices and innovation. This information and understanding of biodiversity in turn play a crucial role in the conservation and sustainable use of biodiversity. The insights of indigenous and local communities on local ecosystems play a fundamental role in developing conservation initiatives.

resilience in the face of environmental challenges such as climate change and social economic disparities.⁶⁶

Conclusion:

11.4. Ultimately, action 5.1 exemplifies the transformative approach to conservation, one that values diversity, fosters collaboration, and prioritizes the well-being of both people and nature. By embracing the principles of inclusivity and partnership, South Africa's biodiversity conservation and sustainable use efforts can pave the way for more effective, equitable, and sustainable outcomes, ensuring the protection and prosperity of our natural heritage for generations to come.

12. FPIC and Community Participation:

12.1. Incorporating free, prior, and informed consent principles and involving indigenous peoples and local communities in conservation decisions is crucial, especially within the ambit of Action 5.1. FPIC ensures their right to participate in decisions affecting their land respectfully and transparently. Their involvement enhances conservation legitimacy, leveraging their knowledge for effective strategies.⁶⁷ Meaningful engagement promotes equity aligns efforts with justice principles. In conclusion, FPIC inclusion is essential for equitable and sustainable conservation from prioritizing partnerships with indigenous peoples and local communities.

13. Securing Land Tenure for a sustainable future:

13.1. The expansion of areas under conservation land use must be done in a way that respects the rights and livelihoods of those who have historically relied on these land. Indigenous and local communities often have deep historical and cultural ties to these lands, and securing their land tenure rights is essential for successful conservation efforts.

13.2. Natural Justice strongly recommends that all efforts to expand areas under conservation land use prioritize securing land tenure rights for

⁶⁶ Target 8 of the GBF affirms the recognition of customary land rights and traditional governance systems particularly where they are informed by nature based solutions or ecosystem based approaches that provide the potential to increase resilience of ecosystems and human livelihoods to the impacts of climate change. These approaches can deliver numerous social, economic and environmental co-benefits.

⁶⁷ Target 3 of the GBF which outlines that Well-governed, effectively managed and representative protected areas and other effective area-based conservation measures (OECMs) are a proven method for safeguarding both habitats and populations of species and for delivering important ecosystem services and multiple benefits to people. They are a central element of biodiversity conservation strategies at local, national and global levels. Protected areas and OECMs can take various forms, ranging from strictly protected areas to areas that allow sustainable use consistent with the protection of species, habitats and ecosystem processes.

indigenous and local communities residing in or adjacent to these areas.

This can be achieved through:

- 13.2.1. Land rights mapping that is implemented by way of conducting thorough land rights or land use mapping exercises involving indigenous peoples and local communities to identify and document their historical claims and customary land use practices.
- 13.2.2. Developing legal mechanisms that recognize and protect the customary land use rights or communally owned customary land of indigenous peoples and local communities within and around conservation areas.
- 13.2.3. Promoting collaborative management models where indigenous peoples and local communities have a say in decision making processes regarding resource management within conservation areas.

Conclusion:

13.3. By prioritizing secure land tenure rights for indigenous peoples and local communities, the strategy can create a win win situation for conservation and communities. The above-mentioned approach will go a long way in recognizing the historical and cultural ties of indigenous peoples and local communities to the land, fostering their active participation in conservation efforts, and ultimately contributing to a more sustainable future for biodiversity and local livelihoods.

14. Co-Management Agreements:

14.1. Natural Justice supports the establishment of co-management agreements and shared responsibilities between conservation authorities and indigenous peoples and local communities when implementing the strategy of expanding conservation areas. This collaborative approach offers numerous benefits for both conservation efforts and the well-being of local communities. The potential advantages of co-management include:

- 14.1.1. Enhanced knowledge base as many indigenous peoples and local communities have been reported to possess deep traditional knowledge about the local environment and sustainable practices. Co-management allows this knowledge to be integrated with scientific expertise, likely leading to more informed conservation strategies.
- 14.1.2. Increased stakeholder buy in when communities are actively involved in the decision making process through agreements or arrangements that enhance the sense of stewardship for the purposes of achieving successful conservation efforts.
- 14.1.3. The resultant improvement of effectiveness of conservation outcomes through leveraging the combined strengths and resources of both conservation authorities and indigenous peoples and local

communities. Traditional ecological knowledge, when combined with scientific expertise, is more likely to lead to more targeted and successful conservation efforts.⁶⁸

14.1.4. The promotion of equity and social justice which will ensure the recognition of associated rights and responsibilities thereby enhancing the recognition of indigenous peoples and local communities role as stewards of land for the benefit of present and future generations.

Conclusion:

14.2. Co-management is not a one size fits all approach. Developing culturally appropriate and flexible agreements that consider the specific needs and circumstances of each community is crucial. By fostering collaboration and shared responsibility, the strategy can ensure that conservation efforts are not only effective but also equitable and sustainable for both people and the environment.

15. Inclusive Governance:

15.1. Of conservation areas under various mechanisms like acquisition, partnering, stewardship and other effective area based conservation measures holds immense promise for safeguarding biodiversity. However, for these initiatives to achieve long term success and true sustainability, the inclusion of indigenous people's and local community representatives and governance structures is paramount. Natural Justice recommends the following measures to ensure inclusion of indigenous peoples and local community representatives in governance structures:

15.1.1. Developing culturally appropriate mechanisms for communication and participation which respects traditional ways of decision-making withing indigenous peoples and local communities.

15.1.2. Ensuring meaningful representation by prioritizing governance structures that include designated positions for indigenous peoples and local community representatives who have received appropriate community mandates and who can effectively voice the concerns and interests of their communities.

⁶⁸ Target 21 of the Kunming-Montreal Global Biodiversity Framework which outlines that the best available data, information and knowledge are accessible to decision makers to guide effective and equitable governance, and which is integrated within the context of participatory management of biodiversity. This target is important because All countries need data, information and knowledge to identify threats to biodiversity, and determine needs and priorities, plan and take evidence-based decisions and actions, set benchmarks and monitor and report on progress for the conservation and sustainable use of biodiversity and the fair and equitable benefits arising from the utilization of genetic resources. Accessible biodiversity-related data, information and knowledge are critical for creating baselines, regularly assessing progress and taking necessary action.

15.1.3. Investing in capacity building programs for representatives to equip them with the necessary skills and knowledge to navigate complex governance processes and participate meaningfully.

15.2. Beyond just inclusion of indigenous peoples and local communities in governance structures, they need to be empowered to actively shape conservation decisions which may involve for example, developing transparent benefit-sharing mechanisms that ensure that the communities receive fair compensation for their contributions to conservation efforts.

Conclusion:

15.3. The inclusion of indigenous peoples and local community representatives in governance structures is not just an act of good faith, it's a strategic necessity for successful and sustainable conservation. By recognizing their expertise, fostering active participation, and upholding their rights, the biodiversity economy strategy can build a future where conservation and community well-being go hand in hand. This inclusive approach ensures that the expansion of conservation areas leads to a positive impact on both people and environment.

16. Economic Opportunities:

16.1. Conservation has traditionally focused on protecting ecosystems from human activity. However, there is a growing understanding that recognizes the crucial role of indigenous peoples and local communities and conservation efforts.⁶⁹ Integrating economic opportunities within conservation areas offers a win win situation for both conservation and sustainable development of indigenous peoples and local communities. Some key considerations for implementing strategies for creating economic opportunities for indigenous peoples and local communities within conservation areas, include the following:

16.1.1. The facilitation of economic opportunities within conservation areas that are designed and managed by indigenous peoples and local communities, thereby ensuring they are able to benefit directly and have control over their resources.

16.1.2. Providing training and support to help indigenous peoples and local communities enhance their capabilities for market access for local and potential international markets for their products or services.

16.1.3. Ensuring all economic activities undertaken by indigenous peoples and local communities prioritize the long term health and biodiversity of ecosystems within conservation areas.

⁶⁹ Dawson, N. M., Bhardwaj, A., J., Chenet, A., Bennett, N. J., Mansourian, S., and Rosado-May, F. J. (2021). The role of Indigenous peoples and local communities in effective and equitable conservation. *Ecology and Society*, 26(3), 19. <https://doi.org/10.5751/ES-12625-260319>

Conclusion

16.2. Creating economic opportunities within conservation areas is a powerful tool for fostering sustainable development and empowering indigenous peoples and local communities. This approach recognizes their valuable role as stewards of the environment while providing them with the resources to improve their lives.

17. Conflict Resolution Mechanisms:

17.1. The expansion of conservation areas under instruments like acquisition, partnering, stewardship and other effective area based conservation measures (OECMs) is commendable. Yet, such efforts can sometimes lead to conflicts with communities residing in or near these areas. Acknowledging this potential and establishing transparent conflict resolution mechanisms, is crucial for ensuring the long term success and social equity of conservation initiatives.

17.2. Natural Justice recommends designing and implementing transparent conflict resolution mechanisms that give effect to the following:

17.2.1. Culturally appropriate procedures which respect traditional dispute resolution practices of indigenous peoples and local communities. This may involve incorporating elements or traditional mediation or arbitration methods alongside formal mechanisms.

17.2.2. Establishing independent and impartial conflict resolution bodies composed of individuals with expertise in conflict resolution, environmental law, and cultural sensitivity. Ideally, these bodies should not be affiliated with the government or conservation authorities involved in the land use expansion.

17.2.3. Establishing a grievance tracking system that monitors the progress of each case, keeps stakeholders informed, and ensures timely responses to concerns.

Conclusion:

17.3. Investing in transparent conflict resolution mechanisms may seem like an added cost, but it's a worthwhile investment in the long term success of conservation efforts. By building trust, fostering collaboration, and ensuring fair and inclusive processes, the biodiversity economy strategy can navigate conflicts constructively and cheap lasting conservation outcomes.

Part 3: CONCLUSION

Natural Justice's commentary underscores the necessity for:

- An inclusive and rights based approach to conservation associated with biodiversity and economic.

- Consideration of the effects of the proposed strategy on indigenous peoples and local communities.
- The national strategy for biodiversity conservation and economic benefit prioritizing the integration of diverse knowledge systems, including traditional ecological knowledge held by indigenous peoples and local communities. This inclusive approach will ensure that conservation efforts are enriched by a variety of perspectives, leading to more effective management strategies and the advancement of economic benefits derived from biodiversity.
- The alignment of national biodiversity strategies with international agreements and targets such as the Kunming-Montreal Global Biodiversity Framework and the African Convention on Conservation of Nature and Natural Resources
- Avoiding violations and displacement that may result from conservation projects.
- Recognizing and respecting the rights of indigenous peoples and local communities in conservation initiatives

The essence of the commentary is to advocate for conservation that are not only effective in preserving biodiversity but also just and equitable, ensuring that all stakeholders especially those most affected, have a voice in the process.

RECOMMENDATIONS:

The general recommendation made by Natural Justice are outlined below and include:

- The legal acknowledgement, recognition, respect and promotion of traditional knowledge held by indigenous and local community healers and harvesters, as mandated by international agreements like the Kunming-Montreal Global Biodiversity Framework and the African Convention on Conservation of Nature and Natural Resources
- The designing and implementing of transparent conflict resolution mechanisms that honor the traditional dispute resolution practices of indigenous peoples and local communities, while establishing independent and impartial conflict resolution bodies
- The promotion of the establishment of community-managed areas dedicated to conserving and sustainably use natural resources. The development plans which govern these community managed areas should consider ecological, economic, cultural and social factors to ensure sustainable development.
- The enhancement of the sustainability and transformation of commercial marine fisheries, with a focus on promoting gender equality and social inclusion in the small scale fishing sector. Additionally, the provision of safety nets and life insurance programs for small scale fishers.
- The elimination of harmful incentives that harm biodiversity, while increasing financial resources from all sources to implement national biodiversity strategies and action plans. This includes amplifying the role of collective actions, including those led by indigenous peoples and local communities, in biodiversity conservation.

These recommendations collectively address the multifaceted challenges of conservation displacement, prioritize partnerships and stewardship in conservation efforts, and recognize the invaluable contributions of indigenous peoples and local communities in biodiversity conservation and sustainable resource management.