

# **Governing Marine Protected Areas (MPAs) in California: Analysis of the MLPA Implementation process**

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Thesis submitted for the Degree of Doctor of Philosophy of the  
University College London

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2013



UCL

## **Declaration**

I, Minsuk Jun, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

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**Abstract**

Neoliberal governance strategies have been hegemonic in shaping global policy toward Marine Protected Areas (MPAs) over the past two decades. This impact has manifested itself in two key dimensions: the prominence given to public-private partnerships (PPPs) and the dependency upon civil society, particularly in the form of non-governmental organisations (NGOs). As a result, it is necessary to give primacy to the implication of PPPs and the role of NGOs in considering how best to govern MPAs. This is particularly the case in relation to efforts which seek the ‘right’ combination of ‘the market’, ‘the people’ and ‘the state’.

This thesis investigates the California Marine Life Protection Act (MLPA) implementation process, and particularly the MLPA Initiative, which is widely publicised as a successful case of a science-based stakeholder-driven process through PPP. The thesis involves a thorough exploration of how an ideal combination could be achieved based on the Central Coast Study Region (CCSR) MLPA implementation process.

Number of literary sources identified four key factors which have significantly contributed to the implementation of MLPA:

- 1) A strong legal mandate
- 2) Strong political will
- 3) A substantial level of stakeholder participation
- 4) Effective PPPs

However, despite the widely publicised claims, research findings suggest that finding the ‘right’ combination for the MLPA implementation process remains a difficult task. The strong legal mandate, which has provided the foundation for the science used, constrained the stakeholder participation process. Indeed, it suggests that the terms ‘*science-based*’ and ‘*stakeholder-driven*’ could be to some extent, oxymorons, whilst strong political will could potentially compromise stakeholder participation. Effective PPPs for the MLPA Initiative

represent a conundrum for PPP, since NGOs, including philanthropic foundations, increasingly exercise their influence on public policy to push through their agendas. Subsequently, PPP could potentially compromise the legitimacy of the process. Finally, the research findings suggest that the substantial level of stakeholder participation may not be a panacea for designating MPAs.



## **Acknowledgements**

There have been so many people who have supported me through the challenges of completing my PhD research. My most sincere thanks must go to my supervisor Dr. Peter Jones. Whilst there were a few crises during my research, I could always find my way out of trouble with his support and encouragement. I would not be here without Peter. I also thank my secondary supervisor Dr. Jan Axmacher for his comments and advice on an earlier draft of this thesis.

I would like to thank California Polytechnic State University, San Luis Obispo for supporting this research. I am particularly grateful to Dr. Dean Wendt for allowing me to stay and carry out my fieldwork. I am also very grateful to Cal Poly crews, Anniken Lydon, Cate Webster, Corbin Hodges, Eric Anderson, Melissa Daugherty, Michaela Maria Koeing, Johanna Weston, Kyle Geroge Summer, Kyle Purdy, Sara Gravem, and Loredana Serafinin, for supporting my research. I thank all the individuals who I interviewed during my fieldwork for generously offering their time and thoughts. This thesis could not have been completed without their assistance. I also sincerely thank my friends Nate Hall, who baptised me with SF Giants (thank you for letting me know what ‘torture’ feels like) Grant Waltz, who taught me all the wonderful idioms, and Nancy Brown, who is a wonderful chef, for making my fieldwork in California one of the highlights of my life.

Many thanks to my friends Alex Charlotte, Regan, Tauri, Wanfei, Will for sharing the joys and frustrations of PhD work. I also thank my Korean ‘Pride’, Changho, DongJoo, Dookyo, Jongkyu, Jungtak, Joohee, Hyeyoon for their friendship and moral support throughout my PhD. I sincerely thank Hyeri for her love and support.

Last, but not least, I wish to thank my family for their love and support. To my brother Hyungjoon, thank you for being there for me. My greatest gratitude of all belongs to my parents, who have supported me not only

throughout my PhD but also throughout my rather extended education. Thank you mom and dad for believing in me. Without your support and love, I could not have finished the PhD.

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**Abbreviations**

BINGOs	➤Big International Non Governmental Organisation
BRTF	➤Blue Ribbon Task Force
CBD	➤Convention on Biological Diversity
CCSR	➤Central Coast Study Region
CIMRN	➤Channel Islands Marine Reserve Network
CPR	➤Common Pool Resource
CPVFs	➤Commercial Passenger Fishing Vessels
DFG	➤Department of Fish and Game
GDP	➤Growth Domestic Product
GIS	➤Geographic Information System
I-Team	➤The MLPA Initiative Team
MMAs	➤Marine Managed Areas
MMAIA	➤Marine Managed Areas Improvement Act
MLMA	➤Marine Life Management Act
MLPA	➤Marine Life Protection Act
MOU	➤Memorandum of Understanding
MPA	➤Marine Protected Area
MRWG	➤Marine Reserves Working Group
NCCSR	➤North Central Coast Study Region
NCSR	➤North Coast Study Region
NGO	➤Non Governmental Organisation
NOEP	➤National Ocean Economic Program
NRDC	➤Natural Resources Defense Council
PPP	➤Public-Private Partnership
QUANGOs	➤Quasi-autonomous NGOs
RLG	➤Resources Law Group

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RLFF	➤Resources Legacy Fund Foundation
RSG	➤Regional Stakeholder
RLG	➤Resources Law Group
RLFF	➤Resources Legacy Fund Foundation
RSG	➤Regional Stakeholder
SAT	➤Science Advisory Team
SCSR	➤South Coast Study Region
SMCA	➤State Marine Conservation Area
SMP	➤State Marine Park
SMR	➤State Marine Reserve
TNC	➤The Nature Conservancy
UNFCCC	➤United National Framework Conservation on Climate Change
WWF	➤World Wide Fund for Nature

## **Chapter 1: Introduction**

It can be argued that neoliberalism, which has been the global hegemony over the last two decades, transformed the social structure through decentralisation and privatisation. As such, it could be further argued that the traditional concept of governance, which was once considered synonymous with the government, is no longer applicable. Indeed, it appears that neoliberalism has provided fertile soil for the rise of civil society, thus resulting in the rapid growth of Non-Governmental Organizations (NGOs), both in terms of size and political influence. Subsequently, the state must now work with different interest groups, such as private sectors and civil society, in order to implement its policy (Lemos and Agrawal 2009). In light of this, the Public-Private Partnership (PPP) is widely recognised as one of the most effective mechanisms through which different social actors are brought together (Pattberg et al. 2012).

It appears that such a global hegemony of neoliberalism has also had a significant impact on environmental governance. For instance, decentralisation and devolution of the central state, both of which result from 'roll back' neoliberalism, have provided fertile soil for the rise of civil society, thus resulting in the rapid growth of NGOs, both in terms of size and political influence (Chapin, 2004). However, it is also worth noting that as NGOs become increasingly influential, the NGOs which supposedly represent civil society, have increasingly become corporatised and often impose their values on vulnerable members of society rather than protecting them. As a result, there are also growing concerns regarding their legitimacy (Adams and Hutton 2007; Brockington et al. 2008; Chapin 2004; Gray et al. 2006; Homewood et al. 2009). Given the increasing influence of NGOs, it would be impossible to talk about environmental governance without referring to these increasingly important actors.

In addition, it can be argued that such 'roll back' neoliberalism seems to

promote democracy through participation. Subsequently, in terms of environmental governance, stakeholder participation is considered the ‘Holy Grail’. Indeed, strong emphasis has been placed on the notion that stakeholder participation is essential in order to designate and implement protected areas in a manner which enables them to function effectively. Indeed, Common Pool Resource (CPR) governance theory scholars have been particularly forthright in arguing that protected areas must be designed in a community based manner, with minimum top-down intervention (Hayes 2004; Hayes and Ostrom 2005; Ostrom and Nagendra 2006; Ostrom 1990, 1998, 1999).

Furthermore, it can be considered that the most significant implication of neoliberalism in environmental governance is that the natural resources are transformed into a commodity, which can be traded on the world economy market (Brockington et al. 2008). As a result, market elements, which commonly occur through PPPs, are increasingly recognised as important elements of environment governance (Hastings et al. 2012).

In light of this, there is growing interest in conservation as the environment succumbs to rapid depredation. In response to such rapid deterioration of the environment and depletion of the natural resources, protected areas are widely recognised as effective tools through which biodiversity and natural resources can be protected. The IUCN defines a protected area as:

*‘A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values’* (Dudley 2008: 8).

However, even though the ocean covers 71% of the earth’s surface<sup>1</sup>, it appears that the progress in designating Marine Protected Areas (MPAs) is much further behind than its terrestrial counterparts. For instance, a global target, and

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<sup>1</sup> NOAA Website  
Available from: <http://www.noaa.gov/ocean.html>

one set out at the 2002 World Summit on Sustainable Development and the Convention on Biological Diversity (CBD), was to protect at least 10% of each of the world's marine and coastal ecological regions by 2012 (Toropova et al. 2010). However, according to a report by Bertzky et al. (2012), only 1.6% of the global ocean area is protected, while 12.7% of the world's terrestrial area is protected. Since, the CBD target is impossible to achieve, the deadline to meet the CBD target was extended to 2020, at the 10<sup>th</sup> Conference of the Parties to the CBD (MPA News November/December 2010).

Meanwhile, the marine environment is under severe stress, with coastal and marine ecosystems subsequently in decline worldwide. For instance, according to Food and Agriculture Organisation of the United Nations, there has been a consistent downward trend in marine fish stocks since the 1950s. For instance, it was reported that approximately 80% of marine stocks are currently fully exploited or over exploited, while 7% are depleted (FAO 2011). However, it is not only fish stocks which face the danger of serious degradation beyond repair. It has been reported that 70% of the world's coral reefs are also under threat or have been destroyed, with 20% damaged beyond repair. Within the Caribbean alone, coral cover has declined by up to 80% on certain reefs (Wilkinson 2004).

In light of this, it could be argued that it may be more urgent to protect the marine environment by establishing the MPAs. However, the attributes of the marine environment present challenges not only to the designation of MPAs, but also to the effective management of these MPAs (Jones et al. 2011). Indeed, as has been pointed out, many of the established MPAs are not managed properly (Kelleher et al. 1995). In light of this, and much like general governance debates, it is increasingly recognised that finding the 'right balance' between state, people and market approaches is important in order for MPAs to function properly (Jones and Burgess 2005, Jones et al. 2011).

## 1.1 Research Aims and questions

It has been claimed that a network of MPAs, which was designed to achieve biodiversity conservation objectives, was designated in California through a very successful science-based stakeholder-driven process. Indeed, the MLPA implementation process in California, particularly the MLPA Initiative process, is widely publicised as a successful case of a science-based stakeholder-driven process which was achieved through a PPP. Subsequently, the California model is attracting a great deal of attention and interest as an example of ‘good practice’ in MPA designation. For instance, the *Ocean & Coastal Management* journal dedicated an entire volume (volume 74) as a ‘*Special Issue on California’s Marine Protected Area Network Planning Process*’<sup>2</sup>. Indeed, the California MLPA implementation process is not only gaining much attention in the literature but also in practice. For instance, the Marine Conservation Zone process in the U.K. is developed based on the California MLPA Initiative process (Lieberknecht 2008; Lieberknecht et al. 2013).

As such, it can be considered that investigating the key successful factors of the MLPA implementation process based on empirical case studies could contribute to the future MPA designation process in other areas. On the other hand, it is also worth noting that most of authors behind these journal papers not only directly participated in the designation process, but were also deeply involved in managing said process. As a result of this, there could well be issues regarding impartiality. As such, an actor-centred realist institutional analysis could provide a more objective insight into the key factors which significantly contributed to the ‘successful’ implementation of the MLPA.

Indeed, based on the literature analysis, it appears that there are a number of key factors involved. For instance, the MLPA implementation process, and particularly the MLPA Initiative process, was claimed as a very successful

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<sup>2</sup> Ocean and Coastal Management Journal  
Available from: <http://www.sciencedirect.com/science/journal/09645691/74>

case of a PPP. Indeed, PPPs are widely recognised as an important mechanism when it comes to the designation of MPAs (Hastings et al. 2012). Subsequently, it is worthwhile investigating and exploring the case study, as it could provide key insights into the implications of PPPs for environment governance.

Furthermore, it appears that NGOs have also played a very significant role in the MLPA implementation process. Indeed, analysis of the MLPA Initiative process could provide certain insights into the role of NGOs in contemporary environment governance. In addition, such analyses are capable of exploring the argument that it is necessary to find a ‘right balance’ between state, people and market approaches in order for MPAs to function effectively (Jones and Burgess, 2005, Jones et al. 2011). Due to the fact that the MLPA Initiative has been widely publicised as a successful case of a science-based stakeholder-driven process, investigating the process should provide helpful insights into how, if possible, the ‘right balance’ can be achieved.

Drawing on these aims, four main research questions are developed:

- 1) What are the key factors to have contributed to the successful implementation of the MLPA?
- 2) What are the implications and the consequences of the PPP?
- 3) What are the roles of NGOs in environmental governance and how do NGOs influence environmental policy? To what degree do they represent civil society in environmental governance?
- 4) To what degree does the California MPA process represent a science-based stakeholder-driven process? If so, how was the ‘right balance’ between state, people and market approaches achieved ?

## **1.2 Thesis structure**

Chapter 2 of this thesis presents a review of the literature and theories relevant to the topic at hand. It begins with the general governance debate,



and looks at the views of many renowned thinkers, from Plato to Hayek. Neoliberalism, which was developed by Hayek think-tank, the Mont Pelerin Society, had a significant impact on contemporary governance. With this said however, it is often considered as a form of economic theory. Throughout the first part of Chapter 2, an attempt is made to demonstrate that neoliberalism, rather than an economic theory, is instead a political philosophy which has had a profound impact on contemporary governance. The second half of Chapter 2 demonstrates the significant influence which neoliberalism has had on environmental governance.

Chapter 3 begins with certain attributes of the marine environment, and particularly those which present challenges to marine environment governance. Following this, the chapter introduces background information relating to Ocean governance in California by explaining California's strong sovereignty of ocean management. There is also reference to the problems associated with ocean management, which have ultimately led to the degradation of California's marine environment. The second part of Chapter 3 explains the legal system in California. It starts with the ballot measures, followed by the background story of how the MLPA was drafted. Following this, the legal frameworks for ocean management in California are explained, including the MLPA. Finally, previous attempts to implement MLPA, including the Channel Islands case, are analysed. This includes a discussion of previous attempts, and specifically the problems and main causes of failure.

Chapter 4 is primarily concerned with methodology. It begins by explaining the different research methods which were used to collect and to analyse the data. The second part of Chapter 4 justifies the selection of the study site used for the groundwork.

Chapter 5 introduces background information relating to the case study site. It begins with the passage which led to the MLPA Initiative. Following this comes an analysis of the characteristics of the Central Coast study region,

which it is hoped will facilitate an understanding of what made the CCSR an ideal place for the launch of the first ‘pilot’ study.

Chapter 6 begins with an analysis of the MLPA implementation process. The MLPA Initiative process, which is responsible for attracting a great deal of attention around the world, is only the first part of the MLPA implementation process. Indeed, the purpose of the MLPA Initiative process is to produce multiple recommendations for the Fish and Game Commission, so that the Commission can make the final decisions. The second part of Chapter 6 analyses the CCSR MLPA Initiative process. As the MLPA Initiative process has been widely publicised as a science-based stakeholder-driven process, two main mechanisms of the stakeholder process were analysed. The first mechanism relates to the science guidelines, whilst the other is the iterative process. The implication of the usage of science guidelines and the iterative process with subsequent consequences are also analysed. Finally, the Fish and Game Commission regulatory process is analysed. This may well represent the most critical process, as it is the final decision making process. However, with this said, surprisingly little attention is paid to the regulatory process. The implication of strong political will - something reflected by the appointment of the Fish and Game Commissioner - and the subsequent consequences are explored and investigated.

Chapter 7 begins by introducing the circumstances which were inevitable for the PPP in order to successfully implement the MLPA and subsequent benefits of the PPP. The chapter then quickly moves on to the implication and subsequent consequences of the PPP. The first implication was the strict timeline and the selection of the study region. The second implication, perhaps more significantly, related to the structure of the MLPA Initiative process. The very innovative MLPA Initiative process had a few important core components, namely the Blue Ribbon Task Force (BRTF), Science Advisory Team (SAT), MLPA Initiative Team (I-team), Department of Fish and Game (DFG), and the Regional Stakeholder Group (RSG). The critical point here is that the

Resources Law Group (RLG), which works for the Resources Legacy Fund Foundation (RLFF), and which funded the process, was actually responsible for designing the structure. Furthermore, it has emerged that there are very close connections between key personnel from the MLPA and the RLFF. Indeed, analysis also focusses on the significant implication of the RLG designing process and the close connection between the MLPA staff and RLFF.

Chapter 8 presents discussion and analysis. It revisits the key factors which contributed to the successful implementation while also identifying the significant implication of NGOs' role in relation to those factors.

Chapter 9 is the final concluding chapter, and highlights some of the key findings before suggestions for further research are made.

## **Chapter 2: Governance Debate and Governing Protected Area**

### **Overview**

The governance debate has a very long history. The concept of governance was first introduced by Plato, who described it using the analogy of a captain and his ship. Since Plato, many influential thinkers have contributed to the governance debate, with the concept's definition changing as a result. Among many influential thinkers, Hayke can be considered one of the most influential, as his thought collective, the Mont Pelerin Society, was the birthplace of Neoliberalism. Neoliberalism had a profound impact not only on contemporary governance but also on people's daily lives.

In the subsequent sections, neoliberalism will be explored in order to develop a deeper understanding of its complex nature as well as its implications as they relate to the contemporary governance debate.

## 2.1 Governance debate: rise of neoliberalism

The term governance is not something new. Plato introduced the concept of governance with the help of a captain and his ship analogy. Subsequently, the word governance is derived from the Greek verb *kubernan*, which means ‘to steer’ (Santas 2006). Since Plato, many influential thinkers have put forth various observations, ideals and theories concerning governance. However, Plato’s core idea of governance, namely that it is an activity which should be carried out by a small number of educated or powerful people to control the mass public, has been continually embraced.

For example, Machiavelli (1469-1527) argued that the state was a craft and believed that, through knowledge of the reality of politics and power, decision-makers could better control affairs and have a greater capacity to deal with problems (Jay 1987; Metcalfe and Richards 1992). Thomas Hobbes (1588-1679) argued that society is a population beneath a sovereign authority, to whom all individuals in that society cede their natural rights for the sake of protection. Any abuse of power by this authority is to be accepted as the price of peace (Powell and Wilson 2008). From these examples, it could be argued that the idea of governance was whatever the state did in order to govern the general population since only the state possessed the legitimate coercive power (Bell and Hindmoor 2009). Therefore, traditionally speaking, governance is considered synonymous with government (Stoker 1998).

However, the second half of the eighteenth century saw the idea of governance begin to change with political reform and economic prosperity. For example, Adam Smith (1723-1790) argued that individuals seek to enhance their own welfare and counted on the operation of the market to solve many coordination problems (Parsons 1989). This could be considered a turning point, at which the role of the state becomes to provide a stable system of rights and rules, which are required to allow commerce to flourish and to avoid or manage business cycles and financial fluctuations.

It was during the nineteenth century that the major change in the idea of governance occurred. For instance, the central state in the western world failed to provide two main functions, namely regulating and providing adequate welfare for society from the 1960s (Mayntz 1993). As a result, the idea of governance changed to problem solving rather than a means of controlling the public (James 1970; Dewey 1963). Further governing failures in the 1970s fuelled the argument that the state is weakened by growing fiscal and legitimacy deficits, by institutional fragmentation, or by pressure from below from social groups wanting more of a say in policy and governance (Cox 1999; Okun 1970). Subsequently, the traditional idea of governance, namely that the government commands and controls through hierarchy, was repudiated (Pierre and Peters 2000).

Under the stream of times, the neoliberals rose to the political forefront and neoliberalism became the global hegemony of the governance debate. Nevertheless, it is somewhat difficult to clearly define neoliberalism in one sentence, as it cannot be adequately described in a single critical concept. Indeed, it appears that there are at least two well-known forms of neoliberalism. The first is known as the Austrian School while the other is known as the Chicago School of Economics (Mirowski 2009). Furthermore, it can be considered that such distinct kinds of neoliberalisation have particular impacts.

For instance, it appears that the Austrian and the Chicago Schools have very different perspectives towards the role of the state in relation to the market and the nature of the market itself (van Horn and Mirowski 2009). For instance, the Austrian School neoliberal intellectuals, such as Hayek, wanted to re-organise the state so that it could provide and maintain the ideal conditions for the market to function properly and efficiently (Blundell 2003; Caldwell 2004; Mirowski 2009). Furthermore, they considered the market as the superior information processor and felt that no human mind could fully comprehend the market (Mirowski 2009). Moreover, the Austrian neoliberal intellectuals were

against monopoly as they considered it a threat to the market (van Horn and Mirowski 2009).

On the other hand, the Chicago School neoliberal intellectuals, such as Friedman, considered the state to be a part of the market. Although they acknowledged that the state has certain roles in maintaining ideal conditions for the market, they believed that the state should ultimately be replaced by the legal system (von Horn and Mirowski 2009). Furthermore, they argued that large corporations which have potential to monopolise the market, are not the threat because those large corporations are under the pressure of the market force. Instead, the Chicago School neoliberal intellectuals considered that monopoly is the result of incompetent state activities (von Horn and Mirowski 2009).

**Table 2.1 Difference between Austrian and Chicago Neoliberalism**

	Austrian School	Chicago School of Economics
Views on State	<ul style="list-style-type: none"> <li>➤State should be reconstructed to protect the market.</li> <li>➤Deregulation of the state ultimately turns into the re-regulating state</li> </ul>	<ul style="list-style-type: none"> <li>➤Considers the state as a part of market.</li> <li>➤Deregulation of the state should be actively pursued and ultimately replaced by the legal system</li> </ul>
Views on the Market	<ul style="list-style-type: none"> <li>➤Large corporations, monopolies, and other concentrations of economic power are a threat to the market.</li> <li>➤The market is the superior information processor and no human mind can fully comprehend the market.</li> </ul>	<ul style="list-style-type: none"> <li>➤Large corporations do not cause monopoly, with monopoly instead resulting from incompetent state activities.</li> <li>➤Monopoly is not a threat to the market and large corporations can do no wrong.</li> <li>➤The market can be remedied by the introduction of new markets.</li> </ul>

Subsequently, Mirowski (2009: 428) argued that neoliberalism should be understood in terms of a ‘thought collective’, which was defined as:

*‘a community of persons mutually exchanging ideas or maintaining intellectual interactions’* (Fleck, 1979: 39).

Furthermore, it was suggested that neoliberal intellectuals attempted to accommodate contradictory concepts. For instance, neoliberal intellectuals have argued that the market is a transcending superior information processor and that prices in an efficient market contain all of the relevant information, meaning that the market surpasses the state's ability to process information (Mirowski 2009). At the same time, they recognised the importance of the state in order for an efficient market to function properly and argued for a strong state so that it could provide and maintain the ideal conditions for the most efficient market (Blundell 2003; Caldwell 2004). Moreover, neoliberal intellectuals regarded unconstrained democracy as a potential threat to the ideal market, and as such argued for a controlled democracy. Furthermore, they did not want citizen initiatives to change much of anything due to the fact that, from their point of view, the use of local and incomplete knowledge could damage the ideal market (Mirowski 2009). Such a view represents a serious contradiction regarding the legitimacy of a neoliberal market, and the neoliberal intellectuals tried to overcome this contradiction by treating the citizens as consumers of state services (Amadae 2003; Mirowski 2009).

In light of this, it can be argued that *'neoliberalism has sought to reconcile a Marxist understanding of hegemony with poststructuralist ideas of discourse and governmentality derived from Foucault'* (Barnett 2005: 2).

Unfortunately, these characteristics of neoliberalism make it more difficult to explain neoliberalism as a single unifying concept, with Barnett (2009) identifying that:

*'Neoliberalism is sometimes conceptualised as a policy paradigm; sometimes more broadly as a hegemonic ideology; and sometimes as a distinctive form of governmentality'* (Barnett 2009: 2).

As such, there is the danger of reifying neoliberalism and neoliberalisation as a single concrete concept to explain 'socio-cultural change' in the world



(Barnett 2005). Nevertheless, it could be argued that neoliberal intellectuals share a common notion of promoting the market, since the ultimate objective of neoliberalism is to realise the society that is governed by the market economy (Mirowski 2009). Furthermore, it is worth noting that it was the Mont Pelerin Society which brought together neoliberal intellectuals who had been developing different schools of neoliberalism in Europe and the U.S. for the first time (Plehwe 2009; Mirowski 2009).

Subsequently, Hayek (1899-1992) can be considered as one of the most important thinkers, if not the most influential, in the area of contemporary governance. Firstly, Hayek was one of the key members who founded the Mont Pelerin Society (1947) (Mirowski 2009). Secondly, Hayek, who is considered as one of the key figures in the Austrian School, moved to Chicago University. Although Hayek failed to obtain a position at the Economics Department of the Chicago University, he worked very closely with neoliberal intellectuals in the Chicago school (van Horn and Mirowski 2009). Therefore, it could be argued that Hayek had a significant impact on neoliberalism on both continents. Subsequently, for the purpose of the research, core notions of neoliberalism, which will be discussed throughout this chapter, will be largely based on the Hayekian concept.

The core notion of neoliberalism is that the state alone cannot solve problems or improve on what would arise spontaneously from the interaction of free individuals and free markets. Furthermore, the strong state was considered as a barrier to market liberalisation, but something which was required for the market to function effectively (Mohan and Stokke 2000; Mirowski 2009). On the other hand, the market is considered as a transcending superior information processor, which surpasses the state's ability to process information (Mirowski 2009). In addition, it has been argued that the market would empower citizens, as they can exercise their power as consumers (Pierre and Peters 2000). Therefore, the market is considered as a more effective mechanism than politics when it comes to the allocation of resources (Pierre and Peters 2000).

Subsequently, it was argued that the role of the state should be limited to ensuring spontaneous order in society, whilst also allowing economic activities to take place without any interference or reduction in free competition. In addition, the state should aim to promote personal liberty and free markets, enforce the rule of law in doing so, and defend its citizens. This implies that the role of the state is to stimulate competition, in which market forces can allocate resources most effectively and efficiently. This should be done whilst simultaneously promoting conditions in which the spontaneous order can function to the advantage of all individuals by facilitating personal freedom within the rule of law (Gray 1986; Plant 1991; Mirowski 2009).

Another core notion of neoliberalism is that capital must move freely across the national boundaries (Mirowski 2009). Subsequently, neoliberals have been attempting to construct the global market through globalisation and engagement with many scale-specific dynamics, all of which take shape and become tangible in the context of particular cultural, political, and institutional settings (Brenner 1999; Cox 1999; Glassman 1999; Peck 2001; Swyngedouw 1997). More critically, it appears that neoliberals realised that international institutions such as the World Trade Organisation, the World Bank, and the International Monetary Fund, are useful apparatus to influence national states' policy, particularly when they are resistant to embracing neoliberalism (Doornobs 2004; Mirowski, 2009; Kjær 2004; Nanda 2006). For instance, as a condition to loan their money, the International Monetary Fund or the World Bank request that they are allowed to carry out Structural Adjustment Programs, which contain neoliberal policies such as privatisation and incentives for investment (Heynen et al. 2007; Nanda 2006). In light of this, it can be argued that the frontiers of the state have been rolled back by globalisation, and by the pressure from international and occasionally supra-national organisations (Brockington et al. 2008; Thatcher 1993).

Most importantly, on the surface, neoliberalism appears to have certain similarities to the classical 'invisible hand' liberalism. Indeed, it appears that

neoliberalism is often understood as a type of economic theory whilst neoliberals are often considered as neoclassical economists (Harvey 2005), since the purpose of neoliberal reform of the state was to promote free market, free trade and globalisation (Thorsen and Lie 2006). For instance, Margaret Thatcher, one of the most well known neoliberal political leaders, carried out a series of neoliberal reforms under the slogan 'There Is No Alternative', in order to achieve economic development. Subsequently, neoliberalism is also generally considered as an economic policy (Peet and Watts 2004; Plehew 2009).

It is clear that the neoliberals made the most significant contributions and achieved the greatest success in the economic field (Blundell 2003). With this said however, this could also be the greatest misconception regarding neoliberalism, with Hayek stating that:

*'Society's course will be changed only by a change in ideas. First you must reach the intellectuals, the teachers and writers, with reasoned argument. It will be their influence on society which will prevail, and the politicians will follow'* (Blundell 2003: 17).

Based on Hayek's statements, it could be argued that the true intention of the neoliberals was to change the whole society. Indeed, it appears that neoliberalism has changed the society's course and has had a huge impact on contemporary governance. For instance, since neoliberalism became the global hegemony, neoliberal reform, such as decentralisation, has become one of the most widespread policy reforms in the world (Oxhorn 2004). As such, it could be argued that neoliberalism has had a huge impact on contemporary governance. In addition, and perhaps more significantly, it appears that such neoliberal reforms did have a significant impact on the '*Society's course*'.

With all of this said, it could be argued that neoliberalism was not intended to be confined to an economic theory. Instead, neoliberalism should be

considered as a political philosophy rather than a type of economic theory, with Plehwe (2009) arguing that:

*‘Neoliberalism is anything but a succinct, clearly defined political philosophy’*  
(Plehwe, 2009: 1).

The significance of neoliberalism as a political philosophy and the subsequent implication for the contemporary governance debate will be discussed in the following sections.

## **2.2. Implication of neoliberal hegemony: From Government to Governance?**

Neoliberalism has enjoyed massive success in the modern political world. The success of neoliberalism was very apparent as the neoliberal political leaders, who are typified by Thatcher and Reagan, were raised to power in the 1970s and 1980s. Those neoliberal politicians fully embraced neoliberalism and implemented a series of government reforms through deregulation and privatisation, whilst also contracting public services out to the private sector in order to transform the nation and realise neoliberalism (Rhodes 1997; Smith 1999).

As previously mentioned, neoliberal intellectuals viewed the market as surpassing the state’s ability, and saw the strong state as a barrier to economic development with the national government possibly representing an obstacle standing in the way of globalisation (see Section 2.1). Subsequently, it could be considered that neoliberal politicians reformed the national government through decentralisation, which involved devolution of power and responsibilities to the private and civil organisation, in order to promote economic development.

At the same time, such government reforms resulted in the decentralisation of the central government. According to the World Bank, decentralisation is

defined as:

*‘The transfer of authority and responsibility for public functions from the central government to subordinate or quasi-independent government organisations or the private sector’* (Litvack and Seddon, 2000: 2).

Based on the World Bank’s definition, it could be argued that the government now lacks the ability to govern unilaterally as a result of decentralisation. In other words, decentralisation has led to a situation whereby the actors from each sector bring their own specific sets of power positions, roles and responsibilities as determined by values, skills and organisational resources, into governance (Rhodes 1997). Subsequently, the government must instead work with interest groups, private firms, charities, non-governmental organisations (NGOs), supra-national organisations, and a range of other bodies if they are to achieve their objectives (Kjær 2004). With this mind, it could be argued that the role of the state was shifted from command and control whilst the public-private boundary was blurred (Brinkerhoff and Brinkerhoff 2002; Jones and Bull 2006; Kettl 2000; Peters and Pierre 1998; Rhodes 1997). As a result, a large number of other stakeholders are active in policy and administration areas through participation (Brugha and Varvasovszky 2000).

Therefore, it can be considered that neoliberalism, decentralisation, and participation have a symbiotic relationship (Bergh 2004). It also appears that as neoliberalism has become the global hegemony, there is now widespread acceptance of its participation in governance. Indeed, this has in turn led to the participatory approach becoming a focal element for “alternative development” advocated by the state, NGOs and mainstream development agencies (Brett 2003; Cooke and Kothari 2001; Mayoux 1995).

Environmental NGOs are particularly keen, and indeed strongly demand, to be involved in policy decision-making processes as they consider participation as a tool through which to exercise democratic rights (Reed 2008). As a result, it

could be argued that decentralisation and participation encourage bottom-up development approaches which empower citizens and strengthen democracy (Devas and Delay 2006; Heller 2001). Ultimately, it can be argued that the global dominance of neoliberalism has provided fertile soil for the rise of civil society through decentralisation and subsequent participation (Kjær 2004).

Innes and Booher (2004) identified five purposes for the participation process as follows:

- 1) The public's preferences can be reflected in the final decision-making.
- 2) The quality of decision can be improved by incorporating local knowledge.
- 3) An open participation process can promote fairness and justice.
- 4) Participation can help to achieve democratic legitimacy for the public decision.
- 5) The law, particularly in the US, often requires participation in the public decision making process (Inners and Booher 2004).

These five purposes can be categorised into two broad terms. The first is aimed at improving the quality of decisions by incorporating local knowledge and the public's preferences. Indeed, it is argued that management interventions based on local knowledge and experience are more likely to be supported by locals and to be sustainable in the long term (Kothari 2001). Besides, since regional and local governments are closer to the people than the central state, they can make policies more responsive and efficient by working with local people through active participation (Bardhan 2002; Putnam et al. 1993).

The second relates to achieving legitimacy by promoting fairness and justice. Indeed, participation is defined as:

*'A process by which people, especially disadvantaged people, influence decisions that affects them'* (World Bank 1992: 177).

It could be considered that participation helps to alleviate poverty and inequity

in communities by *'making people central to development by encouraging beneficiary involvement in interventions that affect them and over which they previously had limited control or influence'* (Kothari, 2001: 5).

While decentralisation opened the door for participation, it also forced the government to forge governing coalitions with societal interests, such as interest groups, private firms, charities, and NGOs in order to achieve its policy goals (Kjær 2004). Ultimately, it can be considered that the neoliberalism and subsequent neoliberal reform of the central government resulted in fundamental transformation, not just in relation to the scope and scale of government action, but also with regard to its basic forms (Salamon 2002). Consequently, a contemporary conceptualisation of governance places emphasis on interdependence between the state, the people, and markets, with the role of the state being reduced over time to one of seeking to co-ordinate or manage policy networks through facilitation and negotiation (Cloke et al. 2000).

For instance, Rhodes analysed the complex systems of organisations from both public and private domains for local governance in the U.K., where Thatcher implemented a series of government reforms (Rhodes 1996). Based on his observation, Rhodes argued that the self-governing and inter-organisational networks are at the centre of 'new governance' instead of the state (Rhodes 1996). In other words, the 'new governance' pertains to managing self-organising networks which are formed by *'organisations, which need to exchange resources (e.g. money, information, expertise) to achieve their objectives, to maximize their influence over outcomes, and to avoid becoming dependent on other players in the game'* (Rhodes 1996).

From this perspective, Public Private Partnerships (PPPs) are considered as a key mechanism, which can bring together the key actors of civil society, governments and businesses to resolve interstate politics (Pattberg et al. 2012). At the same time, neoliberal intellectuals have been strong supporters of

corporations, as they believe that corporations are always right and should not be blamed even if they make mistakes (Mirowski 2009). Therefore, it may not be a surprise to witness that neoliberal reforms of the central government have provided huge opportunities for the private sectors to be part of governance.

Indeed, it appears that the traditional concept of governance, whereby one actor (whether a king, an emperor, or a democratically elected body of politicians) exercises power to control the public, is no longer an applicable concept for modern governance. In other words, it could be argued that neoliberalism hegemony has ultimately led to a situation whereby the state becomes obsolete through decentralisation and globalisation. Indeed, many scholars of governance claim that we are in the midst of a change from government to governance (Hirst 2000; Jessop 1997a; Kickert et al. 1997; Pierre 2000; Rhodes 1997). Rhodes (1997) described the phenomenon of diminishing the power of central government as ‘hollowing-out the state’. Furthermore, it may also appear that neoliberalism has promoted democracy and fairness through participation.

However, the true nature of neoliberalism is quite the opposite. It is clear that when neoliberalism was raised to power and became the global hegemony in the 1980s, it initiated a series of government reforms, which Peck and Tickell described as ‘rolling back neoliberalism’ (Peck and Tickell 2002). Subsequently, the welfare state was downsized while trade and industry were deregulated. Furthermore, international financial institutions, such as the World Bank and International Monetary Fund, were used to spread the idea of a free market, which resulted in a further roll back of the national government (see Section 2.1).

However, it appears that, somewhat ironically, the neoliberal intellectuals believed that it was only the strong state which could provide and maintain the ideal conditions for the market to function properly and efficiently (Blundell, 2003; Caldwell 2004; Mirowski 2009). For instance, it is the state



which can protect property rights and investments in technology and innovation based on the laws (Kjær 2004). Indeed, from a neoliberal perspective, the ideal state should have either numerous audit devices or provide the state services on a contractual basis (Mirowski 2009).

Nevertheless, it does not mean that the state has lost its authority. On the contrary, it could be argued that when the state contracts out its services to private sectors, the state only cedes part of its authority to the private sectors on loan. More importantly, the state can always reverse its decision if the service, which was provided by private sectors, does not meet the state's requirement (Bell and Hindmoor 2009). Indeed, the use of audit devices or contracts can centralise power to the state even more, as it enhances state interventions through regulations (Jessop 2002; Mirowski 2009; Pierre and Peters 2000).

Such perspectives correlate with Peck and Tickell's observation that there has been a gradual shift from 'roll back neoliberalism' to 'roll out neoliberalism' which is *'focused on the purposeful construction and consolidation of neoliberalised state forms, modes of governance, and regulatory relations'* (Peck and Tickell, 2002: 384). Therefore, the true intention of neoliberalism is to reconstruct the state rather than to destroy it (Jessop 2002; Mirowski 2009).

Interestingly, while there are a number of scholars who claim that change from government to governance is beginning to occur, an increasing number of scholars have argued that there is a growth of the regulatory state (Bell and Hindmoor 2009; Braithwaite 2008; Moran 2002; Jordana and Levi-Faur 2004). The reconstructed state, which employs its authority through audits and regulations, can be ideal when it comes to carrying out another important neoliberal agenda.

As mentioned above, it appears that decentralisation of the central government based on the neoliberal concept has greatly promoted democratic participation

in governance, which could in turn solve the inequity problems. Therefore, it could be argued that decentralisation has not only significantly encouraged active citizen participation, which in turn can help local governments to be effective and responsive to local needs, but has also strengthened democratic institutions (Bergh 2004; Mohan and Stokke 2000). In other words, it may appear that neoliberalism, which triggered the government reform, ultimately promoted democracy and fairness through participation.

However, neoliberals perceive the inequity as a necessary functional characteristic of their ideal market system and indeed see it as the strongest driving force in the process. Subsequently, *people should be encouraged to envy and emulate the rich* (Mirowski, 2009: 438). Therefore, in principle, participation, which focusses on fairness, goes against one of the core concepts of neoliberalism. In addition, and perhaps more critically, although it is clear that neoliberal intellectuals considered ‘freedom’ to be the most important virtue, the definition of freedom has a very different meaning in neoliberalism (Mirowski 2009). For instance, it was argued that an elite would understand the necessity of repressing democracy, while the masses would be satisfied with ‘rolling back the nanny state’ and being set ‘free to choose’ (Mirowski 2009). Subsequently, it can be argued that neoliberal attitudes towards governance bear a remarkable resemblance to Plato’s analogy of a captain and his ship (see Section 2.1). At the same time, their attitude towards the public is very similar to Hobb’s idea that all individuals in that society cede their natural rights for the sake of protection (Powell and Wilson 2008). Indeed, neoliberalism considers unconstrained democracy as a threat to the ideal market because the true architect of market and social order cannot be comprehended by the human mind (Mirowski 2009). Therefore, a strong state should neutralise public attempts to participate through regulation and protect the ideal market.

Furthermore, it appears that neoliberalism acknowledges that only a strong state, and one which has not only legitimacy but also sufficient capacity to

implement policies, can preserve and enhance a free market economy and generate genuine decentralisation (Mirowski 2009). For instance, the World Bank, which is one of the supranational institutions which disseminates neoliberalism (see Section 2.1), has been carrying out long standing empirical research called The Worldwide Governance Indicators in order to support the ‘good governance’ agenda (Kaufmann and Kraay 2002). It appears that the objective of ‘good governance’ is to introduce neoliberal values such as market-oriented policies and privatisation on a global scale, particularly in the developing countries, through neoliberal reform of the government (Nanda 2006).

**Table 2.2 Six key dimensions of governance and their definitions for the Worldwide Governance Indicators (Kaufmann et al. 2010:4)**

Key Dimensions of governance	Definition of the dimension
Voice and Accountability	Capturing perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.
Political Stability and Absence of Violence/Terrorism	Capturing perceptions of the likelihood that the government will be destabilised or overthrown by unconstitutional or violent means, including politically motivated violence and terrorism.
Government Effectiveness	Capturing perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
Regulatory Quality	Capturing perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
Rule of Law	Capturing perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence
Control of Corruption	Capturing perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.

For instance, the Worldwide Governance Indicators identify six key dimensions of governance (Kaufmann et al., 2010: 4), which are demonstrated in table 2.2. Perhaps more significantly, it was also argued that those key six dimensions of governance consider the three main aspects of governance to be:

- a) The process by which governments are selected, monitored, and replaced (Voice and Accountability, Political Stability and Absence of Violence/Terrorism)
- b) The capacity of the government to effectively formulate and implement sound policies (Government Effectiveness, Regulatory Quality)
- c) The respect of citizens and the state for the institutions that govern the economic and social interactions among them (Rule of Law, Control of Corruption) (Kaufmann et al., 2010: 4).

Based on this, it could be argued that these three main aspects of governance emphasise the importance of the government's legitimacy and capacity. Paradoxically speaking, the legitimate government, which has not only sufficient capacity to implement the policies but also enforces them, can be considered as a strong government. Subsequently, it could be argued that the Worldwide Governance Indicator coincides with neoliberalism, the latter of which acknowledges that only a strong state can create the ideal conditions for the market to function properly.

### **2.3 Definition of governance**

It could also be argued that the global dominance of neoliberalism and subsequent decentralisation of the central state have changed the meaning of governance, which was once synonymous with government (Stoker 1998). Instead, it embraces the private sector and civil society while recognising their influence in governing social affairs (Kjær 2004).

It appears that contemporary governance literature typically recognised the following actors (Foley and Edwards 1996; Hadenius and Ugglå 1996; World

Bank 1999):

- National governments: including the central/state and local governments in a particular country;
- Civil society: in the public space between the state and the individual citizen, and characterised by networks of private voluntary associations and their organised activities such as Non-Governmental Organisations (NGOs);
- Private corporations: companies and business enterprises;
- Multinational organisations: such as the European Union and the United Nations.

Subsequently, definitions of contemporary governance embrace the increasing influence of civil society while focussing on co-governing between the government and societal actors in achieving collective goods. While there is no universal definition of governance, it appears as though the governance literature can be classified into three different modes of governance, depending on where the emphasis is placed. For instance, Rhodes (1997) emphasised the self-governing of non-state actors, which can be classified as governance as networks. Indeed, he defined the governance as:

*‘Governance refers to self-organising, interorganisational networks characterised by interdependence, resource-exchange, rules of the game, and significant autonomy from the state’* (Rhodes, 1997: 15).

On the other hand, certain other scholars emphasised that the state still maintains a central role in governance. For instance, Bell and Hindmoor (2009) defined governance as:

*‘The tools, strategies and relationship used by governments to help govern’* (Bell and Hindmoor 2009: 2).

However, most of the definitions relating to governance are concerned with the power dynamic amongst the state, the private sector, and civil society.

For instance, Stoker (1998:17) defined governance as *'ultimately concerned with creating the conditions for order rule and collective action'* and further stated that *'governance refers to the development of governing styles in which boundaries between the public and private sectors have become blurred'*.

Hyden (1999: 185) defined governance as *'the stewardship of formal and informal political rules of the game. Governance refers to those measures that involve setting the rules for the exercise of power and settling conflicts over such rules'*.

Moreover, Pierre (2000: 2) stated that *'governance refers to sustaining co-ordination and coherence among a wide variety of actors with different purposes and objectives such as political actors and institutions, corporate interests, civil society, and transnational organisations'*.

With this said however, these definitions of governance may appear to be more applicable to contemporary governance, since many different actors are active in policy and administration areas as a result of decentralisation (see Section 2.2). However, it could be said that these definitions do not clearly answer the core question regarding governance, namely, who makes the final decisions, who has the power to influence the decision, and how are decision makers held accountable? In short, it can be argued that the critical questions regarding governance relate to who has the ability to steer and just how legitimate the main agents behind this steering activity are.

Based on this, it can be considered that different institutions, such as the state, the market, and civil society, are intertwined, coexist and are co-evolved in contemporary governance. Subsequently, it is very difficult to create clear boundaries between different institutions, such as public and private, and the

significance of their influence on governance. Nevertheless, there are certain distinctions in the governance debate as different schools of scholars identify which institution should exercise more power in governance. Subsequently, there are three categories in the contemporary governance debate, namely; state centric, market focussed, and community based.

While the market focussed governance represents neoliberalism, different types of governance can also be explained in terms of neoliberalism. At the very least, it could be argued that neoliberalism has had a profound impact on the governance debate while providing a basis for the rise of different types of governance.

For instance, the ‘roll back neoliberalism’ and subsequent decentralisation of the central government during the 1980s ‘hollowed out’ the state to a certain extent. Following this, the state was further ‘hollowed out’ as a result of the pressure from international organisations, such as the World Bank and International Monetary Fund (see Section 2.1). An important consequence of the ‘roll back neoliberalism’ was that it provided fertile soil for the rise of civil society. Indeed, it can be argued that ‘roll back neoliberalism’ opened the door for self-organising networks, particularly private sectors and NGOs to be part of the governance (see Section 2.2). Moreover, the decentralisation also encouraged the participation of local communities since decentralisation and participation have a symbiotic relationship (Bergh 2004). Therefore, it can be argued that the ‘roll back neoliberalism’ significantly contributed to the rise of the community-based governance concept.

However, once ‘the roll back neoliberalism’ completed its work to reform the government, neoliberalism evolved to ‘roll out neoliberalism’ in the 1990s, which in turn centralised power back to the state (Peck and Tickell 2002). For instance, the Public-Private Partnerships (PPPs) were considered as an ideal mechanism through which to bring civil society, the private sector, and the state into the policymaking process. However, it is important to recognise that

in PPPs, the state only cedes part of its authority to the private sector on a loan basis, thus meaning that the state still maintains the key authority and can reverse its decision regarding the PPP (see Section 2.2). It is almost a perfect reflection of the ideal state in neoliberalism, whereby the state provides its service on a contractual basis whilst still maintaining strong power to protect the market through audits and regulations (see Section 2.2). Indeed, it can therefore be argued that ‘roll out neoliberalism’ is, for the most part, in sync with state centric governance, despite the fact that it promotes indirect rather than direct regulation of the government.

In light of this, there may well be those who argue that neoliberalism is a political philosophy which contains very contradictory ideas (Mirowski 2009). For instance, neoliberalism considers the strong state as a barrier standing in the way of economic development whilst also recognising, somewhat ironically, that the market must be protected by the strong state (see Section 2.2). In addition, it can be also argued that as neoliberalism itself has evolved, it has become a much stronger and more pervasive force to penetrate into and is sustained by state institutions (Peck and Tickell 2002).

### *2.3.1 State centric governance*

The American subprime mortgage market started to fail in September 2007 due to a lack of state regulation (The Economist 2008). It was ultimately the federal government which injected \$700 billion into the economy to save the US banking system (Mishkin 2011). However, unfortunately, the US subprime mortgage crisis caused a chain reaction in the global economy crisis and ultimately led to a global recession (Mishkin 2011).

One could contend that the global financial crisis had a profound impact on the governance debate. First of all, it could be considered as an important example which demonstrates that the state remains as the central actor in governance. As previously mentioned (see Section 2.1), the state has been



subjected to serious criticism, with many calling it an incompetent institution for providing welfare for society while suffering from a lack of capacity due to fiscal or legitimacy deficits. Subsequently, many have argued that the state has been ‘hollowed out’ and the concept of governance has changed from government to governance (see Section 2.2).

However, it is important to recall that when the market, in this case the global financial system, came close to meltdown, there were strong demands for state intervention. Ultimately, it was the federal government which intervened and saved the banks by injecting \$700 billion of taxpayers’ money to buy ‘toxic’ debts from failing banks in order to prevent a complete meltdown of the market (Mishkin 2011). Furthermore, it is important to recognise that the fundamental cause of the financial crisis was that self-regulating organisations (i.e. Banks) acted upon the interests of the actors rather than collective interests (Pierre and Peters 2000). Therefore, it could be argued that the concept of governance without government is not applicable. On the contrary, there is a concerted effort from the governments to implement more regulations in the banking systems and to reform the banks (Bell and Hindmoor 2009).

This demonstrates that the state still maintains the capacity to change the way in which it governs. Indeed, the state still possesses legal sovereignty in the sense that it remains the final and absolute authority in the political community (Hinsley 1986). This indicates that, even though the state is constrained by constitutions, parliaments, elections and the media, it remains an authoritative actor which can change the rules of governance (Bell and Hindmoor 2009). Besides this, the leaders of the state still hold a democratic mandate, even though trust in politicians and a willingness to participate in the political process have fallen away over the last few decades (Stoker 2006). In light of this, it could be further argued that the state is entitled to be the final and absolute authority in the political community, and has the right to make authoritative decisions.

Furthermore, the state alone has the legitimate use of violence and, although this might seem dramatic, the capacity of the state unilaterally to alter the rules of governance might be achieved through its capacity to force other actors to behave in certain ways (Bell and Hindmoor 2009). No other actors, such as NGOs or stakeholders, possess the legitimate use of violence in society, and as such it is possible that the state alone possesses the ultimate “steering” method. In addition to this, it could be considered that, far from withering away, the state has adapted to new environments and remains the public face of governance.

Scharpf (1994) explained the adaptation of state in terms of ‘shadow of hierarchy’, and argued that:

*In most western democracies...the unilateral exercises of the state authority have largely been replaced by formal or informal negotiations, in policy formulation as well as in policy implementation, between governmental actors and the affected individuals and organisations...but these are typically negotiations under the shadow of hierarchical authority (Scharpf, 1994: 41).*

Governance under the ‘shadow of hierarchy’ represents a change in the institutional arrangement of the state, which is shifting away from an earlier form of closed and genteel control by elites, towards a new and more hierarchical ‘regulatory state’ (Moran 2003, 2006). One of the prime examples of the ‘shadow of hierarchy’ could be the PPPs. Indeed, as previously mentioned (see Section 2.2), in PPP, the state negotiates the terms of providing part of its services with self-regulating private actors and cedes part of its authority. However, this does not mean that the state abandoned its hierarchical authorities as state decisions are always reversible. Therefore, the regulatory state is characterised by stronger central controls through extensive auditing and quantitative measurement of performance (Porter 1995; Baldwin 2004). In other words, one could contend that even though the state does not exercise command and control, it still maintains its position as ‘*the first*

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*amongst equals*' in contemporary governance (Bartle and Vass 2007).

Interestingly, it appears that the state centric governance bears a remarkable similarity to the regulatory states in 'roll out neoliberalism'. For instance, from the neoliberal perspective, an ideal state should protect 'privatised' or 'deregulated' markets through a number of audit devices and regulations (see Section 2.2). Furthermore, it could be argued that the concept of the 'shadow of hierarchy' can be considered as giving an illusory sense of freedom, as the state does not come into direct contact with the public while steering policy through regulations. In light of this, one could not be blamed for arguing that the 'shadow of hierarchy' effectively neutralises the personal participation in political decision, which in turn can lead to constrained democracy rather than unconstrained democracy, thus potentially threatening the ideal market (see Section 2.2).

Based on this, it could be considered that 'shadow of hierarchy' coincides with the ideal state in neoliberalism, whereby the state neutralises participation, which could threaten the ideal market, through regulations (see Section 2.2). This could mean that the distinction between neoliberal and hierarchical approaches in a theoretical context is very subtle. However, in state centric governance, it was argued that the state governs *through* the market (Bell and Hindmoor 2009). On the other hand, neoliberalism believes the market surpasses a state's ability to govern (see Section 2.1), hence governance *by* the market.

Whilst it is clear that the state can govern through the market, in reality, it is also very much true that the private actors have significant influence. Indeed, in some cases, it could even be argued that the private actors often decide the state's policy. For instance, the miss management of major banks was the primary reason for the global economic crisis. Furthermore, the governments are attempting to place tighter regulations on the banking system. However, it is important to recognise that the majority of financial advisors, such as the

Treasury Secretary in the Obama administration, had previously worked at Goldman Sachs (The NY Times Augusts 19, 2010). In light of this, it is possible that the distinction between governance by the state and by the private sector is becoming increasingly blurred as the result of domination by neoliberalism in contemporary governance.

### 2.3.2 *Market-focussed governance*

Market-focussed governance can be considered as a direct product of neoliberalism. As previously discussed, it can be argued that the core notion of the market-focussed approach is governance by the market (see Section 2.3.1). Indeed, the state is considered as inferior to the market when it comes to processing information and cannot resolve the problems which arise from the interaction of free individuals and free markets (see Section 2.1). Nevertheless, it is also the state which can protect ideal conditions for the market through audits and regulations while neutralising participation, which neoliberals consider as a threatening factor for the market (see Section 2.2).

Harvey (2005) captured such a market-focussed view.

*Human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterised by strong private property rights, free markets, and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices.... Furthermore, if markets do not exist, then they must be created, by state action if necessary. But beyond these tasks the state should not venture. State interventions in markets (once created) must be kept to a bare minimum because, according to the theory, the state cannot possibly possess enough information to second-guess market signals (prices) and because powerful interest groups will inevitably distort and bias state interventions (particularly in democracies) for their own benefit (Harvey 2005: 2).*

However, once again, the global financial crisis (see Section 2.3.1) demonstrates that such an ideal market, from a neoliberal perspective, could not exist. Indeed, the state had to actively intervene in the financial market to prevent complete meltdown. Nevertheless, one might say that there is value in the argument that the state should not have intervened in the market. Since the boundaries between public and private are blurred in contemporary governance, it is much easier for '*powerful interest groups*' to capture the state, which in turn would result in distortion and bias state interventions. The most obvious example can be seen as the financial advisors in the Obama administration, the majority of whom are ex-Goldman Sachs employees who are not free from certain responsibilities for financial meltdown (see Section 2.3.1).

Indeed, an independent market trader, Alessio Rastani, used an interview with the BBC to air his thoughts on the matter:

*'The governments don't rule the world, Goldman Sachs rules the world'.*

He also said in the interview that:

*'for most traders we don't really care about having a fixed economy, having a fixed situation, our job is to make money from it. Personally, I've been dreaming of this moment for three years. I go to bed every night and I dream of another recession'* (BBC 26 September, 2011).

However, it may be no surprise that the self-regulating private banks might view the financial crisis, which they caused, as another opportunity to expand their wealth rather than feel responsible, since hardly any people who could be held responsible for the meltdown of the financial market were prosecuted (The NY Times 7 January, 2013). Paradoxically speaking, this could be considered as a demonstration of neoliberals' blind faith in the market and corporations, since they *can do no wrong, or at least they are not to be*

*blamed if they do* (Mirowski, 2009: 438). Although Mr. Rastani's interview cannot be considered as representative of the thoughts of all people working in the financial industry, it reveals how the private actors would think and behave in a market driven society.

Meanwhile, the World Bank argued that neoliberal policy, which has been the global hegemony since the 1980s (see Section 2.1), significantly reduced poverty around the world. For instance, it claimed that there were 400 million less people living in absolute poverty in 2001 than 1981 (Chen and Ravallion 2004). However, this claim has been widely criticised for several reasons. Firstly, the World Bank defined the absolute poverty as those who have to live with less than \$1 per day (Chen and Ravallion 2004), and this figure has been criticised for being too low (Kiely 2007). Secondly, the World Bank's calculation for poverty numbers has been criticised for being biased downward (Kiely 2007; Wade 2004).

Even if the proportion of people living in absolute poverty has fallen, neoliberalism and the subsequent market-focussed approach has another very serious consequence. It has been argued that neoliberal policy contributed to growing inequities around the globe while worsening the living conditions for the majority of the world's populations (Navarro 1998). It claimed that one of the major contributing factors in terms of growing inequities was the capitalist nature of neoliberalism, including the privatisation of public wealth, tax cuts for the wealthy, and further reduction in wages for the non-elite (Harvey 2005; George 1999). Indeed, it was argued that the inequity both within and between countries has widened since around 1980 (Wade 2004). However, political leaders often defend neoliberalism and the inequality which it creates (The Independent 21 July, 1996); something which coincides with the neoliberal perspective that *'people should be encouraged to envy and emulate the rich'* (Mirowski, 2009: 438).

Subsequently, there are certain warnings against things such as increasing

equity. Indeed, as Michael Sandel (Sandel 2009) argued, *'too great a gap between rich and poor undermines the solidarity that democratic citizenship requires. As inequality deepens, rich and poor live increasingly separate lives'* (Sandel 2009: 266). He used the education and health service as an example where *'the affluent secede from public spaces and services leaving them to those who can't afford anything else'* (Sandel, 2009: 266). He argued that it has two bad effects - one fiscal and the other civic. *'First, public services deteriorate, as those who no longer use those services become less willing to support them with taxes. Second, communal spaces cease to be places where citizens from different walks of life encounter one another. The hollowing out of the public realm makes it difficult to cultivate the solidarity and sense of community on which democratic citizenship depends. Thus, inequality can be corrosive to civic virtue'* (Sandel, 2009: 268). Subsequently, it is argued that politics should focus on the 'common good' rather than focussing on neoliberal virtues such as 'private consumption' (Sandel 2009).

Despite such warnings, it appears that neoliberalism and the subsequent market centred approach remain fairly dominant forces in contemporary governance. Indeed, from a neoliberal perspective, the market would provide a solution to problems which have been created by the market, such as inequity (Mirowski 2009).

### 2.3.3. Community based governance

Communitarianism operates on the premise that individuals in the community can overcome selfishness while acting in a concerted and enlightened way (Pierre and Peters 2000). Subsequently, communitarians have argued that community has the ability to solve common problems. Indeed, one of the core notions of communitarianism is that the state involvement must be minimised because the state, even a local government, is too big, bureaucratic, and remote to represent the interests of small communities (Pierre and Peters 2000). It can therefore be argued that the decentralisation of the central government

provided an ideal condition for the emergence of communitarianism (Etzioni 1993a).

Starting in the 1980s, the neo-institutional scholars further developed the idea of community-based governance by carrying out studies relating to the successful self-governance of common pool resources (CPRs). Their focus was on the bottom-up approaches used across the world (Ostrom 1990; Ostrom et al. 2002). Many neo-institutional researchers followed Ostrom's footsteps and set out to find empirical and theoretical support for the purpose of suggesting, and deliberately building management systems which fulfil well-known criteria for sustainable use (Burger et al. 2001; Ostrom et al. 2002). As a result, typically, common-pool resources governance is depicted as some kind of power-sharing arrangement between the state and a community of resource users. In their view, the state should act like a facilitator to support community efforts rather than imposing its own rules (Ostrom et al. 1999; Agrawal and Ostrom 2001); a view which coincides, to a certain extent, with neoliberal perspectives towards the state (see Section 2.3.2).

At the same time, neo-institutional scholars emphasised the importance of allocating property rights to local users while granting their autonomy to enforce access and to harvest the resources. Shlager and Ostrom (1992) identified five property rights:

- Access: The right to enter a defined physical area and enjoy non-subtractive benefits (e.g. hiking, canoeing, sitting in the sun).
- Withdrawal: The right to obtain resource units or products of a resource system (e.g. cutting fire wood or timber, harvesting mushrooms, diverting water).
- Management: The right to regulate internal use patterns and transform the resource by making improvements (e.g. planting seedlings and thinning trees).
- Exclusion: The right to determine who will have an access right, and how that right may be transferred.



- Alienation: The right to sell or lease management and exclusion rights.

Interestingly, it can be argued that granting these five property rights to empower the local resource users coincides with the neoliberal notion that the market would empower citizens as they can exercise their power as consumers (Agrawal and Ostrom 2001; Pierre and Peters 2000).

As such, it can be considered that this approach seeks to modify the institutional design and policy processes in order to encourage the development of trust, commitment, confidence and cooperation amongst CPR regulators, users and other actors, which operate in conjunction with the state and economic incentives. Subsequently, neo-institutional intellectuals can be considered, again to a certain extent, as neoliberals (Plehwe 2009).

To summarise, neoliberal reforms, such as globalisation, decentralisation, and marketisation, lead to the formation of policy networks and partnerships with international, private and civil organisations, whilst also shifting the role of the state and blurring the public-private boundary. On the surface, such reforms appear to be ‘hollowing out’ the government. Indeed, such a neoliberal reform of the state can be categorised as the ‘roll back neoliberalism’ seen in the 1980s, which also provided fertile soil for the rise of civil society. With this in mind, many scholars have argued that we are witnessing an apparent shift from government to governance.

However, this is not an accurate description of neoliberalism. Neoliberalism is a much more complicated concept which accommodates many contradictory ideas and neoliberalism itself has evolved throughout time. In a neoliberal framework, the state is not hollowed out. On the contrary, only a strong state can protect the ideal market through regulations while neutralising the participation of the public in political decisions. Indeed, the concept of democracy has very different implications within the neoliberal framework. Neoliberal intellectuals believe that the masses will not understand the true

nature of the social order and their participation will only damage the ideal market. Instead, they believe that individual entrepreneurial freedoms and skills should express themselves through the market.

The PPPs can be considered as one of the ideal mechanisms when it comes to achieving the neoliberal idea of ideal balance among the state, private sectors, and civil society. For instance, the private sector, which can be represented by corporations, can strengthen their business interests as PPP often involves privatisation (Miraftab 2004). It was also argued that the PPP can strengthen civil society as it often involves NGOs or local communities (Pattberg et al. 2012). At the same time, it is important to recognise that private sectors and civil society are under contract to the state. The state maintains its power and even expands its influence through different sets of regulations. Such an arrangement can be categorised as ‘roll out neoliberalism’ which coincides with state centric governance through a regulatory state.

With this said however, the recent financial crisis has given rise to much criticism in relation to the neoliberal policies, which has been the global hegemony for over two decades. Nevertheless, it could be argued that neoliberalism still holds its position firmly as the dominant force in contemporary governance.

## **2.4 Implication of Neoliberalism in Environment governance**

As has been demonstrated, neoliberalism has had a profound impact on the contemporary governance debate. Therefore, it might be no surprise to witness neoliberalism also shaping the environmental governance debate since it is also concerned with managing people, the market and the state (Jones et al. 2011). Indeed, Hyene et al. (2007) claimed that:

*‘Neoliberal reform is both a cause of environmental change and a product of a change in the way we interact with the environment’* (Hyene et al., 2007: 11).

Therefore, although the research is focussed on protected area governance, particularly the marine protected area, it is important to fully understand the implication of neoliberalism in environmental governance and thus to understand protected area governance. Subsequently, the implication of neoliberalism for environment governance will be explored in this section.

As previously discussed, neoliberalism can be distinguished into two phases. The first phase is 'roll back neoliberalism'. Indeed, it appears that under 'roll back neoliberalism' the central state was 'hollowed out' in two ways, namely through decentralisation and globalisation.

Coincidentally, as 'the roll back neoliberalism' started to rise to power in the 1970s, Hardin wrote a very influential paper entitled "the tragedy of the commons" in 1968. In his paper, he described "the tragedy of the commons" as:

*Therein is the tragedy. Each man is locked into a system that compels him to increase his herd without limit-in a world that is limited. Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all* (Hardin, 1968: 1244).

In explaining "the tragedy of the commons", Hardin drew an analogy of a herdsman and his cattle in a pasture open to all. He argued that once society becomes stable, the number of herdsman would increase beyond a capacity which the state could control. Since each herdsman tries to maximise his gains, this would lead to an increased number of cattle. Ultimately, it would destroy the pasture (Hardin 1968). Therefore, Hardin suggested that 'mutual coercion', such as the imposition of private property rights, is required while recognising that there are certain injustices in the imposition of 'mutual coercion'. However, he believed that 'injustice is preferable to total ruin' (Hardin, 1968: 1247).

At this point, it is important to recognise that Hardin predicted that the ‘commons’, which was described as a pasture, would be in danger not because it was open to all but because of the overpopulation (Brockington et al. 2008). Nevertheless, neoliberal economists captured Hardin’s “tragedy of common” idea and interpreted as the “tragedy of open access” (Mansfield 2001a). In light of this, it was argued that privatisation of the access to resources is the only way to avoid the “tragedy of the common” while maximising profit (Castree 2007a). This is the core notion of the “Market Environmentalism”; the advocates of which argue that the market will preserve the environment, and conserve resources while enjoying economic growth (Bakker 2005). Indeed, it could be argued that one of the most significant implications of neoliberalism in environment governance is the commodification of natural resources, which were not previously tradable, meaning that the natural resources can be traded in the world capitalist economy (McAfee 1999; Castree 2007a, b).

On a national scale, the market environmentalism was manifested in terms of privatisation of natural resources through PPP. As the central state faced a serious fiscal and legitimacy crisis in the 1970s (see Section 2.1; Cox 1999; Okun 1970), even the governments of economically developed countries, including the UK, could not provide normal services, such as the provision of a clean and affordable water supply (Bakker 2001). As Thatcher implemented a series of government reforms such as deregulation, privatisation, and the contracting of public services out to the private sector (see Section 2.3), it might not be a surprise that water supplies in England and Wales were privatised (Bakker 2001).

Unfortunately, as the neoliberal market-focussed approach often creates inequity (see Section 2.3.2), the privatisation of water supply in the UK also created inequity. For instance, as the price of a water bill rose above the inflation rate, it was the lower-income families who had to pay more than higher-income families in terms of proportion of income. As a result, almost 2 million

households in Britain could not pay their water bill in 1994 (Bakker 2001). As Tony Blair's 'New Labour' rose to power, the UK government tried to reform the water supply industry, which was characterised as:

*'A continued commitment to privatization, increased competition, and greater consumer choice; higher but less steeply increasing prices mitigated by alternative charging schemes for vulnerable groups; and more stringent regulation of companies, particularly with respect to profits, performance, and water conservation'* (Bakker, 2001: 156).

In short, it could be considered that what 'New Labour' tried to do was to create ideal conditions for the market by introducing more competition to provide greater choice for the consumers, through regulation and audits. Therefore, one might say that this is an almost exact description of a regulatory state under 'roll out neoliberalism' (see Section 2.1). Furthermore, it reinforces the argument that once 'roll back neoliberalism' completed its work to reform the central state, it evolved into 'roll out neoliberalism' (see Section 2.1). More importantly, under 'roll out neoliberalism', the state facilitates a transformation of natural resources into commodities which are tradable in the market through re-regulation (Brockington et al. 2008).

Meanwhile, decentralisation was supposedly encouraging participation, which in turn promotes democracy (see Section 2.2). However, it is vitally important to recall that one of neoliberalism's core notions is neutralising participation, as unconstrained democracy is considered a threat to the ideal market (see Section 2.2). Interestingly, this is exactly what happened as a result of the privatisation of water supply.

Swaynegedouw (2005) pointed out that the privatisation of water turned citizens into water consumers rather than citizens who were entitled to access to water. As a result, the political power dynamic surrounding the issue of water supply was fundamentally altered (Swaynegedouw 2005). Indeed, the

water supply industry could be characterised by principles of business secrecy, absence of participation, and non-transparent decision-making procedures (Swyngedouw 2005).

Instead of working with citizens, the state worked with other institutional or regulatory bodies in order to achieve its policy goals (see Section 2.1; Kjær 2004). The most notable institutional or regulatory body which emerged through ‘roll back neoliberalism’ was NGOs. Particularly related to the privatisation of water in the UK, they are known as Quasi-autonomous NGOs, and can also be called Quangos (Swyngedouw 2005). These Quangos have significant political power in the decision-making process. However, the problem is that they do not only have very little accountability but also have very limited forms of democratic control while working in a shady political area (Swyngedouw 2005). It appears that such a problem is not only limited to Quangos. For instance, conservation NGOs, particularly Big International NGOs (BINGOs) are also criticised for having too close a relationship with corporations and for their lack of accountability (Chapin 2004); an issue which will be analysed in more detail later.

Indeed, it can therefore be argued that the example of the UK water privatisation demonstrates an evolution of neoliberalism from ‘roll back’ to ‘roll out’. More importantly, it demonstrates the implication of neoliberalism in environment governance on a national scale. By capturing Hardin’s “the tragedy of the Commons” concept, neoliberals justified the privatisation of natural resources (the commons). Through privatisation, neoliberalism not only reformed the state to facilitate ideal market function, but also neutralised public participation. However, such neoliberalisation of the nature did not deliver what it promised, namely better supply of water. Instead, it created inequity and a more polarised society.

While the UK water privatisation demonstrates neoliberalism on a national scale, the supranational institutions also significantly influenced environmental

governance on a global scale. As previously discussed, during ‘the roll back neoliberalism’, the central state was further ‘hollowed out’ by supranational institutions; institutions which were considered useful when it came to disseminating neoliberalism (see Section 2.1). However, such supranational institutions did not just initiate the reform of the national state.

As mentioned above, advocates of neoliberalism believe that natural resources can be commoditised and tradable. However, natural resources are not the only things which are tradable. Indeed, from a neoliberal perspective, everything which involves human interaction such as services, ideas, information, and labour can be transformed into commodities, which in turn can be traded on the global market (McAfee 1999). For instance, ideas or knowledge can be turned into intellectual property rights (McAfee 1999).

Not surprisingly, the environment is no exception. The supranational institutions, particularly the United Nations, were on the front line when it came to promoting market environmentalism on a global scale. McAfee (1999), described the core notion of those supranational institutions as:

*‘Humanity’ has a common interest in mitigating planetary ecological degradation, and the premise that ‘global’ environmental problems can be managed without con-fronting the disastrous environmental and equity consequences of current economic trajectories’* (McAfee, 1999: 133).

It appears that such a core notion correlates with the definition of sustainable development, which can be defined as:

*‘Humanity has the ability to make development sustainable-to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs’* (World Commission on Environment and Development, 1987: 8)

It was argued that the discourse of sustainable development was in full bloom at the United Nations Conference on Environment and Development, commonly known as the Earth Summit, which was held in Rio de Janeiro in 1992 (Dryzek 2005).

While the United Nations was promoting sustainable development as a global agenda, the World Bank had been often criticised for sponsoring the project (i.e. building dam in Phillipin) which could destroy the environment (Shiva 1989; Dryzek 2005). However, according to Dryzek (2005), the World Bank tried to improve its image by establishing the Environmental department, appointing a Vice president for Sustainable Development, and sponsoring research for environmentally sustainable development (Dryzek, 2005: 150). Subsequently, it appears that the World Bank also adopted the sustainable development. Indeed, Dryzek (2005) pointed out that the main theme of the World Environment Report, which was published by the World Bank in 1992, was that '*environmental management and economic development could proceed together*' (Dryzek, 2005: 150).

Therefore, the concept of sustainable development, which covers environmental issues from the local to the global while addressing economic and development concerns, has become hugely popular since the early 1980s when neoliberalism rose to the global hegemony (see Section 2.1).

## **2.5 Protected Area governance**

Indeed, as previously demonstrated (see Section 2.4), global dominance of neoliberalism reframed the main objective of environment governance as sustainable usage of the nature (Dryzek 2005). Based on this, Dryzek (2005) identified three perspectives or discourses through which to address environmental problems:

1) Administrative rationalism (leave it to the experts) – problem-solving discourses, which emphasise the role of the expert rather than the citizen or



producer/consumer when it comes to social problem-solving, and which stress social relationships of hierarchy rather than equality or competition;

2) Democratic pragmatism (leave it to the people) – with this concept, democracy is not a set of institutions such as elections and parliaments, but a way of approaching problems. Here, emphasis is placed on the role of civil society.

3) Economic rationalism (leave it to the market) – market principles are about supply and demand. However, markets in environmental goods do not always exist, and thus often need to be created and managed. Therefore, economic rationalism might achieve public ends through its commitment to the intelligent deployment of market mechanisms.

Jones et al. (2011) reinterpreted Dryzek's three discourses for protected area governance as:

*(1) Top-down: the need for state control through laws and other regulations to ensure that biodiversity and natural resources are actually 'protected' against degradation and destruction;*

*(2) Bottom-up: the need to adopt community-based approaches to protected area governance that decentralise decision-making processes and empower local people by involving them in deliberations and decisions. Advocates of such approaches often highlight local sources of knowledge and customs on which traditional sustainable resource use practices are generally based, that are usually considered to be compatible with biodiversity conservation; and*

*(3) Market incentives: the need for economic initiatives to support alternative, compatible livelihoods, etc.; the need to attach an economic value to biodiversity in terms of natural capital and ecosystem services as a means of providing for balanced decisions, that might otherwise favour exploitation; the*

*need to attach property rights to environmental resources is also often emphasised as a means of improving governance by using market incentives to promote economic rationalism (Jones et al., 2011: 2).*

The three perspectives identified by Jones (2011), correspond by design with the three main perspectives of governance (see Section 2.3).

### *2.5.1 Top-down approach: Protected area governance before 1970s*

Up until the 1970s, protected area governance was carried out using the conventional concept of top-down state regulation, since the state agencies or their representatives establish and manage the protected area. Such an approach often included the exclusion of local people from nature by coercive means (Agrawal 1999; Mehta and Kellert 1998). On the other hand, such a top-down approach might not be a surprise, as the idea of protected area and conservation which we embrace today originated from influential and powerful aristocratic hunters (Mackenzie 1988). The European colonists, who followed their European tradition to set separate hunting grounds for royal and elite hunting, wanted to preserve suitable specimens for their hunting game. At the same time, they perceived local subsistence hunting as depredation of stock or ‘poaching’ (Adams 2004; Mackenzie 1988). Subsequently, they established the game reserves in Africa, which could be considered as provenance of protected areas (Adams 2004). Therefore, it appears that the local Africans resented these ‘protected areas’ and perceived them as symbols of continued European neo-colonial rule (Adams 2004).

While the game reserves are the primitive forms of modern protected areas, the Yellowstone National Park in the US is widely considered as the beginning of protected areas (Adams 2004; Jepson et al. 2002; Kalamandeen and Gillson 2007). Interestingly, it appears that the legacy of the European aristocratic approach to land use, whereby they set aside landscape for the viewing pleasure of rural elites, influenced the idea behind Yellowstone National Park (Brockington et al. 2008). Much like the game reserves in

Africa, the Yellowstone National Park establishment involved revoking the hunting rights of Native Americans, which resulted in significant conflict between the two sides. Indeed, it was argued that the designation of most protected areas in the Western part of the US resulted in significant conflicts with Native American communities (Brockington et al. 2008).

Nevertheless, this US model of designating Yellowstone National Park became the mainstream conservation model and is still referred to as ‘fortress conservation’ or the ‘fences and fines’ approach (Brockington 2002; Hutton et al. 2005). Subsequently, it could be argued that the protected areas, to some extent, caused a struggle for local communities, particularly those suffering from poverty and having to rely on natural resources for subsistence living.

With this in mind, it is not surprising that the local communities, with their access to resources denied and their livelihoods deprived, did not support the protected areas (Brockington 2004; Blaustein 2007; Ghimire and Pimbert 1997). Indeed, it has been argued that the protected areas would not function properly without support from local communities and without addressing their needs and concerns (Kellert 1985; McNeely 1993).

James et al. (1999) estimated that it would cost around \$27.5 billion per year to establish and effectively manage protected areas which cover 15% of earth (James et al. 1999). Unfortunately, the central governments suffered from a growing fiscal crisis due to the depression in the 1970s (see Section 2.1; Okun 1970). Subsequently, it may not be a surprise to witness that the protected areas, which were mainly designated through the use of a top-down approach by the state, were not managed effectively due to a lack of government resources and capacity (Inamdar et al. 1999; Wells and Brandon 1992). In light of this, it may come as a shock to witness deterioration of the ecosystem and depletion of natural resources even within the protected areas (Ascher 1999; Brandon et al. 1998; Sanderson and Redford 2003). Indeed, this is due to the fact that the state has not been able to effectively manage the

protected areas, since local communities did not support them.

With this in mind, it is only natural to witness an emergence of alternative approaches to this ‘fortress conservation’. A more community based framework, including community based natural resource management, community based conservation with development, and collaborative management, began to emerge for conservation (Kellert et al. 2000; Little 1994; Borrini-Feyeraben 1996). At the same time, such a paradigm shift in environment governance can be considered as an evitable consequence of the rise of neoliberalism.

### *2.5.2 Bottom-up approach: Community based governance*

As previously discussed, neo-institutional scholars argued for community-based governance based on the case studies of successful self-governance of Common Pool Resources (CPRs) (see Section 2.3.3). In relation to environmental governance, these neo-institutional scholars will be referred to as CPR scholars, since the strongest evidence for the bottom-up approach in protected area governance comes from CPR literature.

On the surface, the bottom-up approach can be considered as the alternative solution to the ‘fortress conservation’ (see Section 2.5.1), as it places emphasis on engaging the local community while the state should act as ‘facilitator’ rather than ‘controller’ (Ostrom 1990). On the other hand, it could be argued that the global dominance of neoliberalism provided almost perfect conditions for the CPR governance theory.

It appears that the CPR governance theory is a response to Hardin’s ‘the tragedy of the commons’ (see Section 2.4; Hardin 1968). The core notion of Hardin’s ‘tragedy of the commons’ is how to solve the ‘free rider’ problem, which has been defined as;

*‘If it is not practical to exclude a user nor possible to force that user to contribute to the cost of developing and maintaining the resource, the non-*

*contributing user is called a free rider*' (Dietz et al., 2002: 19).

Hardin (1968) argued that granting property rights to natural resources through the state control could solve the 'free rider' problem (Hardin 1968). Elinor Ostrom, who can be considered as the head figure of CPR governance scholars, started her work by challenging Hardin's "the Tragedy of the Commons". Based on her research into California ground water management, Ostrom argued that local people could successfully manage CPR through collective action, as an alternative to 'Leviathan' state or privatisation (Ostrom, 1990; Ostrom et al. 1999, 2002). Following in the footsteps of Elinor Ostrom, CPR governance scholars found that many local communities enforce the rules to sustainably regulate the use of resources without apparent outside interventions (Baland and Paltteu 1996; Ostrom 1990; Wade 1994).

CPR governance argued that it is critical to have effective rules which are perceived as legitimate and are enforced properly while addressing the biophysical structure of the natural resource (Dietz et al. 2002). Subsequently, CPR governance scholars have placed significant emphasis on the importance of public participation in the decision-making process (Dietz et al. 2002).

Indeed, Kellert et al. (2000) identified general characteristics of the bottom-up approach, which is the key feature of CPR governance theory, as:

- Active promotion of local community participation in natural resource management and biodiversity conservation.
- Reliance on local institutions and collective actions in achieving conservation goals.
- Devolution of at least some degree of power and authority to local communities' commitment to reconcile socioeconomic development of local communities and conservation of biodiversity.
- Tendency to defend and legitimise access to, and property rights of, local and indigenous communities.

- Belief in traditional culture and values, as well as local knowledge in solving modern conservation and resource management issues (Kellert et al. 2000).

Indeed, there are those who may say that promoting public participation is a crucial departure from neoliberalism in the policymaking process (see Section 2.2). Nevertheless, it appears that CPR governance scholars have many common denominators with neoliberals considering the origin of their theory.

Firstly, the central state was decentralised either by neoliberal reforms of the central state or by the supranational institutions' Structural Adjustment Programs (see Section 2.1). The decentralisation provided fertile soil for the rise of civil society, which in turn promoted participation (see Section 2.2). More significantly, these developing countries, which were likely to be put through the Structural Adjustment Programs by the supranational institutions would not have strong government capacity (see Section 2.2). Furthermore, such supranational institutions, particularly the World Bank, strongly supported community based CPR governance. For instance, the World Bank recommended that:

*'a compelling reason for supporting community resource management is its importance for the poor' and that 'Governments need to recognise that smaller organisational units, such as villages or pastoral associations, are better equipped to manage their own resources than are large authorities and may be a more effective basis for rural development and rational resource management than institutions imposed from the outside' (World Bank, 1992: 142-143).*

Furthermore, the World Bank defined Community Driven Development as:

*Community Driven Development gives control of decisions and resources to community groups. These groups often work in partnership with demand-responsive support organisations and service providers, including elected local governments, the private sector, NGOs, and central government agencies.*

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*Community Driven Development is a way to social and infrastructure services, organise economic activity and resource management, empower poorest* (Dongier et al., 2003: 303).

These recommendations and definitions from the World Bank, which is disseminating neoliberalism on a global scale (see Section 2.1), essentially reflect the core notion of CPR governance theory. Indeed, most CPR case studies are mainly based on the developing world (Agrawal 2002). Subsequently, it has been criticised on the basis that many CPR scholars have set out to find empirical case studies which rely on local institutions' development by self-governing actors, in order to support their theory (Jones 2013).

Secondly, neoliberalism transformed natural resources into commodities through privatisation (see Section 2.4). At the same time, it could be argued that privatisation provided a foundation for property rights, which is one of the key requirements of CPR governance (see Section 2.3.3). Indeed, as was demonstrated above, one of the key solutions to the 'free rider problem' is allocating a property right to natural resources (see Section 2.3.3). This is identical to neoliberals' core notion of market environmentalism which interpreted "the tragedy of the commons" as "the tragedy of open access".

Indeed, Ostrom and Schlager (1994) stated that:

*Open access resources-those characterised by no property rights-will be overused, will be generate conflict, and may be destroyed* (Ostrom and Schlager, 1996: 128)

Based on this, one could argue that CPR scholars are one of the most direct beneficiaries of neoliberalism in terms of environment governance. Furthermore, this can reinforce the claim that neo-institutionalists, who can also be considered as CPR governance scholars, can, to a certain extent, be viewed as

neoliberals as well (see Section 2.3.3).

Meanwhile, CPR governance is facing important challenges. One of the biggest challenges in CPR is how to define the community, because the term “community” is profoundly ambiguous (Brockington et al. 2008). Agrawal and Gibson (1999) suggested that:

*We propose a shift in emphasis away from the usual assumptions about communities: small size, territorial fixity, group homogeneity, and shared understandings and identities. Instead, we suggest a stronger focus on the divergent interests of multiple actors within communities, the interactions or politics through which these interests emerge and different actors interact with each other, and the institutions that influence the outcomes of political processes* (Agrawal and Gibson, 1999: 640).

Importantly, the “interests of multiple actors” include private enterprise and profit motives which are the highest virtue in neoliberalism. Subsequently, CPR governance theory has the inherent danger of actually excluding the local people from CPR management. For instance, integrated conservation and development projects and community-based ecotourism (Brown 2002; Kiss 2004), supposedly help the local community to manage ecosystems sustainably while enjoying the financial benefits by granting property rights to local resource users (Ostrom 2003). However, it is often the case that a local community only has the capacity to control the resources which attract private investors (Brockington et al. 2008).

Subsequently, such an arrangement is often hijacked by private negotiations between corporate interests and the state agencies (Brockington et al. 2008). Moreover, private investors or BINGOs, which often act as brokers for integrated conservation and development projects or ecotourism, often choose their partner within the local community (Brockington et al. 2008). Therefore, it might not be a surprise to witness growing evidence of political rivalry,



conflicts, and equity within many communities (Leach et al. 1999; Barrett et al. 2001; Robbins 2000).

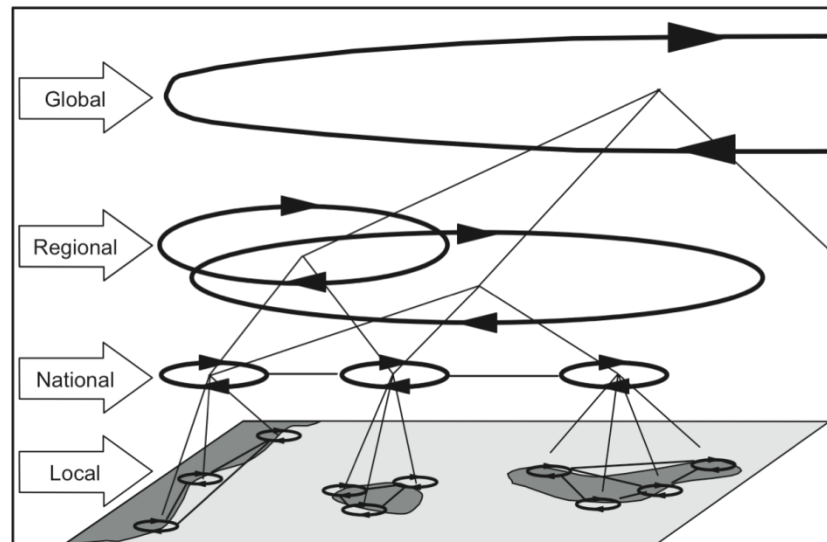
Subsequently, from a neoliberal perspective, it could be considered that integrated conservation and development or ecotourism is an almost ideal arrangement where the participation is successfully neutralised while the market function is working by making profit (see Section 2.2). Furthermore, one may well argue that the dominance of CPR governance, particularly in developing countries, opens the door for a more market-focussed approach, even in protected area governance.

Another challenge to CPR governance is that empowering the local community does not necessarily guarantee the sustainable management of CPR. When local communities' economic benefit is higher than conservation benefits, it is likely that they would choose economic benefits. For instance, a local community in Canada decided to build a hazardous waste treatment facility as it would bring more jobs and increase tax revenue. As a result, the level of polychlorinated biphenyl increased in the local environment (Bradshaw 2003).

Furthermore, CPR governance theory does not adequately address the large scale problems which arise, since most common-pool institutions are adapted to manage small-scale and economically important commons (Ostrom 1990). Subsequently, it is often the case that community based conservation does not achieve international biodiversity conservation objectives, let alone the national objectives (Brockington et al. 2008), because local communities do not have control over external forces which bring about biodiversity loss (Terborgh 1999).

It appears that the CPR governance scholars recognised that environmental governance is a complex system problem (Berks 2006; Dietz et al. 2003; Wilson, 2006). As a solution, and to address CPR governance on a large scale, the CPR governance scholars introduced the concept of cross-scale institutional

linkages (Berks 2002; Dietz et al. 2002). Cross-scale linkage describes multi-level systems which are lined up both horizontally (across geographic space) and vertically (across levels of organisation) (Young 2002; Berks 2006).



**Figure 2.1** The multi-scale component of the proposed governance framework with vertical and horizontal linkage among the different policy cycles. The multi-level linkages do not necessarily imply a controlling function (Fanning et al., 2007: 438)

Figure 2.1, shown above, is a particularly interesting diagram because it represents how CPR researchers see protected area governance. Fanning (2007) explained the diagram as *'the multi-scale component of the proposed governance framework with vertical and horizontal linkages among the different policy cycles. The multi-level linkages do not necessarily imply a controlling function'* (Fanning et al., 2007: 438).

However, as can be clearly seen from the diagram, without a controlling function, it is impossible to achieve such multi-level linkage. Indeed, it could be argued that the diagram (see Figure 2.1) itself bears a remarkable resemblance to a hierarchy structure, which requires top-down elements.

### 2.5.3 Market incentives

Much like the general governance debate, usage of market incentives is the pinnacle of the neoliberal approach when it comes to protected area

governance. Indeed, it is possible that the concept of market incentives may not exist without neoliberalism. For instance, as mentioned earlier, the usage of market incentives is based on the premise that the natural resources can be transformed into a commodity (see Section 2.4). Like any other commodities, commodified natural resources can be traded in the market. Therefore, ecosystems, which now have economic value, can be protected, as resource users would receive economic incentives for conserving biodiversity (McCauley 2006).

There are two main ways in which market economy can be used for conservation. The first involves granting property rights to local resource users through the privatisation of natural resources (see Section 2.4). Such an approach places emphasis on building the local community's capacity for conservation while ensuring it enjoys financial benefits. Subsequently, the local community is considered as the steward of natural resources, which in turn ensures long-term sustainability of the ecosystem (Ferro and Simpson 2002). Based on this, it could be argued that usage of the market in such a way is almost a perfect fit for the CPR governance theory (see Section 2.5.2). This reinforces the argument that CPR governance scholars are, to a certain extent, neoliberals. However, as previously mentioned (see Section 2.5.2), it is often the case that the local community does not actually enjoy the benefit of the incentives.

Another way of using the market for conservation is by making a direct payment for ecosystem services or compensation for maintaining ecosystem services (Ferro and Simpson 2002). The Millennium Ecosystem Assessment (2005) defined the ecosystem as a benefits pool obtained from ecosystems and distinguished the ecosystem services into four categories, namely:

- 1) Providing services such as food, water, timber and fibre
- 2) Regulating services which affect climate, floods, disease, wastes, and water quality

- 3) Cultural services that provide recreational, aesthetic, and spiritual benefits
- 4) Supporting services such as soil formation, photosynthesis, and nutrient cycling (Millennium Ecosystem Assessment 2005: v).

It appears that paying for an ecosystem service is increasingly adopted by More Economically Developed Countries (MEDCs) to access or to use the ecosystem services in Less Economically Developed Countries (LEDCs). For instance, the United National Framework Conservation on Climate Change (UNFCCC), which was agreed at the Earth Summit, proposed to compensate for reduced deforestation in tropical forests in order to reduce emissions from deforestation and forest degradation (REDD) (Miles and Kapos 2008). It appears that under the REDD scheme, LEDCs would be compensated, while MEDCs would pay for the compensation. Indeed, under the UNFCCC, the MEDCs agreed to raise the required funds of \$30 billion by 2012, and \$100 billion by 2020 to compensate the LEDCs at the Fifteenth Conference of the Parties to the UNFCCC in Copenhagen (Miles and Kapos 2008). In essence, the REDD scheme will open the market for carbon trading, which is predicted to be worth over \$10 billion per year (Dutschke and Wolf 2007).

The carbon trading concept is not something new. Indeed, CBD, which had a major impact on environmental governance on a global scale (see Section 2.4), can be considered as a precursor to the REDD scheme. McAfee (1999) pointed out that one of the main goals of Northern states, which are mainly MEDCs, in signing CBD, was to preserve some tropical forests as carbon sinks, while ensuring continuous access to Southern ecosystem, which are mainly LEDCs, as resources (McAfee 1999). As compensation, LEDCs receive funds from the MEDCs. For example, under the CBD, the Global Environment Facility provided \$2.2 billion as a grant while leveraging \$5.2 billion of co-financing to support projects in 155 countries between 1991 and 2006 (Jones et al. 2011).

However, as has been demonstrated, one of the most serious problems with

the market-focussed approach is the issue of inequity (see Section 2.3.2). For instance, such carbon trading can foreclose the economic development opportunities through industrialisation in the global South (Jones et al. 2011). More seriously, local communities might not actually benefit from such a direct payment (Brockington et al. 2008).

In addition, adding value to the ecosystem does not guarantee conservation. For instance, with carbon trading, the tropical forest's worth is estimated at over \$10 billion per year (Dutschke and Wolf 2007). On the other hand, traditional usage of forests, such as exporting timber (only includes logs, sawnwood, veneer, and plywood), is worth over \$11 billion per year (ITTO 2007). Therefore, in terms of a market mechanism, tropical forests are 'worth more dead than alive' (Terborgh 1999). This can often be the case for land conservation as well. For instance, certain charismatic animals or landscapes could attract tourists, who could in turn bring with them financial benefit. However, it is often the case that revenue generated by tourism is worth much less than alternative usage of resources, such as farming or harvesting wild species (Adams and Hulme 2001; Kiss 2004). In addition, if the protected area, which is designated by a private company to generate revenue from ecotourism, does not make enough profit, it is likely that the private company would close down (Sydee and Beder 2006).

Furthermore, such a market approach would result in serious displacement issues. For instance, under the REDD scheme, tropical forests are most valuable as they have high carbon content (Miles and Kapos 2008). However, this means that other types of habitat, such as wetlands, or forests in other countries which do not participate in the REDD, may suffer from displacement of user pressure in order to meet resource users' demand for fuel, food and timber (Miles and Kapos 2008).

#### *2.5.4 Collaborative management (Co-management)*

As has been demonstrated, there is no perfect approach for protected area

governance. Each approach has its weaknesses and more importantly, each approach has, to a certain extent, a mutual and complementary relationship. For instance, it is obvious that the top-down approach is not working well (see Section 2.5.1). However, the bottom-up only approach has its weakness. Furthermore, it is the top-down element, such as granting property rights, which is required in order for the bottom-up approach to work (see Section 2.5.2). Using a market incentive, as the name itself suggests, should be considered as an approach which uses incentives to enhance or to support the top-down or bottom-up approach (see Section 2.5.3). In light of this, it is necessary to include all three of these approaches in order to effectively govern the protected area.

Subsequently, it is not a surprise to see that co-management is adopted as the ‘new paradigm’ for the protected area governance (Phillips 2003). Co-management is defined as:

*‘A partnership by which two or more relevant social actors collectively negotiate, agree upon, guarantee and implement a fair share of management functions, benefits and responsibilities for a particular territory, area or set of natural resources’* (Borrini-Feyerabend et al., 2004: 69).

Jones (2011) also defined co-management as:

*‘A common concept or narrative that is employed in natural resource governance, including protected areas, to explore the challenges of combining these three approaches, whereby local communities and the state work on a partnership basis to sustainably manage natural resource use and/or conserve biodiversity, potentially involving all three of the approaches’* (Jones et al., 2011: 2).

As these two definitions demonstrate, the fundamental principle of co-management is the partnership, and more precisely the partnership between

local communities and the state. However, these definitions do not answer the fundamental question of governance: who has the power to steer? Therefore, as pointed out by Jones (2011), dependent on the relative emphasis placed on each of the three approaches, co-management can be interpreted in many different ways (Jones et al. 2011).

For instance, in CPR governance theory, it is argued that co-management will enhance efficiency and equity of decision-making, as well as the legitimacy of decisions while improving local level capacity (Plummer and Fitzgibbon 2004). Furthermore, it is argued that local knowledge can be incorporated into the decision making process, which in turn strengthens the conservation effort (Castro and Nielsen 2001; Berkes 2009). At the same time, CPR governance scholars recognise that it is necessary to have certain top-down elements in order to address the challenges on a large scale (see Section 2.5.3). Indeed, Berks (2002) even stated that:

*‘the balance of evidence from the commons literature of the past few decades is that neither purely local-level management nor purely higher-level management works well by itself’* (Berkes, 2002: 293).

Nevertheless, CPR governance scholars are more concerned with the case where a protected area is designated by an overly top-down approach, resulting in no meaningful participation from local people (Borrini-Feyerabend 1999).

Subsequently, CPR governance scholars described co-management as some kind of power sharing arrangement between the state and community resource users, while the state took more of a facilitator role (Jones and Burgess 2005). However, as pointed out by Jones (2013), it is often the case that a protected area is created to fulfil certain statutory obligations. If this is the case, the higher-level, top-down interventions are necessary (Jones 2013). More seriously, if co-management is too bottom-up, much like the CPR governance model, there is a *‘risk of parochialism’* (Jones and Burgess 2005), as local interests

can undermine the strategic biodiversity objective (Goodwin 1999).

On the other hand, Brockington (2002) also pointed out that protected area governance through co-management is often perceived as a continuous imposition of western wildlife preservation values (Brockington 2002). As mentioned above, the state often creates the protected areas to fulfil its statutory obligation (Jones 2013). Under the circumstances, the state occasionally unilaterally decides who, how and why local people should participate. This represents an imbalance in power while tyranny is disguising itself as co-management (Cook and Kothari 2001). Therefore, co-management can be used to reinforce a state's control of natural resource policy, allocation and management (Castro and Nielsen 2001). Jones and Burgess (2005) identified it as the risks of 'imposition' (Jones and Burgess 2005).

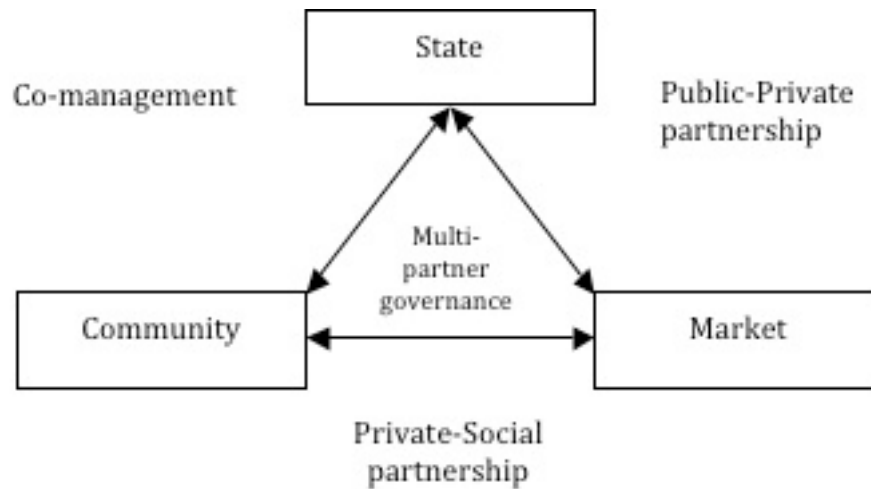
With this in mind, the key challenge of co-management is to find the 'middle ground' between the bottom-up approach, which is based on local knowledge and community support, and the top-down approach, which is based on expert scientific knowledge and the statutory obligation (Jones 2001).

Lemos and Agrawl (2009) also pointed out that there is growing pressure for the hybridisation of environmental governance strategies as a result of globalisation, decentralisation and marketisation (Lemos and Agrawl 2009). They argued that:

*'Individually and in combination, these shifts in the nature of social and governmental interactions are making environmental action by individual agencies and actors less effective'* (Lemos and Agrawal 2009: 73).

In essence, they also acknowledged that it is important to combine different approaches in order to carry out effective environment governance. To this end, they suggested multi-partner governance, which is essentially a similar concept to that of co-management.





**Figure 2.2 Multi-Partner governance (Lemos and Agrawl 2009: 78)**

The triangle connecting the state, markets, and people constitutes the core of the figure. The triangle mechanism can be explained in terms of championing state-, market-, and community-focussed governance strategies (Lemos and Agrawl 2009). In other words, multi-partner governance acknowledges that all three approaches are important and connected to each other. However, the critical question is, as Jones (2011) pointed out, '*how different approaches can be combined to promote effective governance*' (Jones et al. 2011: 6).

Lemos and Agrawal (2009) alluded to the fact that since the mid-1990s, the market-focussed approach has begun to attract more attention, as partnership is very attractive to the state, which might suffer from fiscal pressure. Furthermore, promoting economic incentives will help to gain more willing participation from those who would be subjected to environmental regulations. In addition, the private actors can raise resources more efficiently than either the state or civil society actors (Lemos and Agrawal 2009). In light of this, it could be argued that the environment governance debate, much like the general governance debate, was reinterpreted due to the global hegemony of neoliberalism. However, as has been demonstrated, the market-focussed approach, which is a pinnacle of neoliberal policy, tends to create inequity issues and to cause retrogression of democracy.

More interestingly, as the market-focussed approach gained momentum, it created other very powerful institutions, such as BINGOs. Typically, in the multi-partner governance model or the co-management paradigm, BINGOs are recognised as key players which represent community or civil society (Wilson et al. 2006; Haufler 2009). However, in contemporary environmental governance the NGO, particularly BINGOs, play a much more significant role while interacting with all three components of governance, namely community, the state and the market. The increased role of BINGOs, as well as its implications, will be discussed in the subsequent section.

## 2.6 Environmental NGOs

### 2.6.1 NGOs: *Children of neoliberalism*

As well as those already mentioned, Big International NGOs, along with CPR governance scholars, may be among other direct beneficiaries of neoliberalism. One of the most obvious examples is the dramatic increase in the number of NGOs, particularly those based in North America and Europe (Anheier and Themudo 2004). In addition, their size has also increased dramatically; for instance, The Nature Conservancy (TNC), which was established in the mid-1940s, initially started with a small number of scientists to save natural areas in the US (Chapin 2004). According to Chapin's article (2004), TNC had to use a Ford Foundation grant to pay staff salaries in 1965. However, TNC grew rapidly due to an injection of bilateral and multilateral money as well as corporate donations in the 1990s. Now, it is the largest conservation organisation in the world with assets worth over \$3billion (Chapin 2004). As a result of its dramatic growth, it is not a surprise that TNC's work is spreading globally; an example of which is the coral triangle initiative<sup>3</sup>.

As the number of NGOs grew rapidly, and with some BINGOs operating on a

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<sup>3</sup> TNC website: available from  
<http://www.nature.org/ourinitiatives/regions/asiaandthepacific/coraltriangle/index.htm>

global scale, it appears that their influence on environment governance has also increased. For instance, the 1992 UN Conference on Environment and Development in Rio de Janeiro, which is also known as the Earth Summit, was a breakthrough event for NGO participation (Bernstein 2004). The Earth Summit is particularly important in global environmental governance as CBD and UNFCCC were signed there (see Section 2.4 and 2.5.3). According to Bernstein (2005), Secretariat had to make the unprecedented decision to relax accreditation rules to allow for the participation of 1420 accredited NGOs in the official proceedings (Bernstein 2005). Therefore, it is only logical to assume that NGOs are key players in setting the global environmental governance agenda (Betsill and Bulkeley 2004).

At the same time, it may be worth noting that BINGOs, such as TNC, World Wildlife Fund for Nature (WWF), Conservation International, and National Resources Defense Council (NRDC), all turned into BIGNOs during the period spanning 1980-1990s (Chapin 2004), when neoliberalism rose to global hegemony. However, the rise of BINGOs under the neoliberal hegemony might not be an accident. In many ways, neoliberal policy provided fertile soil for the growth of NGO, particularly BINGOs. For instance, the neoliberal reform of central government created a vacuum of power from the state, as the state was 'rolled back' (see Section 2.2). Furthermore, the state often lacked their capacity due to the fiscal pressure (Brockington et al. 2008). Therefore, NGOs could fill the void as they occupy a unique position as the '*knowledge experts*' (Brockington et al. 2008).

Furthermore, local actors can connect with international actors to promote their strategic interests as a result of globalisation (Tarrow 2005). This implies that BINGOs can make an appeal not only to domestic audiences but also to a global audience (Stanbridge 2005). One of the best examples of this can be considered as the usage of certification, which is argued as *one example of an aspect of neoliberalism: the increasing standardization and regulation of actives*'. (Brockington et al., 2008: 180).

For instance, the Forest Stewardship Council guarantees that the forest was not ‘opened’ during the production process, even if consumers do not know the exact source of the wood (Kortelainen 2008). Critically, the Forest Stewardship Council certification is approved by the most influential BINGOs such as WWF (Kortelainen 2008). However, the Forest Stewardship Council is not the only certificate for the timber industry. Indeed, there are a few additional certificates such as the Canadian Standard Association’s Sustainable Forest Management Standard, Sustainable Forest Initiative, and Pan European Forest Certification (Brockington et al. 2008). One of the problems with these certifications, including the Forest Stewardship Council, is that there is no standard validation system for issuing the certification. Subsequently, it is possible that one of these certification bodies may be subservient to an industry and issue the certification even if the industry does not meet the requirements, since members of the Forest Stewardship Council can issue certifications (Brockington et al. 2008). This has significant implications as there are some concerns regarding the legitimacy of the NGOs, which will be discussed in this Section.

Meanwhile, there is another, and perhaps the most critical contribution from neoliberalism for the rise of NGOs. It is argued, on the surface, that neoliberalism goes hand-in-glove with political and ideological antagonism towards state interference, such as regulation. However, as discussed earlier (see Section 2.2), commodification of natural resources through private property rights is created and defended by the state (Peck 2001; Jessop 2002). This process is most infamously associated with enclosing commons to facilitate the development of increasingly capitalist, export-oriented farming operations which have a great potential to impact negatively on the environment (Williams 1973; Feeny et al. 1990).

On the other hand, enclosing commons also provided a vital means for the NGOs, and particularly BINGOs, to establish protected areas. Indeed, as pointed out by Brockington (2008), there has been a dramatic growth in the

number of protected areas, especially based on terrestrial protected areas, between 1985 and 1995, when neoliberal policies were dominant globally (Brockington et al. 2008). He identified international regulations, market based conservation programs, and the rise of conservation NGOs as the main contributing factors for such rapid growth in the number of protected areas (Brockington et al. 2008). Subsequently, it could also be interpreted that the rise of conservation NGOs which used a market based conservation system while influencing international regulation, is the main contributing factor for the increased number of protected areas during the period spanning from 1985-1995, when the NGOs increased in terms of both their size and influence.

Indeed, NGOs are identified as one of the prominent actors to have significantly contributed to the growing number of protected areas on land (Fairfax and Guenzler 2001; Brewer 2003; Pew Oceans Commission 2003). For instance, land trusts use Purchase of Development Rights to remove the development rights from the important farm and forestlands in the US. Indeed, by 2001, local land trusts and national land trusts, such as TNC, had protected 6.4 million acres and 15 million acres of land respectively through Purchase of Development Right (Beach 2002). Such land based protected areas are clear evidence of “privatisation” of land conservation (Barborak 1995); something which was only possible thanks to the introduction of “Market Environmentalism” which enabled the transformation of natural resources into commodities (see Section 2.4). More critically, such usage of privatisation of commons for the designation of protected areas is not limited to land conservation (Marsh et al. 2002). It has also had profound implications for ocean conservation, as will be discussed in the subsequent section.

It has been demonstrated that global hegemony neoliberalism not only provided fertile soil for the rise of NGOs but also provided critical conditions for the NGOs to operate. More importantly, there can be hardly any dispute that NGOs are the key actors in environmental policy (Finger and Princen 1994). However, it is also true that there is increasing criticism of NGOs and

concerns regarding their legitimacy (Adams and Hutton 2007; Brockington et al. 2008; Chapin 2004; Gray et al. 2006; Homewood et al. 2009). With this in mind, it would certainly be worth exploring the cause of such criticism.

### 2.6.2 Civil Society, Stakeholders and NGOs

There are those who have argued that the global dominance of neoliberal policy resulted in a change from government to governance, thus in turn causing a shift in the government, as pointed out by Peters and Pierre:

*'Political power and institutional capability is less and less derived from formal constitutional powers accorded to the state but more from a capacity to wield and coordinate resources from public and private actors and interests'* (Peters and Pierre, 2001: 131).

As a result, public participation is increasingly recognised as an important governance approach, particularly in the environmental policy decision-making process (Reed et al. 2009). However, as Bulkeley and Mol (2003) pointed out, public participation also raises a number of difficult questions such as:

*'How to organise and institutionalise participation, who should be involved at what points in the decision-making process, how to prevent participation from paralysing policy making, and what is the goal of participation... Furthermore, participation is not just a matter of representing people, but of the ideas and values which they carry with them'* (Bulkeley and Mol, 2003: 151).

Such questions correlate with defining who or what the stakeholders are; a far from simple task. Indeed, it appears that there are many definitions of stakeholders based on Freeman's work (Reed et al. 2009). Indeed, Freeman and Reed (1983) suggested two definitions of stakeholders as:

*The Wide Sense of Stakeholder: Any identifiable group or individual who can affect the achievement of an organisation's objectives or who is affected by the*

*achievement of an organisation's objectives. (Public interest groups, protest groups, government agencies, trade associations, competitors, unions, as well as employees, customer segments, shareowners, and others are stakeholders, in this sense).*

*The Narrow Sense of Stakeholder: Any identifiable group or individual on which the organisation is dependent for its continued survival. (Employee, customer segments, certain suppliers, key government agencies, shareowners, certain financial institutions, as well as others are all stakeholders in the narrow sense of the term) (Freeman and Reed, 1983: 91).*

In this research, those who participated in the MLPA implementation process, including both NGOs and individual members of the public, such as anglers or people who simply care about the conservation of California's marine area, can be categorised in the wide sense as stakeholders. This is because such groups can affect the MLPA implementation process whilst simultaneously being affected by the MPAs resulting from the implementation process.

However, despite the fact that both NGOs and individual members of the public can be categorised in the wide sense as stakeholders, it may be necessary to further distinguish between them because it appears that the influence of NGOs in policy decision making processes has substantially increased since the 1980s (see section 2.6.1). Furthermore, as discussed earlier, the global dominance of neoliberal policies provided fertile soil for the rise of civil society (see Section 2.2), which in turn also resulted in the rise of NGOs (see Section 2.6.1).

At the same time, it is important to recognise that the definition of civil society has a long history, throughout which it has changed (Bendell 2000b; Gray et al. 2006), just like the definition of governance (see Section 2.3). For instance, Hegel defined civil society as:

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*'A social formation intermediate between the family and the state'* (Mautner, 1999: 96).

On the other hand, Gramsci described the civil society as being located between *'coercive relations of the state and the economic sphere of production'* (Abercrombie et al., 1984: 38).

Perhaps the most contemporary description of civil society is:

*'Located somewhere between the state, the market, and the family. Here people come together in projects of all kinds to make their collective histories'* (Chandhoke, 2002: 45).

However, with this said, it has been demonstrated that the concept of civil society can be ambiguous but is also considered as an institution which carries out collective actions for the common good (Edwards 2000). Interestingly, it bears a remarkable similarity to definitions of NGOs:

*'Groups whose stated purpose is the promotion of environmental and/or social goals rather than the achievement or protection of economic power in the marketplace or political power through the electoral process'* (Bendell, 2002b: 16).

Teegan (2004) defined NGOs as:

*'Any non-profit, voluntary citizens' group which is organised on a local, national or international level. Task-orientated and driven by people with a common interest, NGOs perform a variety of services and humanitarian functions, bring citizens' concerns to governments, monitor policies and encourage political participation at the community level. They provide analysis and expertise, serve as early warning mechanisms and help monitor and implement international agreements. Some are organised around specific issues,*



*such as human rights, the environment or health'* (Teegan et al., 2004: 466).

With this in mind, it is understandable that the terms NGO, non-profit organisations and civil society groups are often used together (Bendell 2002b; Gray et al. 2006). Furthermore, based on the definitions of NGOs, it is clear that NGOs are likely to be values-based organisations, which in turn provides a certain degree of legitimacy (Haufler 2009). In addition, these definitions strongly indicate that the purpose of some NGOs is to represent vulnerable members of society (Charnovitz 2006); in addition, there are serious inequities issues in society as a result of the global hegemony of neoliberalism (see Section 2.3.2), thus giving rise to NGOs and to the need for NGOs to address inequities arising from neoliberalism.

However, ironically, such inequities also occur even among the NGOs and this has significant implications since it could potentially damage their legitimacy. For instance, overall conservation funding was decreased in the 1990s, while BINGOs managed to raise a tremendous amount of funding (Chapin 2004). It could be interpreted that a handful of BINGOs, such as TNC and WWF managed to diversify their funding sources (Chapin 2004). On the other hand, it could also be suggested that NGOs are working, sometimes too closely, with private companies (Brockington et al. 2008).

For instance, NGOs often use the media to pressure governments, private companies, and even supranational institutions (Brockington et al. 2008). Therefore, it is natural to assume that NGOs check and balance the activities of governments, private companies and international organisations. However, the truth could be quite the opposite. For instance, the Forest Stewardship Council, which is operated by environmental NGO coalitions, also includes a number of large corporations such as IKEA (Haufler 2009). Indeed, Kaldor (2003b) pointed out that:

*'Willingly or reluctantly, companies and NGOs team up to divide responsibilities*

*the state is failing to meet. NGOs “professionalise”: under pressure from management gurus they increasingly adopt corporate strategies, as well as being open to partnerships with business . . . The corporatisation of NGOs will gather momentum, encouraged by a resource-poor international community eager to seek new forms of cooperation, particularly in development assistance and capacity building’ (Kaldoer et al. 2003b: 9).*

Although only a handful of very influential BINGOs adopted more corporate strategies, cultures and organisations (Chapin 2004), it is this handful of BINGOs which can have a profound effect on global environmental governance as they often work on a global scale (Brockington et al. 2008).

Indeed, it appears that BINGOs such as WWF and the Conservation International often work very closely with the World Bank to achieve a common goal, namely economic liberalisation and environmental protection (Brockington et al. 2008). Unfortunately, such close proximity with the supranational institutions, such as the World Bank and private companies again raises some serious criticism of NGOs. Indeed, as pointed out by Brockington (2008):

*‘Conservation NGOs have their independent critical voice, and become too close to foundations, donor governments, and their corporate influences, and to corporation themselves, and less accountable to their core constituencies’ (Brockington et al., 2008: 160).*

More seriously, such close proximity with power can potentially turn the NGOs, which supposedly work for vulnerable members of society, to work against those members. For instance, as some BINGOs work closely with the World Bank, it may not be a surprise that they participated in the World Bank’s Community Driven Development program (see Section 2.5.2). In that program, the NGOs often worked as sub-contractors for the central management agencies. However, NGOs were criticised for avoiding working

with communities, as it is often hard to demonstrate the results quickly (Mansuri and Rao 2003). More seriously, BINGOs can act as the ‘new tyranny’ of participative development processes and ultimately hijack the process (Brockington et al. 2008; Cooke and Kothari 2001; Platteau 2004; see also Section 2.5.2). Therefore, BINGOs can ultimately cause political marginalisation of indigenous communities which do not have much political power from the beginning (Chapin 2004; Adams and Hutton 2007).

Indeed, even though NGOs are supposedly representing civil society, ironically there is surprisingly little in the way of empirical evidence which demonstrates promoting participation or improving poverty (Platteau 2004). Furthermore, there are many critics who have claimed that BINGOs are causing democratic deficits while distorting effective devolutions (Brockington et al. 2008). For instance, BINGOs are often criticised for overtaking local NGOs by transforming their activities and structures so that BINGOs can impose their own values and priorities while undermining local community values (Igoe 2003b; Ebrahim 2003).

Meanwhile, it is also important to recognise that science has become an increasingly important factor when it comes to the policy making process in global environment governance. Indeed, many BINGOs, as some of the most powerful actors in environmental policy, often form coalitions with civil society actors such as scientific institutions (Haufler 2009). As a result, they are not only setting up the conservation trend but also become the vital knowledge brokers (Brockington et al. 2008). This can have very serious consequences because while BINGOs continuously place emphasis on working with local communities, they can ultimately marginalise such local communities by using ‘expert’ science. For instance, according to Brockington (2008) *CI* [Conservation International] *wanted to pursue conservation program that ‘put the science first’ and move away from community conservation that is regarded as not as effective* (Brockington et al., 2008: 164). Interestingly, such an approach by BINGOs can be considered as very similar to the strategy where

the ideal state, from a neoliberal perspective, would neutralise participation to a certain extent (see Section 2.2 and Section 2.3)

On the other hand, it could be considered that, in some ways, NGOs, and particularly BINGOs, are victims of their own success, as it appears that their ability to influence environmental governance makes them significantly more vulnerable to criticism regarding their legitimacy (Brown and Moore 2001; Gray et al. 2006). Furthermore, it is undeniable that some NGOs often work for the common good while representing those who are vulnerable (Haufler 2009).

Nevertheless, one could say that NGOs, particularly BINGOs, cannot be categorised as civil society because, as has been demonstrated, they often work as quasi-states by working in close proximity with supranational institutions. On occasions, BINGOs work according to a more market-oriented approach, as they become increasingly corporatised. Lastly, they also sometimes represent the community, which is one of the main objectives set by NGOs. This poses interesting questions because NGOs' roles, particularly those of BINGOs, cannot be adequately explained through co-management, nor through the multi-partner governance model (see Figure 2.2)

Furthermore, it is important that neoliberalism itself evolved from 'roll back' to 'roll out' where the state extends their steering ability through regulations and audits (see Section 2.3.1). In other words, since most NGOs, even the BINGOs, are working in PPP with the state, their granted authorities are based on a loan, which the state cedes only partially (see Section 2.3 and 2.3.1). However, as the NGOs have become one of the most influential actors, such a power dynamic might well change; something which will be discussed throughout the case study.

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### 2.6.3. BINGOs, PPP and Protected Area Governance

Indeed, as acknowledged by Brockington (2008), *Public-Private Partnerships have been very important in terms of creating protected areas* (Brockington et al., 2008: 167). Brockington (2008) presented many excellent cases demonstrating BINGOs' role in the designation of protected areas through PPP based on the Madagascar case. According to Brockington, the serious problem with the Madagascar case related to the fact that the state was under severe pressure from the donor consortium, which is comprised of several MEDCs, such as the Japanese, German, Swiss, and French governments, as well as BINGOs such as Conservation International and WWF, while the World Bank took the leading role (Brockington et al. 2008). Through the donor consortium, BINGOs and donors were not only directly involved in operating the national park, which was owned by the state, but were also heavily involved in setting up national conservation policies in Madagascar (Brockington et al. 2008).

Perhaps more seriously, BINGOs within the donor consortium ended up capturing the Madagascar government as they directly pressured the newly elected president to set up more protected areas during the 2003 World Parks Congress in Durban, also known as the Durban Vision Initiative. Subsequently, there were growing concerns about the BINGOs even within the donor consortium (Brockington et al. 2008).

Unfortunately, the Madagascar example also highlights problems related to BINGOs; problems which resulted in heavy criticism (see Section 2.6.2). On the other hand, it is worth noting that Brockington's example was based on Madagascar, which is one of the LEDCs. With this in mind, it may be possible for the BINGOs to capture the Madagascar state, as it is likely that the state capacity is relatively weak. Furthermore, it could be considered that such cases, in which BINGOs are able to capture state authority through PPPs, represent just a few extreme examples.

Indeed, in theory this should work the other way around. As discussed earlier, a PPP is one of the key mechanisms used to realise the neoliberal ideal market system, where the state only cedes part of its authority to the private sector on a loan basis while bringing civil society, the private sector, and the state into the policymaking process (see Section 2.2 and Section 2.3). One could contend that a more serious problem linked with PPPs is when the BINGOs take up a quasi-state role and carry out the state's role while compromising their core constituencies; those who are vulnerable members of society (see Section 2.6.2). Indeed, Edwards (2000) argued that:

*'It is important to remind ourselves that the role of civil society – and especially NGOs – is to fill in the spaces in a healthy democracy and not to substitute for government'* (Edwards, 2000: 15).

Meanwhile, it is important to recognise that when it comes to designating protected areas, PPPs are not only limited to the LEDCs. Indeed, it is widely applied in the US. One of the best examples was the purchase of development rights by the land trusts (see Section 2.6.1). Against the backdrop of the purchase of the development rights, it could be argued that the BINGOs would face more dangers if they assumed the quasi-state role, since the US has much higher state capacity at both federal and state levels.

The best example here is the management of the North Pacific Fisheries in the US. Before going into more detail, it is worth understanding that ocean resources, such as fisheries, have been considered as open-access resources for centuries (Kenchington 2010). Not surprisingly, the TNC, which often uses buying off the property as their conservation strategy, was also fully aware of this situation, with Marsh stating:

*'Traditionally, management agencies and conservation organisations have assumed that strategies for estuarine and marine conservation must be substantially different than those for terrestrial conservation, in part because it*

*is not possible to “buy the bottom” of the publicly owned oceans’* (Marsh et al., 2002: 3).

However, in a TNC published article, Marsh (2002) stated that it is possible to purchase and lease ocean resources, which include not only submerged land but also living organisms such as fish stocks and corals (Marsh et al. 2002). This has a profound implication for ocean conservation. For instance, the North Pacific Fisheries Management Council, one of the eight regional councils under the Magnuson-Stevens Fishery Conservation and Management Act in the US, decided to adopt the Individual Transferable Quota program in 1995 (Mansfield 2004). The Individual Transferable Quota is a form of privatisation as it allocates fish quotas to individual fishermen. Each fisherman can then choose either to catch fish or sell them to other fishermen (Mansfield 2004). This implies that the ocean resources are no longer open access but have instead become closed access, limited by property rights. Subsequently, the concept behind the Individual Transferable Quota is as rational as Market Environmentalism (see Section 2.4). Not surprisingly, TNC quickly seized the opportunity in TNC’s Central Coast Ground Fish Project (California Ocean Protection Council 2008).

Indeed, the TNC joined forces with the Environmental Defense Fund, which is another BINGO, and initiated a three-year pilot program which involved buying out fishing rights from the commercial fishermen (Cook et al. 2004; Fujita and Cook 2007). In 2003, TNC entered into negotiations with 22 members of the trawl fleet on California’s Central Coast. In June 2005, the Pacific Fisheries Management Council unanimously approved the no-trawl zone map, while the US secretary of commerce signed the map and additional closed areas into regulation in May 2006 (NOAA 2005). As a result, the No Trawl Zone, which covers 3.8 million acres of seafloor habitat, (between Point Conception off the coast of Santa Barbara, and Point Sur south of Monterey Bay) was designated. Soon after, TNC announced that they had purchased six federal trawling permits and four trawling vessels from commercial fishermen

in Morro Bay on 27th June 2006 as part of its Central Coast Ground Fish Project (WildLife Extra 2006). Over time, TNC succeeded in acquiring a further seven permits and three trawl vessels. Some of the vessels purchased were retired; other vessels were leased, with permits, to commercial fishers with restrictions on the kind of gear used (Gleason et al. 2012).

Although further fieldwork is needed, TNC's Central Coast Ground Fish Project demonstrates a typical arrangement of PPP between the TNC and the US Federal government. For instance, it was the US federal government which provided all the legal frameworks through the Magnuson-Stevens Fishery Conservation and Management Act. The Federal government 'rationalised' the open access system and transformed it into a commodity through privatisation, thus resulting in the Individual Transferable Quota. On the other hand, TNC purchases fishing permits and vessels, which in turn would likely make the TNC a major stakeholder in the North Pacific Fisheries Management Council. At the same time, the TNC would lease the permits back to the fishermen who would agree to apply TNC's requirements (Gleason et al. 2012). Ironically, it would also make TNC the enforcer. In light of this, it appears that the TNC is likely to end up taking a quasi-state role, even if it was not their original intention.

At the same time, there is no guarantee that BINGOs would only operate as a quasi-state within the state legal framework. Indeed, as BINGOs' political power is increasing, it is possible that a story similar to the Madagascar case may be played out even within the MEDCs with strong state capacities. Furthermore, since the PPP is increasingly recognised as an important strategy for ocean conservation, such as the designation of MPAs (Hastings et al. 2012), it is inevitable that PPPs will be applied much more frequently either by BINGOs or through state initiation.

Coincidentally, while TNC carried out its Central Coast Ground Fish Project, the California state also started to implement the Marine Life Protection Act



(MLPA) through another PPP. This research will explore the PPP based on the MLPA implementation process case.

## 2.7. Concluding remark

Neoliberalism, which has been the global hegemony for over thirty years, not only changed the meaning of governance, but also transformed the society. On the surface, neoliberalism provided fertile soil for the rise of civil society, and also promoted democracy by providing more opportunities to participate in the policy decision making process. However, it is questionable as to whether the true intention of neoliberalism is to promote democracy, as neoliberals did not believe in unconstrained democracy. Indeed, it can be argued that neoliberal reform, such as decentralisation of the central government, was aimed not at promoting democracy, but at reforming society, with the market mechanism taking centre stage. As a result, it could be contended that materialism is dominating our society. Furthermore, neoliberalism cannot be freed from the accusation that it caused the widespread issue of inequity, as neoliberals consider this a necessary motivational fact. As inequity sets deeper into society, it has also begun to cause severe social polarisation.

One of the best examples to demonstrate the fundamental flaws of neoliberalism is the global financial crisis. Indeed, it might well not be an exaggeration to describe the global financial crisis as the most unjust incident of our time, as those who caused the financial crisis are now enjoying huge bonuses with the bailout money from taxpayers.

Based on this, it may be necessary to reconsider whether neoliberalism, which mainly promotes materialistic values while justifying inequity, has the true quality to be '*a succinct, clearly defined political philosophy*' (see Section 2.1; Plehwe, 2009: 1). After all, as specifically stated by Hayek, and later quoted by Mirowski (2009):

*'A political philosophy can never be based exclusively on economics, or*

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*expressed mainly in economic terms'* (Mirowski, 2009: 434).

Nevertheless, it appears that neoliberalism, even with its failures, retains its status as the global hegemony. Unfortunately, environmental governance did not escape from the global hegemony of neoliberalism but must instead follow the current trends.

Meanwhile, it is important to recognise that prior to neoliberalism, protected area governance also had several problems. For instance, prior to the 1970s, protected areas were mainly designated through the top-down approach. Therefore, and perhaps not surprisingly, the local community did not support those protected areas. Unfortunately, central governments were facing increasing difficulties in terms of securing sufficient capacity to manage protected areas due to the global depression in the 1970s. Subsequently, it was somewhat inevitable that those protected areas were not managed properly (see Section 2.5.1).

As neoliberalism rose to power in the 1980s, neoliberal reforms, including decentralisation and devolution, have been carried out on a global scale. For instance, many supranational institutions used money as a weapon to impose several Structural Adjustment Plans on the developing countries. Subsequently, it can be argued that neoliberalism provided fertile soil for the rise of CPR governance theory, which places emphasis on the bottom-up approach and on the participation of stakeholders in the decision-making process (see Section 2.5.2). Protected areas which are designated through the community based bottom-up approach can work very well under certain conditions. However, they cannot adequately address complex environmental problems on a large scale (see Section 2.5.2).

Perhaps the most significant implication of neoliberalism in terms of environmental governance is that neoliberalism transformed natural resources into a commodity, thus meaning that it could be traded on the global market.

For instance, and as mentioned above, many supranational institutions are in the process of imposing several Structural Adjustment Plans on developing countries in order to disseminate neoliberalism on a global scale. Once their work is completed, private industries, which are mainly based on the MEDCs, can exploit the commodified natural resources, which are often disguised as Community Driven Development. Unfortunately, such a market-focussed approach has not only resulted in inequity around the globe, but has also had a more detrimental impact on the environment (see Section 2.5.3).

At the same time, the global dominance of neoliberalism also created another important institution. Although NGOs supposedly represent those who are vulnerable in the society, they are turning increasingly more corporate like and often work against those who they supposedly represent. Perhaps more seriously, the BINGOs, with their significant political power and funds, often force the LEDC to impose their value on the local community (see Section 2.6).

Nevertheless, the idea of conserving our environment should not be criticised. The real problem lies with how to implement the noble idea. Meanwhile, the reality appears to be that, as a result of neoliberalism, protected area governance must find the right balance between the state, community and market (Jones 2013).

## Chapter 3: Introduction to case study

### Overview

This chapter has three parts. Firstly, as pointed out by Jones (2001), usage of nature reserves for conservation has primarily been developed and used in the terrestrial environment. Indeed, the marine environment has a number of attributes which make it very different from the terrestrial environment. More importantly, these differences result in additional challenges for the governance of Marine Protected Areas (MPAs). These differences have been reviewed thoroughly by Jones (2001, 2011). Subsequently, the first part of this chapter will summarise the factors which lead to particular challenges for the MPA governance based on the analysis of Jones (2001, 2011).

Secondly, it is important to recognise that the US is a federal system. Under the constitution, the federal government shares sovereignty over the United States with the governments of the individual states<sup>4</sup>. Nevertheless, California still maintains strong sovereignty, and this has significant implications for ocean governance in California. Subsequently, in the second part of this chapter, the ocean governance in California prior to the MLPA implementation will be discussed. Following this, the legal framework in California will also be analysed. It is particularly important to pay attention to the ballot measure, as the MLPA, which provided a strong legal mandate, was created through the ballot measures.

Lastly, it is important to recognise that there were two unsuccessful attempts of MLPA implementation prior to the MLPA Initiative. It appears that those unsuccessful attempts had an impact on how the MLPA Initiative process was carried out. Subsequently, the unsuccessful attempts of MLPA implementation prior to the MLPA Initiative will be analysed in order to understand the main factors behind such failures.

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<sup>4</sup> <http://www.cia.gov/library/publications/the-world-factbook/geos/us.html>

### 3.1 The Challenges of Marine Environment

The marine environment has a number of attributes which make it very different from the terrestrial environment. These differences have been reviewed thoroughly by Jones (2001, 2011). What follows is a summary of the factors which lead to particular challenges for the MPA governance based on the analysis of Jones (2001, 2011).

#### 1) Scale-Connectivity

Marine ecosystems differ from terrestrial ecosystems in a number of ways. For instance, the marine environment is three-dimensional and there are physical and biological connections between areas due to the fluidity and density of seawater. The movement of currents and the life cycle of many marine organisms involve a pelagic larval stage (Lourie and Vincet 2004). Connectivity remains one of the greatest challenges to MPA science (Roberts et al. 2003). It is a critical factor affecting the general effectiveness of MPAs (Ray and McCormick-Ray 1994). It is now recognised that because of the high connectivity in the marine environment, it is necessary to design and implement MPA networks, linking individual MPAs into networks in order to conserve mobile species and sustain large-scale ecological processes (IUCN 2008). The setting and configuration of individual MPAs within a MPA system should be designed to maximise the linkages between them, in order to provide 'safe distance' for the transportation of larvae and the migration of highly mobile species (Roberts et al., 2003; IUCN 2008).

Perhaps more importantly, Jones (Jones et al. 2011) pointed out that MPAs could increase the resilience of marine ecosystems, if MPAs are scaled up and connected. It was argued that such MPAs could protect marine life not only from pollution but also from wide-scale environmental impacts such as global warming (Jones et al. 2011).

This coincides with the concept of network MPAs, which have been defined as:

*'A collection of individual MPAs or reserves operating cooperatively and synergistically, at various spatial scales, and with a range of protection levels that are designed to meet objectives that a single reserve cannot achieve'* (Laffoley et al., 2008: 12).

Although the network MPAs can significantly increase resilience, as pointed out by Jones et al. (2011), *'it must be recognised that scale-connectivity of marine ecosystems will present challenges to MPA governance as people may question the potential effectiveness of such designations given arguments and assumptions about the spatial limitations of such designation'* (Jones et al., 2011: 6).

It appears that scientific uncertainty is one of the main reasons why people may cast doubts on the potential effectiveness of MPA networks, which will be discussed in the following section.

## 2) Scientific Uncertainty

As Jones (2011) also pointed out, marine ecosystems are more complex than terrestrial ecosystems. Furthermore, unlike the terrestrial ecosystem, it is often difficult to clearly distinguish whether the marine ecosystem's degradation was due to the natural variation or anthropogenic impact (Jones 2001). Moreover, due to the scale-connectivity characteristics of the above mentioned marine environment, marine organisms interact with each other on a much wider scale. These factors, coupled with the physical oceanographic variation, often mean that it is very difficult to make predictions (Jones et al. 2011). To make the matter worse, scientific knowledge relating to the marine environment is limited due to logistical problems when it comes to conducting surveys (Jones 2001). Subsequently, it is difficult to predict the consequence of management

intervention. Indeed, MPA governance faces major challenges due to the complexity of the marine ecosystem, a lack of scientific knowledge, and perhaps most critically, difficulties in determining the impact of complex and variable human-induced factors.

### 3) Naturalness

A key difference between the management of the marine and terrestrial environments is that in some semi-natural terrestrial ecosystems, such as moors and lowland heaths and meadows, human intervention is necessary to maintain and preserve them in their semi-natural state (Sutherland and Hill 1995); conversely, in marine ecosystems, almost all human interventions result in negative impacts (Jones 2001). The general approach to the management of MPAs is therefore one of non-intervention in comparison to the active management approach to conservation which is often practiced on land (Laffoley and Bines 2000). Unfortunately, and as pointed out by Jones (2011), such an approach can be perceived as *an exclusionary, 'humans-out' approach to governance that can present challenges when trying to promote cooperation through governance initiative* (Jones et al., 2011: 8).

### 4) Property rights

Unlike the terrestrial environment, where it is possible to own land and manage the resources, ocean resources have been considered as a common property and open access for centuries (Kenchington 2010; Jones et al. 2011). Indeed, although Exclusive Economic Zones, which extend 200 miles from the shore, enable individual countries to exercise their property rights to a certain extent, ocean resources remain largely considered as common property. However, as demonstrated earlier (see Section 2.4), global hegemony of neoliberalism has resulted in the transformation of natural resources into commodities through privatisation. Indeed, as is clearly demonstrated through TNC's Central California Ground Fish project (see Section 2.6.3), usage of

property rights for the MPAs can be increased.

It is possible to argue that MPA governance is one of the areas where diverse governance strategies are required to overcome additional challenges posed by such attributes of marine environments. Based on this, it can be further argued that MPA governance has wider applicability in governance debates. For instance, recently ‘hydraulic fracking’, which extracts shale gas, is attracting a great deal of attention as a result of its potential to revolutionise the energy industry (BBC 2013). However, it is also causing much controversy due to the fact that there are ‘scientific uncertainties’ regarding the ‘scale’ of potential environmental impacts. Subsequently, it can be argued that analyses of MPA governance issues could provide vital key insights into wider natural resource governance debates and initiatives.

### 3.2 California ocean governance in the past



Figure 3.1 Location of California in the US (modified based on Wikipedia)<sup>5</sup>

At roughly 163,696 square miles, California is the third largest state in the

<sup>5</sup> California in United States

Available from: [http://en.wikipedia.org/wiki/File:California\\_in\\_United\\_States.svg](http://en.wikipedia.org/wiki/File:California_in_United_States.svg)



US with a population of approximately 37,253,966 - the biggest population in the US in 2010 according to the US census<sup>6-7</sup> (US Census 2010). It was reported that most of California's population live near its 1,100 mile coastline. Furthermore, it was estimated that approximately 70% of California's population live in coastal counties which represent only 25% of the state's total area (Kildow and Colgan 2005). At the same time, the state of California is the world's eighth largest economy with its GDP reaching \$ 1.9 trillion (LA Times 2010). Boasting significant economic power, it may well come as no surprise that the state of California has maintained relatively strong sovereignty. Indeed, it appears that the California state has been actively engaged in managing California's ocean resources (Mize 2006), as was demonstrated by the ocean management of the Channel Islands.

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<sup>6</sup> US census 2010

Available from: [http://www.census.gov/geo/www/guidestloc/pdf/06\\_California.pdf](http://www.census.gov/geo/www/guidestloc/pdf/06_California.pdf)

<sup>7</sup> <http://2010.census.gov/2010census/data/apportionment-dens-text.php>



**Figure 3.2 Location of Channel Island in California (Wikipedia)<sup>8</sup>**

The Channel Islands are comprised of eight islands which are located between 20 to 110km off the California coast (IUCN 2008; see Figure 3.2). Since the Channel Islands are located outside of the state's jurisdiction, which is 3 nautical miles from the shore, the Federal government was in charge of regulating the Channel Islands' marine environment. As a consequence, President Roosevelt designated the Channel Islands National Monument for the Anacapa and Santa Barbara islands in 1938. In addition, the US National Park Service added two fully protected reserves on these islands in 1968. These fully protected areas were in place for 10 years (Davis 2005). However, in 1953, the US Congress passed the submerged Lands Act, which granted the State authority over the seabed even if it was outside the state water jurisdiction (Mize 2006). Based on this law, the State of California

<sup>8</sup> Available from: [http://en.wikipedia.org/wiki/File:Californian\\_Channel\\_Islands\\_map\\_en.png](http://en.wikipedia.org/wiki/File:Californian_Channel_Islands_map_en.png)

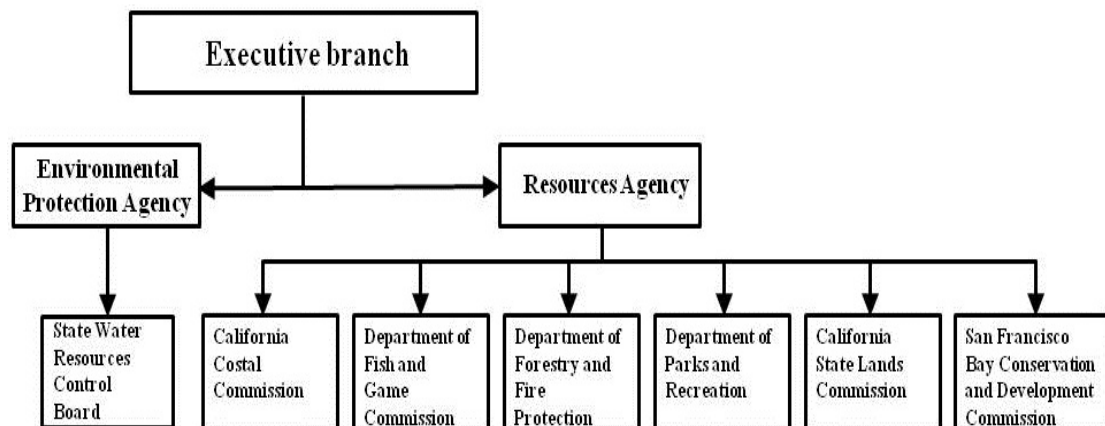
successfully challenged the Federal government to retain its authority to manage the ocean resources around the Channel Islands in 1978 (Davis 2005; Mize 2006). This can be considered as a clear example of the State of California demonstrating its strong sovereignty for its marine resources, although it does not necessarily mean that the California managed its ocean resources very successfully.

The California ocean has been managed through Marine Managed Areas (MMAs) since the early 1900s. The definition of MMAs changed with the Marine Managed Areas Improvement Act (MMAIA), although it is necessary to look at the old definition in order to understand how ocean management in California worked in the past. The old definition of MMAs was (California Resource Agency 2000):

*Marine managed areas are named, discrete geographic marine and estuarine areas along the California coast designated using legislative, administrative or voter initiative processes, and intended to protect, conserve or otherwise manage a variety of resources and their uses.*

It is important to recognise that even though MMAs provide some form of management and protection for the ocean and resources, MMAs are not the same as MPAs. However, an MPA does constitute a subset of MMAs. This somewhat ambiguous definition of MMAs raised a couple of critical problems in relation to marine environmental governance in the State of California. For instance, many MMAs have been given a false impression that these areas were equal to MPAs even though they were not protected. Indeed, it appears that usage of the word “protected” could lead to a misunderstanding that the areas were protected (California Resource Agency 2000). To avoid such problems, the state interagency marine managed areas work group deliberately used the word “managed” instead of “protected” to distinguish MMAs from MPAs in their final report (California Resources Agency 2000).

In addition, the old definition of MMAs also revealed the way in which MMAs were designated. Based on the definition, it is not difficult to guess that the MMAs were created by legislature, agencies and public referendum using an ad-hoc, case-by-case approach (California Resource Agency 2000). In addition, several state agencies were also in charge of the designation of MMAs in order to manage the ocean (see Figure 3.1 and Table 3.1).



**Figure 3.3 Agencies responsible for the Marine Managed Area Resources (The Resources Agency 2000)**

**Table 3.1 The Agencies' responsibilities for Marine Managed Area (The Resources Agency 2000)**

Agency	Charge
Resources Agency	➤ Oversees and coordinates the activities and administration
California Coastal Commission	➤ Plan for and regulate development in the coastal zone consistent with the policies of the California Coastal Act
Department of Fish and Game Commission	➤ Manage marine fisheries and enforce associated laws and regulations
Department of Forestry and Fire Protection	➤ Predominantly land-based activities but responsible for maintaining water quality and fish and wildlife populations
Department of Parks and Recreation	➤ Acquisition and management of coastal and offshore areas for resource preservation and park and recreational use
California State Lands Commission	➤ Management activities on tide and submerged lands within the state water including offshore oil and gas development
San Francisco Bay Conservation and Development Commission	➤ Preserve and enhance the natural resources of San Francisco Bay

In light of this, it may be no surprise that these MMAs have often ended up with duplicating or conflicting goals, rules and regulations (Baird et al. 1999). Indeed, there are seven agencies which are responsible for the MMAs (see

Figure 3.1). As previously mentioned above, along with these seven agencies, legislature and electorate can designate different types of MMAs (Resources Agency 2000). Since the MMPs were designated using an ad-hoc, case-by-case approach, it may not be a surprise that there were 18 different categories of protection level for the MMAs. One of the biggest problems when it came to such complicated, complex and unorganised MMAs was that even those who were in charge of enforcing MMAs, did not clearly understand the rules (California Resource Agency 2000). Consequently, it would be highly likely that these MMAs were not enforced properly.

The way in which these MMAs were designated had another, and perhaps more serious consequence along with ineffective enforcement. According to McArdel (1997), there were 53 MPAs (subset of MMAs) which were covering 2.2% of state water. Among these MPAs, only 10 of them were fully protected No-take MPAs which were covering only 0.2% of state waters by 1997 (McArdel 1997). The problem with small MPAs is that they are unlikely to function properly. This is because, if the MPA is too small, the species which has a bigger home range than the MPA will likely spend more time outside the MPA (McClanahan 1999; Kramer and Chapman 1999). Indeed, it appeared that these No-take MPAs in California did not function effectively when it came to protecting biodiversity because they were too small (Starr et al. 2004a, b; Roberts et al. 2001).

### **3.3 Problems with California marine environment in the past**

Effective environment governance can prevent various detrimental human activities, which can damage marine resources, such as overfishing, habitat destruction, and pollution (Sivas and Caldwell, 2008). Subsequently, it can be argued that there would be serious consequences stemming from the failure to implement effective marine environment governance.

Unfortunately, it appears that California marine resources have suffered from

failure of effective management. Particularly, it seems that the commercial fishing industry suffered the most as the total fleet size was reduced by approximately 40% from 1982 to 1999. Moreover, the amount of fish they landed decreased by roughly 50% from 1976 to 2000 (Sivas and Caldwell 2008). Furthermore, the California Abalone fishery suffered a major collapse, which resulted in the closure of the entire fishery for both commercial and recreational fishing in 1997, mainly due to overfishing (Karpov et al. 2000). It seems that many other fisheries in California also suffered from similar problems (MacCall 1989). Therefore, it is obvious that California's marine environment has suffered serious degradation and it can also be argued that much of the degradation was caused by the fragmented ocean governance structure of the State of California (Sivas and Caldwell 2008).

At the same time, it may be worth taking note that demonstrating the consequence of failure in marine management in terms of commercial fishing using only fish landing data can pose challenges. This is due to the fact that it is very difficult to estimate a fishery's overfishing status (White et al. 2010). It may also be important to recognise that there has been continuous effort, from both Federal and State level, to reduce the fishing effort through various fisheries' regulations, such as the Federal buyback program or Marine Life Management Act, which regulate fisheries in the state water (Leet et al. 2001). In light of this, it could be argued that a certain decrease in fleet size and amount of fish landed would have been expected. In addition, it appears that overfishing is only a part of many larger factors which have resulted in the degradation of California's ocean environment. These additional factors include, for example, invasive species, run offs from land, and other global environment affects, such as climate changes (Sivas and Caldwell 2008; Leet et al. 2001).

However, this does not imply in any way that the California ocean has not been suffering from poor management, nor does it suggest that fisheries have not suffered from any problems. Consequently, there can be hardly any dispute

that California's marine management has had to be improved. As a result, a series of continuous efforts have been carried out to improve the ocean governance in California, including The Marine Life Management Act (MLMA) (1999), The Marine Life Protection Act (MLPA) (1999) and the Marine Managed Areas Improvement Act (MMAIA) (2002). Amongst them, the MLPA is the most significant act for this research as it provided a legal framework for the designation of the network of MPAs inside California State waters, hence the name MLPA Initiative process.

### **3.4 Legal Framework in California**

Before further analysing legal frameworks related to the California marine environment governance, it may be necessary to understand how the law is made in California. However, since the main focus of this research is not legal processes, it will be explained relatively briefly.

#### *3.4.1 Legislative process in California: Ballot Measures*

To begin with, the State of California has its own legislature, made up of two bodies which are identical to the Federal legislature structure that has the House of Representatives and the Senate. There is the state Senate, comprising 40 senators, and the state Assembly, which comprises 80 Assembly Members<sup>9</sup>. In California, there are two ways in which law can be made. The first is through the normal legislative process whilst the other is known as ballot measures (Liebert 1998; Gerber 1996). There is a very detailed description of the normal legislative process on the Official California Legislative Information website<sup>10</sup>, although it is the ballot measures which have significance for the present research.

As stated on the California Secretary of State website, '*any Californian voter*

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<sup>9</sup> <http://www.guidetogov.org/ca/state/overview/legislative.html>

<sup>10</sup> <http://www.leginfo.ca.gov/bil2lawx.html>

*can put an initiative or a referendum on the ballot*<sup>11</sup>. Liebert (1998) described such a system as a *'form of direct democracy'* (Liebert 1998) although Liebert also pointed out that the subject of ballot measures is often very divisive and controversial (Liebert 1998). The ballot measures, particularly initiatives, had significant implications for the California marine environment governance because, as previously mentioned, there were several MMAs which were designated through the ballot measures (see Section 3.2), thus resulting in 18 different classifications and sub-classifications (The Marine Managed Areas Improvement Act)<sup>12</sup>.

In addition to initiatives, there is another form of ballot measure in California. The legislatively sponsored ballot measure is particularly significant for this research, as MLPA appears to be a legislatively sponsored ballot measure. More importantly, it seems that legislatively sponsored ballot measures have been actively used by environmental groups, such as NGOs, to influence ocean governance in California; something which will be demonstrated in the case study chapters. According to Liebert (1998), the legislatively sponsored ballot measure is a process similar to that of normal legislative processes, which start as a bill, and have an AB or SB designation (Liebert 1998)<sup>13</sup>. In order for the bill to become law, the bill must pass both the Assembly and the Senate, following which it must be signed by the governor (Liebert 1998).

#### 3.4.2 Passage of Marine Life Protection Act (MLPA)

There is very detailed and extensive research on the passage of MLPAs by Weible (Weible 2008). According to Weible, a small group of stakeholders, who were described as *"entrepreneurs"*, pushed the MLPA through the California legislature (Weible 2008). Weible stated that those entrepreneurs had

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<sup>11</sup> California Secretary of State Website [http://www.sos.ca.gov/elections/elections\\_j.htm](http://www.sos.ca.gov/elections/elections_j.htm)

<sup>12</sup> Public Resources Code Section 36700-36900

<sup>13</sup> If a Senator introduces a bill, it will be introduced in the Senate and receive the SB designation. If an Assembly member introduces a bill, it will be introduced in the Assembly and receive AB designation. <http://www.leginfo.ca.gov/bil2lawx.html>



at least three motivations for drafting MLPA. The first motivating factor was the realisation of the obvious problems which were affecting California ocean governance, as discussed earlier (see 3.2 and 3.3). According to Weible (2008), the entrepreneurs also realised that the California marine environment was degrading due to its fragmented management, whilst existing MPAs did not function properly due to their small size. Secondly, those entrepreneurs regarded MPAs as a very effective way in which to manage the ocean. They believed MPAs could make changes based on their personal experiences, such as diving in different parts of the world. Thus, they also wanted to establish the network of MPAs in California (Weible 2008). Lastly, and perhaps most importantly, Weible stated that those '*entrepreneurs believed they could change marine policy in the State of California through the legislative process*' (Weible, 2008: 354). It appears that these entrepreneurs already had success in changing marine policy by closing down Abalone fishing from South San Francisco and by attaching \$12 fishing fees to Abalone fishing from the North of San Francisco in 1997 (Weible 2008).

Hence, those entrepreneurs worked with Assemblyman Kevin Shelly, who introduced the bill to the state Assembly in 1998 (Weible 2008). Since an Assemblyman introduced the bill, it had AB designation (see Section 3.5.1) and the bill was known as AB 2404. The interesting point of bill AB2404 was the combination of a new approach for the California fisheries management and MPA planning. This bill went through the legislative process and both the Assembly and the Senate passed the bill (Weible 2008). As mentioned in Section 3.4.1, in order for a bill to become law, the governor must sign the bill. However, according to the record, Governor Pete Wilson, who was the governor at that time, did not feel that bill AB2404 was necessary, and thus he vetoed the bill<sup>14</sup>.

In response to the governor's veto, bill AB2404 was split into two bills. The

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<sup>14</sup> [ftp://www.lhc.ca.gov/pub/97-98/bill/asm/ab\\_2401-2450/ab\\_2404\\_vt\\_19980929.html](ftp://www.lhc.ca.gov/pub/97-98/bill/asm/ab_2401-2450/ab_2404_vt_19980929.html)

first was called AB 1241, which later became the Marine Life Management Act (MLMA). The other was known as AB993, which later became the MLPA. This time, Assemblyman Fred Keeley introduced bill AB1241, and Governor Pete Wilson signed the bill. As a result, bill 1241 became MLMA, which is a fisheries management act, on the 1<sup>st</sup> of January 1999 (LA times January 1, 1999). Meanwhile, a new California governor, Grey Davis, came into office in 1999 whilst Assemblyman Kevin Shelly was working closely with these 'entrepreneurs' for bill AB993 (Notthoff 2012). After the legislative process, governor Grey Davis signed the bill, which became the MLPA in 1999 (LA Times, December 26, 1999).

As the objectives of MLPAs were to improve the marine environment in California, it may perhaps come as no surprise that the act received widespread support from several environmental groups. More interesting however, was the apparent lack of opposition from the fishing industry with regard to the bill. According to Weible (2008), both major recreational and commercial fishing organisations, including the United Anglers and the Pacific and Federation of Coastal Fishermen, were aware of the bill but did not oppose it (Weible 2008). Furthermore, it was reported that the fishing interests, such as commercial fishing group, even supported the MLPA according to the LA times (LA times, October 13, 1999).

These are somewhat surprising statements considering that there is very strong opposition from both the recreational and commercial fishing industry towards the MLPA Initiative process. However, it became evident that the majority of fishing groups did not seem to be aware of the MLPA when the bill was going through the legislative process and did not seem to fully understand the implication of the law (CFC 2006).

### 3.4.3 Marine Life Protection Act (MLPA; Fish and Game Code Sections 2850-2863)

In many ways, the MLPA could be considered as providing a very innovative approach to California marine environment governance, which has not as yet been very effective (see Section 3.2 and Section 3.3). To begin with, and as previously mentioned (see Section 3.2), MPA was a subset of the Marine Managed Area (MMA), thus meaning it was necessary to have a clear definition of MPA. The MLPA defined an MPA (the MLPA; Fish and Game Code 2852) as:

*A named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat.*

In addition, there were several different classifications for the MMA (see Section 3.2), which also applied to the MPA classification. Thus, the MLPA also simplified the classification of MPAs into three categories, namely State Marine Reserve (SMR), State Marine Park (SMP), and State Marine Conservation Area (SMCA) (the MLPA Fish and Game Code 2852).

**Table 3.2 MPA categories and definition (DFG 2013)**

Category	Definition
State Marine Reserve (SMR)	➤The most restrictive classification, these are no-take areas
State Marine Park (SMP)	➤May allow recreational take, or limit in some way, but does not allow commercial take
State Marine Conservation Area (SMCA)	➤May limit recreational and/or commercial take to protect a specific resource or habitat

The MLPA directs the Fish and Game Commission to adopt a Marine Life Protection Program in order to *re-examine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's*

*marine life, habitat, and ecosystems* (The MLPA; Fish and Game Code Section 2853). Consequently, the Fish and Game Commission has become the ultimate decision maker with regards to the implementation of MLPA (Kirlin et al. 2013; Harty and Raab 2008).

Furthermore, the MLPA specifically directs the Fish and Game Commission to adopt the Marine Life Protection Program, which has six goals (the MLPA; Fish and Game Code Section 2853):

- (1) To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- (2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
- (3) To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
- (4) To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
- (5) To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
- (6) To ensure that the state's MPAs are designed and managed, to the greatest extent possible, as a network.

The MLPA also clearly stated that *the best readily available science* should be used (the MLPA; Fish and Game Code Sections 2855 and 2856) to achieve these objectives. However, there are very diverse opinions regarding what qualifies as readily available science even among the scientific community (Jones 2007). It appears that MPAs are widely considered as representing a win-win strategy for conserving both marine biodiversity and fish stocks (Gell and Roberts 2003). With this said however, there are very diverse views, even among the scientific community, when it comes to what the primary objective

of the MPAs should be. While some marine scientists support the argument that the primary objective for MPAs should be biodiversity conservation rather than fishery benefits (Ballantine 2002; Halpern et al. 2004), many fishery scientists argue that MPAs should be considered as one of the tools for fishery management (Roberts et al. 2005; Hilborn et al. 2006; Kaiser 2005). Therefore, it can be argued that the meaning of the best readily available science may vary depending on the principle disciplines of the scientists.

For example, fishery scientists would regard their latest fishery science as the best readily available science, whilst on the other hand, marine ecologists would regard their latest version of science as the best readily available science. Such arguments can fuel confusion amongst the public and decision makers, thus possibly contributing to the maintenance of the status quo (Jones 2007). It appears that the MLPA adopted the marine ecology as its principle science, since it was argued that the scientific guidelines, which played a critical role in the MLPA Initiative, were developed to achieve biodiversity objectives of goals 1, 2, 4 and 6 (Saarman et al. 2013). The significant implication of the science guidelines will be discussed in the case study chapters.

However, it is important to recognise that the six goals were not prioritised for the MLPA Initiative process (Gleason et al. 2010). Furthermore, it is argued that the goals of MLPA are not very clear (CFC 2006). Indeed, it appears that the interpretation of the goals may vary depending on where emphasis placed. For instance, goal number 2, which many have argued is one of the goals aimed at achieving biodiversity conservation (Saarman et al. 2012), clearly states that MLPA is *to help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted* (the MLPA).

Furthermore, the MLPA has stated that:

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*Fish and other sea life are a sustainable resource, and fishing is an important community asset. MPAs and sound fisheries management are complementary components of a comprehensive effort to sustain marine habitats and fisheries (The MLPA; Fish and Game Code Section 2851(d)).*

Interestingly, it can be argued that the objectives of the MLPA are also aligned with fisheries scientists' contentions that MPAs, particularly No take MPAs, which are equivalent to the SMR in this case, have a potential role in sustaining fish stocks (Hilborn et al. 2004, 2006; Kaiser 2005; Shipp 2004). Therefore, it is logical that the MLPA could be perceived as some kind of fisheries management act as well as a biodiversity conservation act. The significant implication of the MLPA interpretation will be discussed in the case study chapter.

As mentioned above, while the MLPA clearly views the Fish and Game Commission as the final decision makers, it directs the DFG to implement the MLPA (the MLPA; Fish and Game Code Section 2855 and 2856). The DFG is charged with preparing the Master Plan, which meets the requirements of six goals, based on the best readily available science, the advice and assistance of scientists, resource managers, experts, stakeholders and members of the public (the MLPA; Fish and Game Code Section 2855 and 2856). Since the DFG is charged with implementing the MLPA, it has caused a major shift in DFG's approach to ocean governance as the agency which had managed resources based on the single species management for maximising catches of commercially and recreationally important species (Caldwell et al. 2007). At the same time, it also defines the characteristics of the MLPA implementation process. Indeed, there may well be an argument that the implementation of the MLPA is destined to contain a relatively strong top-down approach, since it is the DFG which was in charge of implementing the MLPA.

As mentioned above, the MLPA also requires input from stakeholders and members of the public, although there is a very important statement in the

MLPA. Indeed, this could perhaps be considered one of the most significant parts of the law. The MLPA has stated that (the Marine Life Protection Act; Fish and Game Code Section 2855):

*The department and team, in carrying out this chapter, shall take into account relevant information from local communities, and shall solicit comments and advice for the master plan from interested parties on issues including, but not necessarily limited to, each of the following:*

- (1) Practical information on the marine environment and the relevant history of fishing and other resources use, areas where fishing is currently prohibited, and water pollution in the state's coastal waters.*
- (2) Socioeconomic and environmental impacts of various alternatives.*
- (3) Design of monitoring and evaluation activities.*
- (4) Methods to encourage public participation in the stewardship of the state's MPAs*

This has a very significant implication for the whole MLPA Initiative process. It essentially states that important social factors, such as the socioeconomic impacts (Christie 2004), are not the main concern for designating network of MPAs. It is true that biological evaluation criteria primarily decide whether an MPA can be classified as successful, since MPAs are often designed and evaluated based on biological perspectives (Kelleher and Recchia 1998; McClanahan 1999). With this said however, there are many scholars who have argued that social factors are more significant in determining the success or failure of MPAs rather than biological or physical variables (Kelleher and Recchia 1998; McClanahan 1999; Pollnac et al. 2001; Christie 2004). For example, an MPA may be considered a success if there is an increase in fish population, diversity, and habitat improvements. At the same however, lack of broad participation from the management could lead to overall failure of the MPA. This is because MPAs' management is usually *subjected to minimal human disturbance* through regulations (Jones 2001). Subsequently, it was

argued that MPAs designation requires the stakeholder to be involved in the decision-making process in order to achieve successful management of human activities (Mascia 2004).

Indeed, it appears that the lack of stakeholder participation was one of the main reasons behind the failure of the first attempt to implement the MLPA by DFG prior to the MLPA Initiative process (Harty and John 2006; Raab 2006; Weible 2008; Gleason et al. 2010). The significant consequence of such a direct interpretation of the law by DFG, namely that the socioeconomic concerns are not the major issue, will be discussed in detail in the later section.

Meanwhile, it is also important to realise that implementation of the MLPA is *not necessarily limited to water pollution in the state's coastal waters* (the MLPA; Fish and Game Code Section 2855). This may not be a surprise because the Fish and Game Commission, which is the ultimate decision maker when it comes to the MLPA implementation, does not have any authority to control the water pollution (see Figure 3.3). Instead, it is the State Water Resources Control Board which manages the water pollution, and which falls under the Environmental Protection Agency (see Figure 3.3) in California. In addition, since the MLPA refers solely to the Fish and Game Commission, which can only control the fishing activities, it can be safely assumed that the MLPA identifies fishing as the main stressor. Indeed, the MLPA only regulates commercial or recreational fishing, which is also demonstrated in the MPA categories (see Table 3.2). The fact that the MLPA only regulates legal fishing activities has a significant implication for the MLPA Initiative process, which will be discussed in the case study chapters.

Perhaps most importantly, the legislature did not specifically allocate the funds to implement MLPA (Harty and John 2006; Weible 2008). According to the Master Plan (DFG 2008), when Governor Gray Davis signed bill AB993, which became the MLPA, *he was encouraging the proponents and the*



*Department 'to seek assistance from private resources to help implement the provisions of the bill.'* (DFG, 2008: 80). Indeed, it was reported that the David and Lucile Packard Foundation, which has been one of the key foundations for the implementation of the MLPA, provided around \$50,000 of funding in 2000, with this funding used to support the scientists' participation in the Master Plan Team. In addition, the state government also managed to allocate \$2 million to support the MLPA implementation in 2000. However, most of the fund was apparently used for other marine programs (Weible 2008). As a result, it can be considered that the MLPA implementation processes, which include both first and second attempts by DFG, prior to the MLPA Initiative, constantly suffered from lack of funding. In light of this, it can be contended that the PPP was an inevitable course of events. However, the PPP for the MLPA Initiative process was one of the major factors resulting in significant conflicts between advocacy of the MLPA and many stakeholders, including both consumptive and non-consumptive users, which will be further discussed in the study case chapters. In addition, the partnership became the constant questioning factor for the legitimacy of the whole process, which will be discussed thoroughly in the case study chapters.

#### *3.4.4 Marine Managed Areas Improvement Act (MMAIA)*

Although it is the MLPA which is directly relevant to the research, it would certainly be worth briefly mentioning MMAIA as it provides other categories of protected area aside from the three categories of the MLPA, namely State Marine Reserve (SMR), State Marine Park (SMP), and State Marine Conservation Area (SMCA) (see Table 3.3).

As one of the continuous efforts to improve marine environment governance, the legislature also adopted the much needed Marine Managed Area Improvement Act (MMAIA) following the adoption of MLPA in 2000. The MMAIA redefined the MMA (the Marine Managed Areas Improvement Act Public Resource Code Section 36602) as;

*Discrete geographic marine or estuarine area along the California coast designated by law or administrative action, and intended to protect, conserve, or otherwise manage a variety of resources and their uses.*

The significant change in the new definition of MMA was that it removed the designation of MMA by *voter initiative processes* (see Section 3.3). The designation of the protected areas through voter initiative processes can be considered as a typical CPR governance approach, which emphasises the community based bottom-up approach (Ostrom 1990, 1998, 1999). Thus, it can be argued that the legislature considered the designation of MMA through the community initiated bottom-up process as one of the reasons for the confusion caused by the broad array of MPAs.

**Table 3.3 Categories and definitions for Marine Managed Areas (the MMAIA; Public Resource Code 3700, DFG 2008)**

Category	Definition
State Marine Reserve (SMR)	➤The most restrictive classification, these are no-take areas
State Marine Park (SMP)	➤May allow recreational take, or limit in some way, but does not allow commercial take
State Marine Conservation Area (SMCA)	➤May limit recreational and/or commercial take to protect a specific resource or habitat
State Marine Cultural Preservation Area	➤A non-terrestrial marine or estuarine area designated so the managing agency may preserve cultural objects or sites of historical, archaeological, or scientific interest in marine areas
State Marine Recreational Management Area	➤A non-terrestrial marine or estuarine area designated so the managing agency may provide, limit, or restrict recreational opportunities to meet other than purely local needs while preserving basic resource values for present and future generations.
State Water Quality Protection Areas	➤A non-terrestrial marine or estuarine area designated so the managing agency may protect marine species, biological communities, or unique or significant resources from an undesirable alteration in natural water quality

One of the most significant consequences of the MMAI was that it simplified the existing 18 different categories of protection level for the MMAs, which

was a contributing factor to the overall failure of ocean governance in California (see Section 3.4). Indeed, these 18 categories were consolidated into 6 categories (the Marine Managed Areas Improvement Act; Public Resource Code Section 36700-36900). In addition, according to the MMAI, MPAs are consistent with the definition of MLPA and are a subset of MMAs (the Marine Managed Areas Improvement Act; Public Resource Code Section 36700). Therefore, the three categories for MPAs are identical to the MLPA definition.

It appears that the State Marine Recreational Management Area was used during the MLPA Initiative process along with SMR, SMP, and SMCA. For example, State Marine Recreational Management Areas 1 and 3 were adopted for the Central Coast Study Region, and for the North Central Coast Study Region respectively (Guide to the Central California Marine Protected Areas; Guide to the North Central California Marine Protected Areas).

### **3.5 Passage of MLPA implementation process**

Prior to the MLPA Initiative, there were two previous attempts, known as MLPA1 and MLPA2, to implement the MLPA. In addition, there was a Channel Islands Marine Reserve Network (CIMRN) designation process, which coincided with the MLPA enactment. Although the CIMRN designation process is a separate effort for designating a network of MPAs in the Channel Islands, the designation process can be considered as a precursor to the MLPA implementation as many issues which were relevant to the MLPA implementation occurred.

#### *3.5.1 The Channel Islands Process; Precursor for the MLPA Implementation*

The Channel Islands is comprised of eight islands which are located between 20 to 110km off the California coast (IUCN 2008; see Figure 3.1). These eight islands were divided into two groups. The first group is made up of the

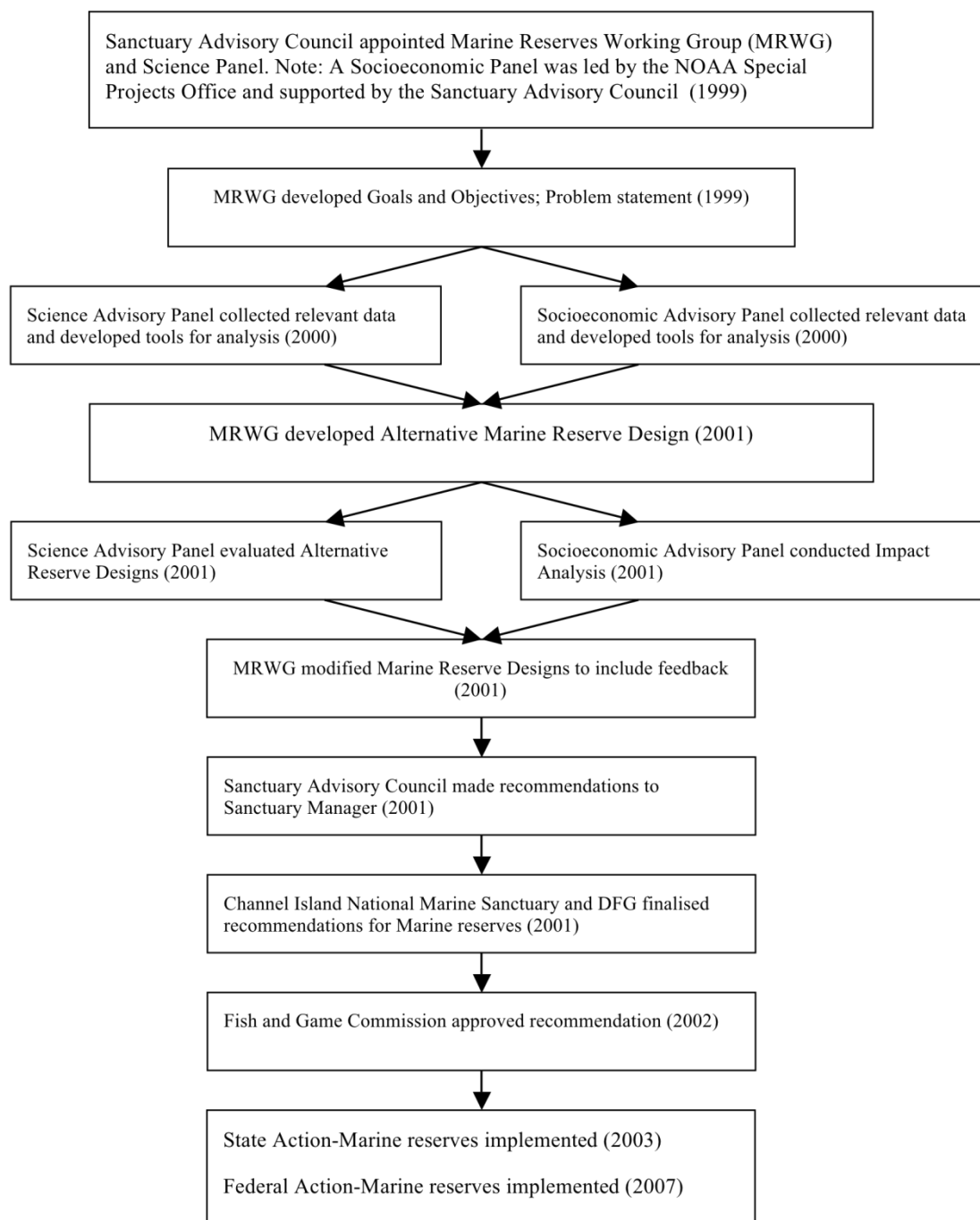
Northern Channel Islands, namely San Miguel, Santa Rosa, Santa Cruz and Anacapa, whilst the other group is composed of the Southern Channel Islands, including San Clemente, San Nicolas, Santa Barbara, and Santa Catalina (Davis 2005; see Figure 3.1). According to Davis (2005), the four Northern Channel Islands and one Southern Channel Island, namely Santa Barbara, were recognised as important places from the early 20<sup>th</sup> century.

As previously mentioned (see Section 3.1), the State of California won the lawsuit against the Federal government to retain the authority for resources management around the Channel Islands in the Supreme Court (Mize 2006). Since the State won the case, the Channel Islands are now under both State and Federal jurisdictions. The State replaced the existing two no-take reserves (see Section 3.1), which were designated by the US National Park Service, to state ecological reserves in 1978. Under the state ecological reserves, fishing and kelp harvesting was allowed, with the exception of certain areas. In 1980, the US Congress designated the Channel Island National Park and President Carter declared the waters within 11 km of the national parks a national marine sanctuary (Davis 2005).

It appears that the Channel Islands also suffered the similar problem of a fragmented ocean governance structure (see Section 3.2 and Section 3.3) as the Islands were under the two different jurisdictions. More importantly, it does not appear that those different types of protected areas, such as state ecological reserves, national parks and marine sanctuaries were designated with any kind of strategy. Subsequently, and as was the case in the state water (see Section 3.2 and Section 3.3), the marine environment around the Channel Islands also suffered from failure of effective ocean management. As a result, there was a significant decrease in fish stocks, invertebrates, and algal demographics (Davis 2005).

There is far from an abundance of literature when it comes to a detailed description of the Channel Island Marine Reserve Network (CIMRN)

designation process (IUCN 2008; Davis 2005; Airame et al. 2003). However, since the designation process of the CIMRN is not the main focus of this research, it will only be described briefly.



**Figure 3.4 Channel Island Marine Reserve process diagram (modified from Kessler, 2003: 28)<sup>15</sup>**

As the marine environment around the Channel Islands began to rapidly decline, a group of recreational anglers, together with the Channel Islands National Park, requested that the California Fish and Game Commission

<sup>15</sup> This diagram is modified from an original diagram by Kessler (2003) as the Federal proportion of Channel Island Marine Reserves was implemented in 2007

designate a network of marine reserves, which is no-take MPA, around the Channel Islands in 1998. This was the start of the CIMRN designation process. The recreational anglers requested that a network of marine reserves be set up for no less than 20% of the National Parks' water (Davis 2005). As the MLPA, which directs DFG to re-evaluate and redesign California's system of marine protected areas, (see Section 3.4.3) passed in 1999, the DFG participated in the CIMRN designation process.

The Sanctuary Advisory Council, which comprised 10 government and 10 nongovernment personnel, was formed in 1999 (see Figure 3.2). The Sanctuary Advisory Council appointed a Marine reserves Working Group (MRWG), which was comprised of 17 members including state and federal agency staff, commercial and recreational fishermen and environmental NGOs (Davis 2005). Following this, the Sanctuary Advisory Council then appointed the Science Advisory Panel to support the MRWG process.

The MRWG identified 5 goals and also agreed to neither prioritise nor weight the 5 goals (see Table 3.4). However, there was greater emphasis on the Ecosystem and Biodiversity goals (Helvey 2004).

**Table 3.4 Goals and definitions (Helvey 2004)**

Goals	Definition
Ecosystem and biodiversity	➤To protect representative and unique marine habitats, ecological processes, and populations of interest.
Socioeconomic	➤To maintain long-term socioeconomic viability while minimising short-term socioeconomic losses to all users and dependent parties
Sustainable fisheries	➤To achieve sustainable fisheries by integrating marine reserves into fisheries management
Natural and cultural heritage	➤To maintain areas for visitor, spiritual, and recreational opportunities which include cultural and ecological features and their associated values
Educational	➤To foster stewardship of the marine environment by providing educational opportunities to increase awareness and encourage responsible use of resources

One of the most critical points for the Channel Islands case was that the stakeholders agreed that in order for a proposal to be accepted, the proposal would have to receive unanimous support (Davis 2005; Helvey 2004). In other words, the MRWG had to produce a proposal based on the consensus.

However, after 22 months of negotiation, the MRWG failed to reach the consensus. The MRWG could only agree on 9 different places for the fishing closures, and could not agree at all when it came to the size of the closures (Helvey 2004). It appears there were very difficult negotiations between proponents of MPAs and proponents of resource exploitations, thus resulting in the process reaching deadlock (Helvey 2004; Kessler 2003). To break the deadlock, the SAC recommended that the agencies' staff, including Sanctuary and DFG staff, should prepare a recommendation based on the MRWG's work (IUCN 2008; Helvey 2004). Ultimately, the Fish and Game Commission adopted the final recommendation for the state water proportion of marine reserves in April 2003. The Federal proportion of the process was completed in July 2007 (News from NOAA 2007; see Figure 3.5).

Although the process resulted in a final total of 11 Marine Reserves and 2 Marine conservation areas covering approximately 21% of Channel Island National Marine Sanctuary (Airame and Ugoretz 2008; See Figure 3.5), this process also revealed a number of problems relating to the designation of MPAs (Helvey 2004). Indeed, this resulted in many lawsuits. Interestingly, the Channel Island process bears a few similarities to the MLPA Initiative process. For example, the MRWG and the Science Advisory Panel are equivalent to the Regional Stakeholder Groups and Scientific Advisory Team in the MLPA respectively.



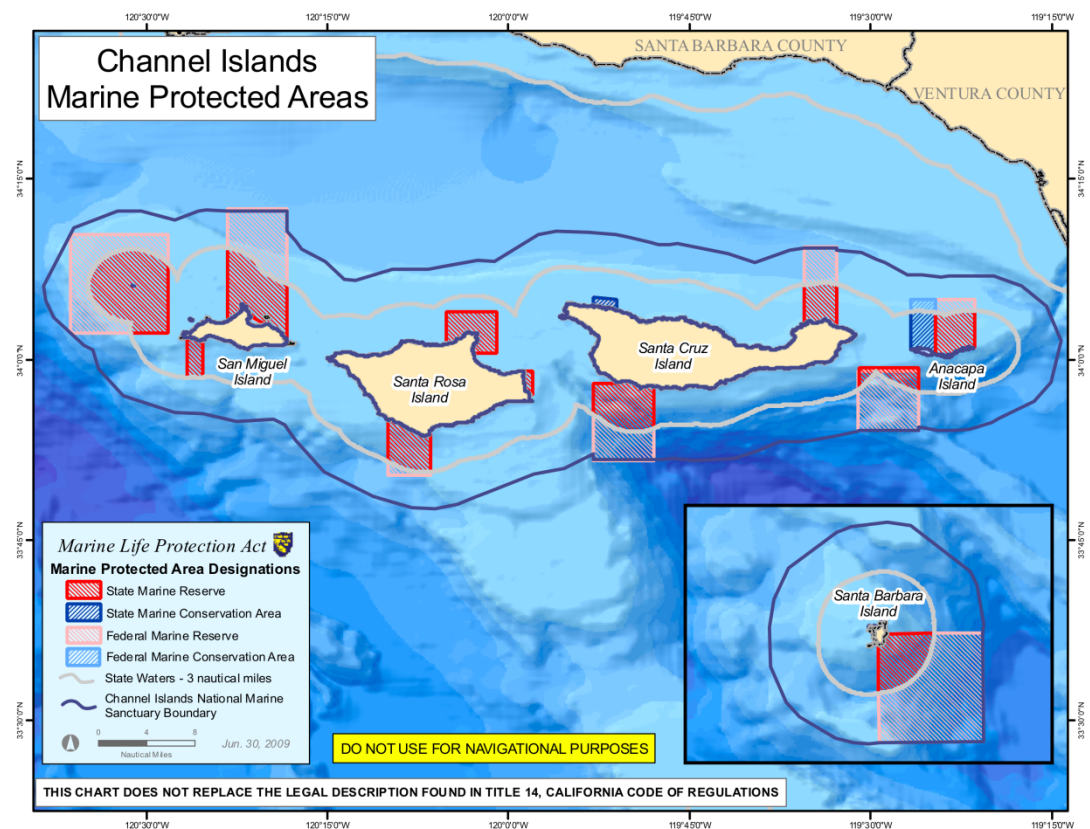


Figure 3.5 Channel Island Marine Protected Areas (DFG website)<sup>16</sup>

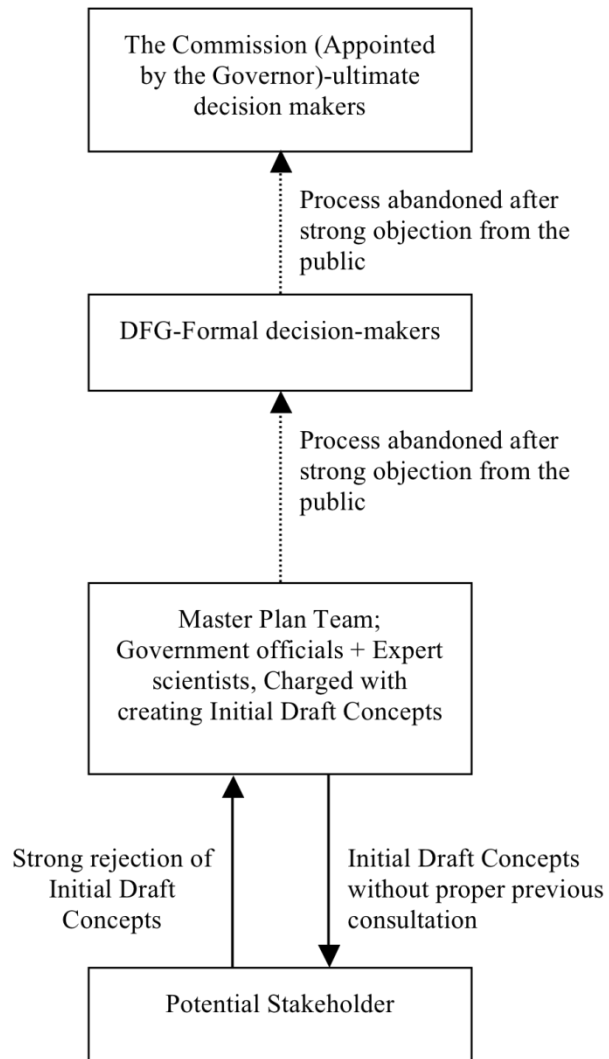
In addition, the five goals, which MRWG agreed to achieve, appeared to be similar to the six goals which the MLPA set out to achieve, even though the MLPA did not require the consideration of socioeconomic impacts (see Section 3.4.3). Particularly noteworthy similarities can be noticed with regards to how the MRWG approached the five goals and how the MLPA Initiative process approached the six goals of the MLPA. In both cases, the goals were not supposed to be prioritised but ended up weighing towards the ecosystem and biodiversity conservation. Particularly, since the CIMRN designation process was initiated by a group of anglers who were concerned about the depletion of fish stocks, one may have expected more emphasis on sustainable fisheries. However, the emphasis on ecosystem and biodiversity conservation may not come as a surprise, since advocates of MPAs were participating in the process. Indeed, it appears the shifting of effort towards a more conservation-oriented

<sup>16</sup> Available from: [http://www.dfg.ca.gov/marine/channel\\_islands/ci\\_finalmap.asp](http://www.dfg.ca.gov/marine/channel_islands/ci_finalmap.asp)

objective occurred when the advocates of MPAs participated in the designation process. For example, according to Helvey, the Science Advisory Panel recommended a 30-50% closure and the proponents of the MPAs in the MRWG were interested for the maximum protection (Helvey 2004). However, it seems there were many proponents of resource exploitation who continued to hold a sceptical view on the MPAs in the MRWG (Helvey 2004). Although the MLPA Initiative did not set any target percentage, the situation resembles a very similar battle between advocates and opponents of MPAs in the MLPA Initiative process.

With this said however, there is one very critical and fundamental difference between the two processes. The MRWG for the CIMRN designation process had to reach a consensus in order to forward the proposal. The arguments regarding what should be the primary purpose of MPAs remain ongoing, even in the scientific community (see Section 3.4.3). Therefore, it was a very unlikely scenario for the MRWG to come up with a unanimous proposal, especially when two opposite sides were engaged in a seemingly endless battle. The most serious consequence of this consensus approach was that it created a deadlock in the process. Indeed, it took 22 months to complete the MRWG process (Helvey 2004) with the Sanctuary Advisory Council ultimately having to recommend that agency staff come up with a proposal based on the MRWG' recommendation but on which a consensus had not been reached.

### 3.5.2 Passage of MLPA Initiative: The first attempt (MLPA 1) (1999-2002)



**Figure 3.6 Structure of decision-making process of MLPA 1**

**Table 3.5 Timeline and events of MLPA 1 (based on DFG 2008:Appendix C)<sup>17</sup>**

Time line of MLPA 1	Sequence of events
Stage 1: 1999-2000	Master Plan Team was convened and the Master Plan Team prepared Initial Draft Concepts
Stage 2: April 2001	DFG sent out an initial mailing requesting ideas and preferences about potential MPAs to more than 7,000 potential stakeholders. However, only 215 responses were received. Furthermore, the resulting information was of limited value to the Master Plan Team
Stage 3: July 2001	DFG conducted ten public meetings state-wide to present the Initial Draft Concepts and seek public input. There were very strong rejections towards the Initial Draft Concepts from the public
Stage 4: January 2002	DFG ended the first attempt to implement the MLPA

It can be argued that there were several factors which contributed to the failure of the MLPA 1. For example, the Master Plan Team, which consisted of government officials, scientists and consultants, produced the Initial Draft Concepts without many fisheries data or contributions from commercial or recreational fisheries (DFG 2008; see Table 3.5). It appears as though the DFG acknowledged there could be potential negative reaction from the stakeholders, although they believed the Initial Draft Concepts could be used as a starting point (DFG 2008). It appears that the DFG has literally treated Initial Draft Concepts like a concept of MPAs which would be changed through public input. Subsequently, DFG carried out the public process with Initial Draft Concepts while making it clear that the Initial Draft Concepts were not the final proposal (Weible 2008).

However, it appears that the DFG might have been too naïve to believe that the stakeholders would accept the DFG's words at face value. It seems many stakeholders believed that the Initial Draft Concepts would become the final map and the lack of access and input into the Master Plan Team process frustrated the fishing community and helped to mobilise their ranks into

<sup>17</sup> Appendix C. Implementation of the Marine Life Protection Act: 1999-2004  
 Available from: <http://www.dfg.ca.gov/marine/pdfs/revisedmp0108c.pdf>

protest (Weible 2006; Weible et al. 2004). According to the DFG, approximately 2,500 people attended the public meetings, with the DFG's meeting the most heavily attended (DFG 2008; Weible 2008).

At the same time, it may be understandable as to why DFG took such an approach. Indeed, as discussed in Section 3.4.3, the MLPA specifically directs *not necessarily limited to socioeconomic and environmental impacts of various alternatives* (the MLPA Fish and Game Code Section 2855). In addition, it could be argued that the experience from the CIMRN process, which was carried out from 1999-2003 (see Section 3.5.1), made them slightly reluctant to actively engage the stakeholder from the very beginning of the designing process. For example, in the CIMRN process, the stakeholders, who were known as MRWG, engaged in designing a network of reserves for 22 months, but eventually failed to produce a proposal based on consensus. Ultimately, it was agencies' staff, including both DFG and Sanctuary, who came up with the proposal, which was based on MRWG's work (see Section 3.5.1). One of the negative consequences of this was that many lawsuits followed after the designation process (Davis 2005) as many stakeholders may have felt their efforts were not sufficiently reflected. Nevertheless, the process was completed and, perhaps more importantly, it appears that the ecosystem in the Channel Islands has improved (Airame and Ugoretz 2008).

In addition, it is important to recall that there was no specific funding allocated for DFG to implement the MLPA (see Section 3.4.3). Based on this, it could be argued that DFG had to find a way in which to implement the MLPA very effectively with minimum cost. Unfortunately, the stakeholder process could well cost a great deal of money. For example, the cost for the MRWG process during the CIMRN process was estimated at over \$ 1 million (Davis 2005). Moreover, although the David and Lucile Packard Foundation funded \$50,000 in 2000 to support the Master Plan Team scientists (DFG 2008), it appears there was no additional funding to carry out the potentially very expensive stakeholder process. Thus, it could be argued that DFG staff,

some of whom also participated in the CIMRN process, believed that they could simply reverse the CIMRN process. It could be possible to argue that DFG believed they could have a more effective process by providing the Initial Draft Concepts as a starting point, which were created based on science, rather than engage the stakeholders to design the MPAs from scratch. Therefore, it is possible that the DFG tried the best possible option which they could come up with, particularly when it seems that only limited resources were available to implement the MLPA.

On the other hand, such strong opposition from the stakeholders, which might have been stronger than DFG's anticipation, may not be a surprise as many researchers view social factors as the primary determinants of MPA success or failure in many cases (Kelleher and Recchia 1998; McClanahan 1999; Roberts 2000; Christie 2004). This can be considered one of the main reasons for the strong emphasis on the importance of stakeholder involvement when it comes to the implementation of the MLPA (see Section 3.4.3). However, since stakeholders felt that they were not involved early enough and believed the DFG's Initial Draft Concepts were the final proposal, there was particularly strong opposition from the fishing community (Weible 2008). As a result, DFG was forced to abandon the whole process (DFG 2008). Based on this, it could be argued that the strong top down approach was one of the main reasons for the failure of MLPA 1 as opposed to the CIMRN process, which can be considered as too top-down.

### 3.5.3 Passage to MLPA Initiative: The second attempt (MLPA 2) (2002-2003)

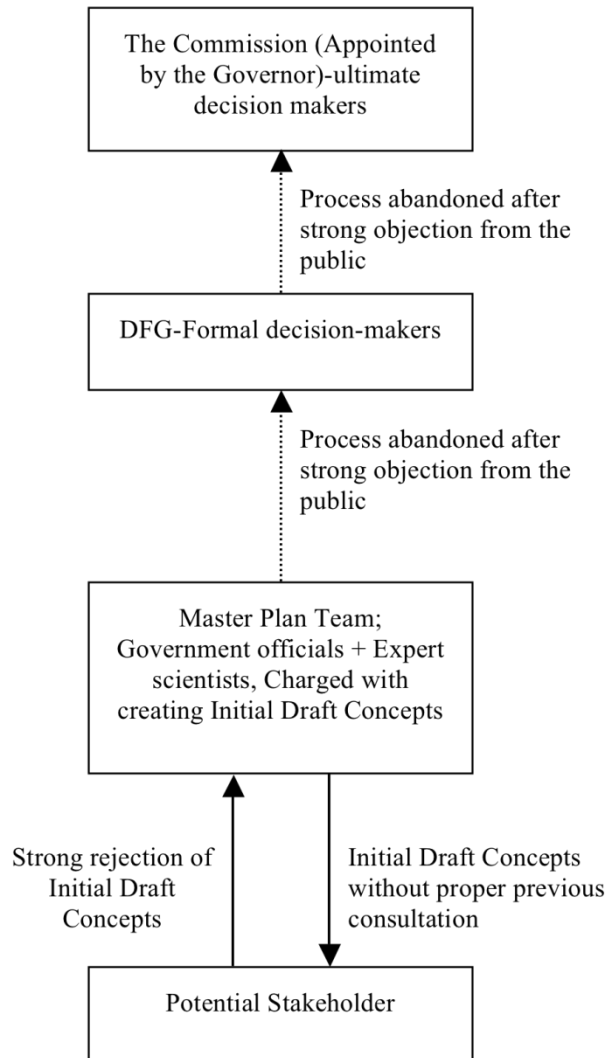


Figure 3.7 Structure of decision-making process of MLPA 2

**Table 3.6 Timeline and events of MLPA 2 (Based on DFG 2003: Appendix C)<sup>18</sup>**

Time line of MLPA 2	Sequence of events
Stage 1: February-April 2002	➤DFG took nomination and formally appointed 150 working groups members for the seven working groups
Stage 2: June 2002	➤DFG completed an initial evaluation of existing MPAs
Stage 3: July 2002	➤Three initial working groups, which were managed by professional facilitators, were carried out
Stage 4: September 2002- January 2003	➤Two additional working group meetings were carried out
Stage 5: March 2003	➤The second attempt to implement the MLPA was suspended due to the lack of funding available to DFG to implement MLPA

In response to criticism of the MLPA 1, the DFG adopted an entirely different approach for the second attempt at MLPA implementation MLPA 2. The biggest change from the MLPA 1 was the involvement of stakeholders from the very beginning through participation. Firstly, the DFG divided the California coastline into four regions, namely North, North-Central, South-Central, and South (see Figure 3.8). Then DFG convened seven regional working groups, each consisting of a representation of local stakeholders, with a total of 150 stakeholders: two in North, South-Central, and South California and one in the North-Central California (DFG 2008; Sholz et al. 2004). In addition, the DFG included an economist on the Master Plan Team, and held a socioeconomic workshop in Santa Cruz to discuss how to incorporate socioeconomic data into the MLPA process (DFG 2008).

However, it appears that the costs and logistical challenges of establishing and continuing seven stakeholder groups simultaneously were significant but not fully acknowledged ahead of time. As a result, there was a lack of funding to pay for facilitation and loss of DFG staff positions in the Marine Region (Weible et al. 2004; DFG 2008). The MLPA 2 gradually lost momentum after each stakeholder group held three initial meetings (DFG 2008; see Table 3.6).

<sup>18</sup> Appendix C. Implementation of the Marine Life Protection Act: 1999-2004  
 Available from: <http://www.dfg.ca.gov/marine/pdfs/revisedmp0108c.pdf>



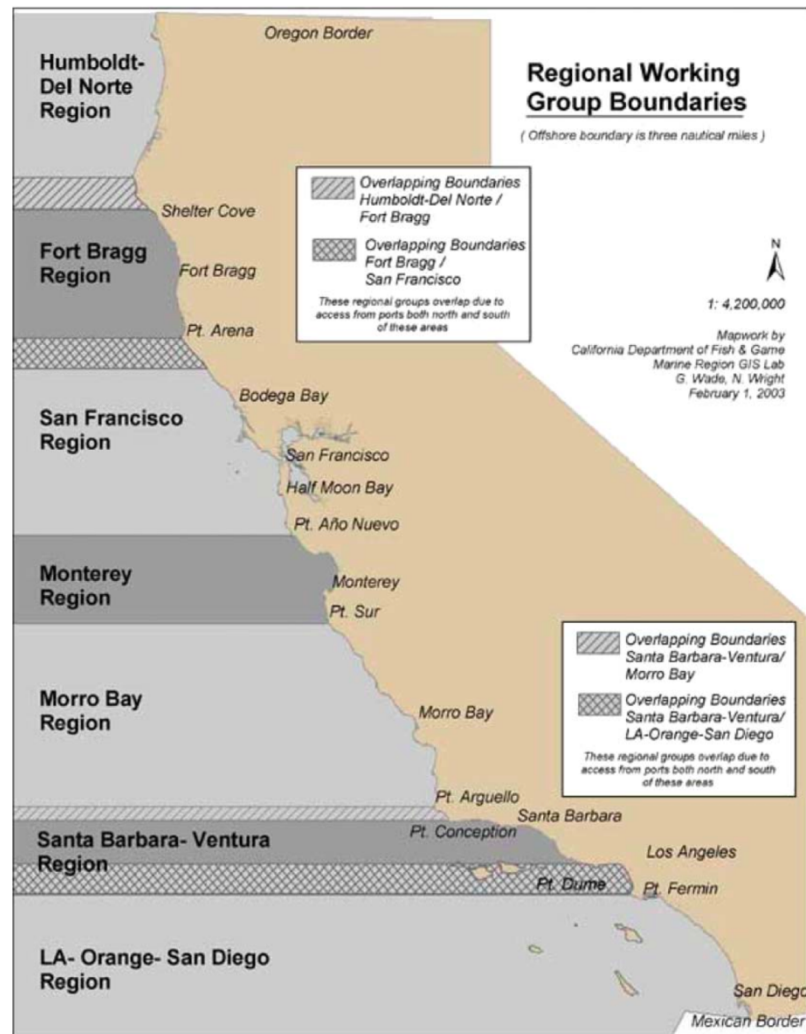


Figure 3.8 DFG regional boundaries map for MLPA 2 (Sholz et al., 2004: 338)

Stakeholder participation and the incorporation of socioeconomic impacts can be considered as a step forward when it comes to the reduction of stakeholder oppositions, which were the major reason for the failure of MLPA 1. However, this also implies that the biodiversity conservation objective of the MLPA, as pointed out by Jones (2013:

*'will be undermined by local resource exploitation objectives'* (Jones, 2013: 43).

Meanwhile, it can be considered that the MLPA 2 resembles a combination of the top-down and bottom-up approach. This is because, unlike the MLPA 1, which attempted to establish a network of MPAs through Initial Draft

Concepts which were prepared without stakeholder consultation (see Section 3.5.2), the DFG tried to involve stakeholders from the very beginning of the implementation process by forming seven regional working groups.

Unfortunately, the MLPA 2 eventually failed due to the lack of the funding available to the DFG. Meanwhile, it is important to recognise that the population of California was estimated at over 35 million, making it the most populous state and the thirteenth-fastest-growing state according to the US Census Bureau. Moreover, it is estimated that over 77% of California's population lives on or near the coast (see Section 3.2), thus meaning it is impossible to have a completely bottom-up approach. Furthermore, as was revealed in the CIMRN process, the stakeholder process incurs a great deal of cost (see Section 3.5.1) and to make the matter worse, the MLPA did not have specifically allocated funding (see Section 3.4.3). Subsequently, it may be unfair to place sole blame for the failure of MLPA 2 with DFG. Instead, it can be argued that MLPA 2 reveals the importance of securing sufficient resources, in order to conduct a successful stakeholder participation process on a large scale.

### **3.6 Concluding remark**

To summarise, the MLPA provided an opportunity to significantly improve the system of MPAs which were suffering from fragmented ocean management. At the same time, it brought with it several features which raised significant conflicts between different stakeholder groups.

Indeed, one of the main reasons for such conflicts, as argued by many, is that the MLPA could be interpreted very differently depending on who examines the law. It appears that the way in which the MLPA is interpreted will result in a chain reaction and will consequently determine how the law will be implemented. For example, the proponents of MPAs would consider the primary objective of the MLPA as biodiversity conservation. Consequently,

they would think it appropriate to apply the best readily available science based on the marine ecology. Thus, based on the science, it may be necessary to designate new and significantly expand MPAs in order to achieve the MLPA objective.

On the other hand, the proponents of resource exploitation would consider the primary objective of the MLPA as *to help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted* (the MLPA; Fish and Game Code 2853). Indeed, they would consider the best readily available fishery science, which may have different evaluation criteria to determine the success of MPA from the marine ecology science.

Secondly, although the MLPA can be interpreted differently by taking a different stance on the primary objective of the law, ultimately the MLPA only regulates fishing. As a result, it appears that many stakeholders, particularly the consumptive users, have the impression that the MLPA is part of fisheries management.

Thirdly, it can be argued that the MLPA has a tendency for the strong top-down approach. For example, the MLPA directs the state to implement the law with relatively small emphasis on the socioeconomic impacts. Finally, the legislature did not allocate funding to implement the MLPA. Indeed, it was encouraged to actively seek out the Public-Private Partnership. This provided both opportunities and heavy criticisms for the implementation of MLPA, particularly with regard to the MLPA Initiative process.

However, such a polarised view of the MLPA may not be a surprise as it appeared that many consumptive users, including both commercial and recreational fishermen, did not clearly understand the implication of the MLPA. Moreover, it seemed they were not aware of the MLPA when the bill was going through the legislative process (CFC 2006). One of the main reasons for

failure to realise the significance of the MLPA when the bill was still in the legislature, can be attributed to how the law is made in California (see Section 3.4.1). It appears that the MLPA was created through a legislatively sponsored ballot measure, since the bill was drafted by ‘entrepreneurs’ and Assemblyman Kevin Shelly (see Section 3.4.2). As Liebert (1998) pointed out, subjects of ballot measures are often very divisive and controversial (Liebert 1998). Perhaps more importantly, it appears that advocates of MPAs, including both NGOs and environmentally oriented philanthropic foundations, have significant influence on California’s ocean governance. The implication of the MLPA and the role of advocacies will be thoroughly analysed in the case study chapter.

Meanwhile, it is important to recognise that the implementation of the MLPA was not an easy process. Prior to the MLPA Initiative process, which was considered as the successful implementation of the MLPA, there have been continuous efforts to implement the law since it was enacted in 1999. It appears that the CIMRN process, as well as the two previous attempts to implement the MLPA provided valuable lessons for the MLPA Initiatives.

For example, the CIMRN process adopted a consensus based decision making process. However, the consensus based decision making process can promote unrealistic expectations and can be difficult to achieve whilst also providing an opportunity for political lobbying and other gaming behaviour which might undermine the decision making process (Ludwig et al. 1993). In light of this, a variety of decision-making measures should be considered. Thus, it can be argued that the staff involved in the CIMRN process learnt that the stakeholder participation process should not try to reach the consensus.

The first attempt to implement the MLPA (MLPA 1) revealed the importance of stakeholder participation. It is possible that the Initial Draft Concepts could be optimised to protect biodiversity conservation as the scientists designed them. Indeed, the Initial Draft Concepts could have been used as a good

starting point. However, the biggest problem with Initial Draft Concepts was that stakeholders took them as the final proposal, even though the Initial Draft Concepts were not the final proposal. This confirms the argument that very often it is the social factors which are the primary determinants of MPA success or failure.

A second attempt to implement the MLPA (MLPA 2) demonstrated the importance of the funding. Although it could have been a challenge to carry out the state-wide stakeholder process, it may have been successful had sufficient resources been provided. In short, it can be considered that the CIMRN process was too bottom-up while MLPA 1 was too top-down. Subsequently, DFG tried to combine top-down and bottom-up for MLPA 2. However, MLPA 2 was not successful because DFG failed to secure the resources necessary for successful implementation of the MLPA. Therefore, it can also be considered that the MLPA 1 and 2 represent the importance of hybrid forms of environmental governance, which can be described as a triangle connecting states, markets, and communities (Lemos and Agrawl 2009).

It seems that the third attempt to implement MLPA, which is known as MLPA Initiative, appears to acknowledge the importance of the public-private partnership. Therefore, it can be suggested that the MLPA initiative process emphasised the hybrid form of environmental governance. However, the triangle connecting the state, markets, and people only represents that all three elements are important. Thus, the fundamental governance question, and one which remains to be addressed is: who makes decisions? The perspective of who makes decisions became one of the biggest issues for the MLPA Initiative process, and is something which will be discussed through the case study of the MLPA Initiative process.

## **4. Methodology**

### **Overview**

The purpose of this chapter is twofold. First, it will introduce the research methods which were used to collect and to analyse the data, including semi-structured interviews, document analysis and participant observation. Secondly, it will briefly explain and justify the selection of the case study based on analysis of semi-structured interviews and document analysis.

## **4.1 Research Method**

In order to effectively analyse the different governance approaches, the research will identify the groups and the opinions which exist within the relevant communities. Furthermore, the research attempts to address the lessons which can be learnt from the specific case study. Therefore, rather than generating large sets of data, which could be used to make generalisations, the research will focus on an intensive examination of the MLPA Initiative in Central Coast Study Region, which could be engaged in a theoretical analysis, and which could have relevance to other cases (Bryman 2001). Considering these requirements as well as the objective of producing actor-centred analysis, qualitative research is the most appropriate method for use in conducting the research.

At the same, it is important to recognise that there are potential dangers for bias with all social science research, if only one method is used. In order to overcome such problems, a combination of multiple sources of data and research methods through ‘triangulation’ is widely applied in social science and anthropology so as to increase the accuracy and validity (Bernard 2006; Denscomebe 2003). For this research, three different methods were used for ‘triangulation’, namely document analysis, semi-structured interview, and participant observation.

### *4.1.1 Document analysis*

One of the characteristics of the MLPA Initiative process is that there are several documents which describe the process in great detail. Indeed, the MLPA initiative process adopted absolute transparency in order to resolve stakeholders’ scepticism towards the PPP (Fox et al. 2013a; Gleason et al. 2010, 2013; Sayce et al. 2013; Kirlin et al. 2013; Saarman et al. 2013). For example, every public meeting was broadcast through the webcasts before

being archived and made readily accessible through the dedicated website<sup>19</sup>. Moreover, there are a number of media reports and newspaper coverage, which are available on the internet, relevant to the case studies.

Furthermore, the “lessons learned” projects have been carried out at the end of the Central Coast, the North Central Coast, and the South Coast (Harty and John 2006; Rabb 2006; Harty and Rabb 2008; Harty 2010). Those documents are available at the DFG website which has a Section dedicated to the MLPA Initiative<sup>20</sup>. These documents provided very useful insights into the MLPA Initiative process because they contained very detailed description of the MLPA Initiative process for each study region.

In addition, The MLPA Initiative process is considered as a very important case study for the sub-national scale of governance (Gleason et al. 2013; Kirlin et al. 2013; Toropova et al. 2010). Subsequently, there are many published studies which analysed the MLPA Initiative process in detail. For example, the Ocean & Coastal Management journal dedicated an entire volume (volume 74) to *‘Special Issue on California’s Marine Protected Area Network Planning Process’*<sup>21</sup>.

The research began with thorough analysis of the “lessons learned” reports, as they present an official picture of how the MLPA Initiative process was structured and was conducted. Moreover, there were a number of published journal papers which provided certain issues of the MLPA Initiative process, prior to the special issue of Ocean & Coastal management journal. Thorough analysis of “lessons learned” reports and published papers made it possible to develop a deeper understanding of the MLPA Initiative. This analysis was not only central to the setting of the agenda for the research but also to the setting of a guide for the semi-structured interview questions (see Table 4.1).

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<sup>19</sup> <http://www.cal-span.org>

<sup>20</sup> [http://www.dfg.ca.gov/mlpa/documentarchives\\_phase1.asp](http://www.dfg.ca.gov/mlpa/documentarchives_phase1.asp)

<sup>21</sup> Ocean & Coastal Management Journal  
Available from: <http://www.sciencedirect.com/science/journal/09645691/74>



#### *4.1.2 Semi-structured interview*

Conducting interviews with informants has been described as ‘a conversation with a purpose’ (Valentine 2005). Indeed, this method has been used as one of the most popular methods for human geography and anthropology (Hay 2005; Bernard 2006). As the purpose of the research was to present an actor-centred realist institutional analysis of governance approaches which are applied to the California MLPA Implementation process, it also used interviews as one of the primary methods.

Although there exist different types of interviews, such as structured, semi-structured, and unstructured (Hay 2005), this study used the semi-structured interview, meaning that the interviewer could raise questions whilst adhering to the basic interview guide (Hay 2005). Indeed, semi-structured interviews with informants are identified as the most suitable method, since interviews can provide people’s opinions, views, ideas, and experiences (Arksey and Knight 1999). Furthermore, semi-structured interviews enable the researcher to have ‘conversation with a purpose’ more effectively as the conversation takes a more fluid form. However, unlike the unstructured interview, semi-structured interviews have a certain guide, thus meaning that the interviewer can direct the conversation (Arksey and Knight 1999).

**Table 4.1 Interview guide for semi-structured interview**

Theme	Topic
Process overlook	Did you think it was a top-down, bottom up or middle ground approach?
	Did you think it was a transparent process?
	What did you think was the main driving force for the process? (Science/politic)
Perspectives on the key factors which contributed to the successful implementation of the process	What is the view on the MLPA?
	What is the view on the role of NGOs?
	What is the view on the RLFF?
	What is the view on the PPP?
	What is the view on Political Will?
Perspectives on the stakeholder participation process	Did you think it was a meaningful participation process?
	Did you think the stakeholders were fairly represented?
	What were the prompting/hindering factors for the stakeholder process?
	What is the view on the usage of Local Knowledge?
	What is the view on the usage of Expert Knowledge? (View on the science guidelines)
Perspectives on the core components of the MLPA implementation process	What is the view on the role of BRTF?
	What is the view on the role of DFG?
	What is the view on the role of I-team?
	What is the view on the role of SAT?
	What is the view on the role of the Fish and Game Commission?

The interview guide (see Table 4.1) was designed to explore the research questions after thorough analysis of both published articles and the “lessons learned” report (see Section 4.1.1). Following a few initial interviews, it became apparent that starting the interview by asking a question was very effective. The opener for almost every interview was: *So, what is your story about the MLPA Initiative?* This was very effective for several reasons. Firstly, it was an extremely effective way of getting the interviewee talking. Secondly, it was possible to make a quick judgment on the interviewees’ general opinions regarding the process. Thirdly, it was possible to make a quick assessment of interviewees’ knowledge about the process. Lastly, it was also possible to probe the key issues, which were revisited and examined in more detail. Indeed, this made it possible to gather as much as information as possible. Subsequently, the sequence of the questions was also arranged differently in each interview.

Most interviewees were selected because of their position within certain

organisations, because they represent key stakeholder groups, or because of their involvement in the process. Certain interviewees had very detailed knowledge and opinions as they were very deeply involved in processes such as drafting the MLPA, structuring the MLPA initiative process, developing guidelines, managing the process, or very actively participating in the process.

Although most interviewees were participants, it was also necessary to include non-participants who can be considered as major stakeholder groups, as their livelihoods were directly affected by the implementation of the MLPA. It emerged that a number of non-participants, who had decided not to participate because of various reasons, had very detailed knowledge and opinions of the MLPA implementation process. Their opinions provided valuable information and were used for the ‘triangulation’ of information provided by interviewees from different groups and perspectives. Ultimately, it helped to reduce the potential bias introduced by particular individuals or groups. On the other hand, it was also the case that a small number of interviewees who did not participate in the process had strong opinions but did not have much knowledge of the MLPA Initiative process. Subsequently, not all topics and themes were covered during every interview.

The initial recruitment of interviewees was assisted by ‘gate keepers’. Lewis-Beck (2004) defined ‘gate keepers’ as *‘the people who, metaphorically, have the ability to open or close the gate to the researcher seeking access to the setting’* (Lewis-Beck, 2004: 2). Very gratefully, and with help from supervisor Dr. Peter Jones, it was possible to make initial contact with two ‘gate keepers’ for the MLPA Initiative process. As the initial contact was made directly with the ‘gate keepers’, it was possible to use the ‘snowballing’ approach to generate more contact (Valentine 2005).

One ‘gate keeper’ opened the door to key local participants. This ‘gate keeper’ was involved in many local monitoring projects which were based on collaboration with the local fishing community. Subsequently, this ‘gate keeper’

not only knew key local fishermen but also had a good relationship with them. Most fishermen were busy with their daily work, so it would have been a very difficult process to recruit local fishermen, especially those who participated in the MLPA Initiative process, if the initial contact had not been made through this ‘gate keeper’. Furthermore, it was particularly helpful because this ‘gate keeper’ worked in collaboration with key local fishermen, such as the president of the Morro Bay Commercial Fishermen’s Organization. Subsequently, once key local fishermen had been interviewed, they became the next ‘gate keeper’, thus meaning it was possible to create a ‘snow balling’ effect. Ultimately, it was a very effective way to recruit local stakeholders and collect local stakeholders’ perspectives on the MLPA Initiative process.

On the other hand, the other ‘gate keeper’ was deeply involved in developing science guidelines. Subsequently, this ‘gate keeper’ did not only work with key personnel members in the MLPA Initiative process but also knew them personally. Therefore, it was particularly helpful to set up interviews with key personnel members in the MLPA Initiative process, such as the executive director of the MLPA Initiative team. Once again, those key personnel members became the next ‘gate keeper’. Therefore, it was a very effective way to recruit participants who not only had very detailed knowledge but also knew the political nature of the MLPA Initiative process.

Although it was relatively straightforward to establish contact, since those two ‘gate keepers’ were well respected, it was important to take into consideration the interviewees’ situations, as they had to make time to sit down and to have conversations.

At the beginning of every interview, the interviewee was asked whether he/she was comfortable with the conversation being recorded. Immediately after this question, the interviewees were also informed that they would receive the interview report so that they could review and, if necessary, correct what they said before it was used or quoted for this research. Such explanation prior to

the actual interview could have been a key factor in obtaining permission for the interview to be recorded from every interviewee. The recording of the conversation began only after the interviewees agreed to take the record.

At the same time, it is important to recognise that a general weakness with the interviewees was that the researcher had to trust that the respondent was telling the truth. As the interviewees were aware of the fact that the conversation was recorded, it was absolutely necessary to make interviewees as comfortable as possible, thus allowing them to be more open with their opinions. Furthermore, it was fully recognised that the interviewees were taking part in the semi-structured interview as a favour, as there were no incentives apart from the fact that they could tell their story to the interviewer.

In that sense, the location and time of the interviews were very important (Valentine 2005). With this in mind, it was left to the interviewees to decide on a time and location for the interviews. The interviews were mostly carried out at interviewees' work places, either in the office or on a boat, so that they could fit in with their busy work schedules. On a few occasions, the interview was carried out over a lunch or coffee. In that case, it was very important to find a relatively quiet corner, so that the number of distractions could be reduced and, more importantly, there was nothing to interfere with the recording.

It was quickly recognised that each interviewee responded very differently to the questions, and more importantly, interviewees' responses were dependent, to a certain extent, on their feelings towards the interviewer. As acknowledged by Arksey and Kinght (1999), dress and personal appearance are important. Subsequently, the appropriate clothing was worn, depending on who the interviewee was. For example, when a local fisherman was interviewed on his boat or at a local café, something casual was worn. When the interviewee was a government official, something slightly more formal was worn. Indeed, these efforts were made to appear more acceptable to different social groups (Arksey

and Kinght 1999).

As the CCSR alone covers over 340 miles of coastline, logistics were a key issue in carrying out the semi-structured interviews. While most interviewees lived within 1 hour driving distance, some key interviewees lived far away from where the interviewer was based, which was San Luis Obispo. In that case, an attempt was made to group those interviews together. For instance, after conducting an interview in Sacramento, which is 5 hours driving distance, one more interview was carried out immediately in Davis, which is 1 hour driving distance from Sacramento.

Length of interviews varied from 30 minutes to 3 hours. Although some brief notes were taken during the interview, they were very brief as they were found to represent a potential distraction. More seriously, the note taking could result in the interviewee losing his/her flow. Subsequently, quick post interview notes were made after the interview had left the location of interview. The purpose of the post interview notes was to capture an impression of the interview process and to capture the topics that were raised during the interview, particularly those relevant to the research but which had not been initially included in the semi-structured interview guide.

Meanwhile, it was important to recruit a range of interviewees so that various different perspectives of the MLPA Initiative process were collected in order to avoid bias.

**Table 4.2 Number of Interviewees from different sectors**

	Consumptive stakeholders	Non-Consumptive stakeholders	Staff
Participated	7	5	14
Not participated	11	8	3
Total	18	13	17

Consumptive stakeholders were commercial, recreational fishermen and Commercial Passenger Fishing Vessels (CPFV) skippers. Non-consumptive stakeholders were ocean related business owners, officials from different government agencies, recreational divers and environmentally oriented stakeholders. Staff were mainly from the MLPA Initiative but also included scientists and consultants. A total of 48 interviews were conducted and every interview was recorded.

After an interview, a transcript was prepared for each interview. However, it was deemed more appropriate to send the interview report to the interviewee for verification, as interviewees would not want to see everything that was said. Subsequently, although every interview was transcribed, information in the interview report was slightly processed. When the interview report was sent to the interviewees for verification, it was emphasised that their direct quote could be used in the thesis. In addition, they were also informed that they could change any words if they felt that it was not an accurate representation of their thoughts. At the same time, it was specifically stated that if they had not provided any specific comments regarding the interview reports within a month from the sent date, it would be assumed that they had agreed with the interview report. The interviewees' quotes used in thesis were taken from the interview reports.

#### *4.1.3 Participant Observation*

Observation is recognised as an important methodology when it comes to qualitative research (Flick 2001). Indeed, Bernard (2006) described participation observation as:

*'Immersing yourself in a culture and learning to remove yourself every day from that immersion so that you can intellectualize what you've seen and heard, put it into perspective and write about it convincingly'* (Bernard, 2006: 344).

Also of interest were interviewees' reactions when I was actively involved

with the California Collaborative Fisheries Research Program, which included catch and release research. Indeed, this was one of the most useful ways in which to secure participant observation. Importantly, participants included not only various fishermen but also local skippers, who worked for CPFV. Each research trip involved a full day out on the ocean. During the fishing trip I was not only able to observe but also to engage in conversations with many fishermen who volunteered to come out to help the research. It was particularly useful, since there were a number of fishermen who did not live near the coastline.

During the time I was carrying out my research, the North Coast Study Region (NCSR) was undergoing the MLPA implementation process. As every meeting was open to public participation, I also participated in one of the Science Advisory Meetings, which took place in Eureka, California. The NCSR MLPA implementation had very different characteristics. For instance, the population of Native Americans, who are not bound by state law, was very high, thus presenting a serious challenge for the NCSR MLPA implementation. Nevertheless, it provided valuable information regarding how the public meetings were carried out.

Throughout the research, the conversations and observations were recorded in a research logbook. I made immediate notes when it was appropriate to do so. In certain situations, such as a trip on a boat in bad weather, it was difficult to compile an immediate record. In this case, the record was compiled as soon as possible.

## **4.2 Data Analysis**

All data and information gathered throughout the research were analysed manually. This was more time consuming than using available software, such as *AtlasTI*. However, it was more useful because it made it possible to examine the gathered information several times, which in turn helped to develop a better understanding of the interview material.



The first step was to make a complete transcript by listening to the audio recording for each interview. This was very time consuming and also very hard at times. However, as the interviewer continued to compile many transcripts, he developed a better skill for probing relevant information from the interview record. Once a transcript was produced, it was processed and turned into an interview report.

In order to produce the interview report, a separate document was prepared for each interviewee. The newly prepared separate document included a heading, which correlated with the interview guide (see Table 4.1) and each heading had three to six sub-headings, which were particularly related to this research. All of the quotes from the transcript were then read through and any quotes which correlated with headings or sub-headings were copied and pasted to the interview report. It should be noted that since not every interviewee covered every topic (see Section 4.1.2), each interview report did not necessarily cover all the headings or sub-headings. Furthermore, it should be mentioned that when an interview report was sent out for verification (see Section 4.1.2), it did not include headings or sub-headings as this could potentially affect the interviewees' opinions regarding what had already been said.

28 out of 48 interviewees responded to the interview report. Most responses were simple acknowledgement that they agreed with the interview report. Only two interviewees wanted to revise the content of the interview report. They sent revised versions of the interview reports, which replaced the original reports. It was assumed that the remaining interviewees, who did not respond to the interview reports, were had agreed with the interview reports, since it was specifically stated that were they not to respond, it would be assumed that they agreed with the interview report (see Section 4.1.2).

Once the verification process was completed, all the quotes in the interview report were compiled and re-organised into separate word documents. Each

word document had one heading and six to seven sub-headings which were identical to the interview report. As I had prepared separate documents which were identical to the interview report but had all the headings and sub-headings, it was possible to save time to compile and re-organise all the quotes in the interview reports. Interestingly, as I continued to compile many interview reports, headings and sub-headings were beginning to connect between the different interviews. Furthermore, it became more apparent that there were very polarised perspectives towards the MLPA Initiative process. Once the interview reports were completed, there were a total 18 headings with each heading comprising six to seven sub-headings, which were particularly related to this research.

Meanwhile, a naming code system was also developed so that it was possible to identify each interviewee without revealing their names. The first alphabet set indicates the different study region. The next alphabet set indicates whether or not the interviewee directly participated in the MLPA Initiative process. Lastly, the number indicates the name of the interviewee (see Table 4.2).

**Table 4.3 Name coding system identification**

First alphabet set	Definition of the first alphabet set	Second alphabet set	Definition of the second alphabet set
C	Central Coast Study Region	P	Directly participated in the MLPA Initiative process
NC	North Central Study Region		
S	South Coast Study Region	NP	Not directly participated the MLPA Initiative process
N	North Coast Study Region		

Once the semi-structured interview analysis was completed, the papers in the *'Special Issue on California's Marine Protected Area Network Planning Process'*<sup>22</sup> were thoroughly analysed based on guidelines which were similar to

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<sup>22</sup> Ocean & Coastal Management Journal  
Available from: <http://www.sciencedirect.com/science/journal/09645691/74>

the semi-structured interview questions. It was particularly important to analyse this special issue of Ocean & Coastal management for two main reasons. Firstly, most interviewees who were categorised as staff in the semi-structured interview (see Table 4.2) were authors of the journals. Subsequently, it was a very effective way to put interview findings into context and to test the validity of their statements. Secondly, and perhaps more importantly, a small number of interviewees, who are also authors in this Special Issue, provided critical insights that they could not specifically address in the journal due to political reasons. Therefore, through this combined analysis of the papers and the interviews, it was possible to develop a deeper understanding of the different perspectives on the MLPA Initiative process amongst some key participants in the process.

At the same time, it was also necessary to validate interviewees' accounts, particularly those who are categorised as consumptive users in the semi-structured interview (see Table 4.2). Different type of literature, such as media reports and newspaper coverage relevant to the case studies, were analysed to verify those interviewees' accounts. This was particularly important because these interviewees provided a number of insights concerning the personal and/or political connections amongst key participants in the MLPA Initiative process. Furthermore, many consumptive users pointed out that they were not able to express their opinions at public meetings such as the Science Advisory Meetings, at which I made participant observations (see section 4.1.3), due to heavy facilitation. On the other hand, a number of staff, as well as non-consumptive users, argued that it was an appropriate level of facilitation. Analysis of information gathered through participant observation enabled me to put the interview findings into context and further validate the interviewees' account.

More importantly, although the research attempted to provide a critical objective analysis of the MLPA implementation process, it did not intend to single out particular people for particularly critical comments on the basis of

single sources. Therefore, it was particularly important to verify the interviewees' accounts, particularly those who are categorised as consumptive users in the semi-structured interviews (see Table 4.2), through triangulation of all three data sources.

### **4.3 Research ethics**

It was important to ensure that the research was carried out in a legitimate and ethical way, particularly with regard to the semi-structured interviews. For instance, a number of staff provided critical insights which can be considered as sensitive information, e.g. the dismissal of key DFG staff. Subsequently, I had to be very careful not to damage their relationships with other members of staff. Furthermore, it was important to acknowledge that a number of staff who I interviewed were the subject of lawsuits. Thus, if their identities were revealed, there was the possibility that their statement for the research could be used against them.

Importantly, it was not only the staff members' identities which I needed to protect. A number of consumptive users, mainly commercial fishermen, provided important insight information concerning the appointment of the Fish and Game Commissioner. However, despite their scepticism, it was important for them to maintain a good working relationship with the Commissioners, as they are the ultimate decision makers for the fishing regulations in California.

In light of this, it was critically important to protect the privacy and identity of interviewees, which is often the most important issue of ethical concern when conducting anthropological research (Jorgensen 1971). Subsequently, in all transcripts and research diaries, the names of interviewees were not recorded. Instead, a name coding system was developed to identify each interviewee without revealing their identity in the interview summary. The first alphabet set indicates the location of the MLPA implementation process. The second alphabet set indicates their position while the number indicates the specific interviewee.

#### **4.4 Positionality**

In order to effectively analyse the governance approaches, the research identified the groups and the opinions which existed within the relevant communities. Considering these requirements as well as the objective of producing actor-centred analysis, qualitative research was the most appropriate method for use in conducting the research. At the same time, it is critical to address the issue of positionality in qualitative research (Valentine 2005). It is obvious that the way in which we experience the world will be affected by sex, age, race, nationality, life experiences, and social status. More importantly, it is impossible to remove those factors. Therefore, it would be important to reflect myself and consider my position within the context of the research, in order to avoid false objectivity of the research (Rose 1997).

My background and life experience differed considerably from the local people with whom I interacted during the research. I am a South Korean and have been living in England for over 12 years while my parents currently live in New York, US. With this said however, I have never officially lived in the US, as my parents moved to New York after I came to England. Although I have picked up a slight British accent over these 12 years, I still have a very distinctive Korean accent. Most importantly, I do not have any association, in terms of funding, with any of the US based universities. Thus, I was perceived as a South Korean from a UK university and who is studying the California MLPA Initiative process.

Interestingly, my somewhat complicated background was very welcomed by the interviewees, particularly the fishermen. After an initial few interviews, I quickly realised that the fact I had come all the way from England automatically meant that I was perceived as more impartial. It appeared that many stakeholders, including those who were not fishermen, were not very happy with the many publications which claim that the MLPA Initiative process is a stakeholder-driven process. Many of them believed that their

voices were largely ignored. It provided a huge advantage for me to carry out semi-structured interviews, as they were very enthusiastic to tell me what they thought. However, the interviews also represented a problem as they could potentially be turned into a platform on which interviewees could rant about their unhappiness. As my confidence as an interviewer grew over time, I was able to steer the direction of the interview in a more focussed direction.

My background also worked to my advantage when I interviewed key members, such as members of the Science Advisory Team or the MLPA Initiative team, of the MLPA Initiative process. Firstly, it appeared that most of those interviewees had a strong tendency to take stance as advocates of the MLPA Initiative process. Subsequently, they were very enthusiastic to tell ‘an outsider’ what were the key success factors of the MLPA Initiative process. Secondly, and perhaps more significantly, those key members also knew each other as they worked closely with one another. On the other hand, it appeared that they were also aware of the significance of the inter-personal politics. For instance, it appeared that there were slightly different opinions towards the MLPA Initiative process even among the Science Advisory Team. Since I was perceived as more impartial, those key members often opened up and told me the dynamic of the inter-personal politics behind the MLPA Initiative process. Indeed, this inside information was critical when it came to identifying the political nature of the MLPA Initiative process.

#### **4.5 Selecting case study**

It is important to recognise that unlike two previous unsuccessful attempts to implement the MLPA (see Section 3.5), the Memorandum Of Understanding (MOU), which was the result of PPP, divided the 1,100 miles of California coastline into five study regions, namely the Central, which was considered as the ‘pilot case’ (Harty and Jone 2006), the North Central, the South, the

North Coast, and the San Francisco Bay study region<sup>23</sup>. The MLPA was implemented in consecutive order from 2005 to 2011 (Fox et al. 2013b; Gleason et al. 2010; Kirlin et al. 2013; also see Figure 4.1).

At the same time, it was argued that the MLPA Initiative process evolved as the process moved through different study regions in response to the lessons learnt from each study region and in response to the different bio-geographic and socioeconomic characteristics of the each study region. (Fox et al. 2013b; Gleason et al. 2010; Kirlin et al. 2013). In other words, and as one stakeholder claimed:

*It [the MLPA Initiative process] was a learning process from the start and the planning process evolved through time<sup>24</sup>.*

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<sup>23</sup> DFG Website dedicated for the MLPA Initiative process. <http://www.dfg.ca.gov/mlpa/>

<sup>24</sup> Interview with an environmental stakeholder (NC-P108) verified by staff (CNCSN-P26; NCSN-P30), a scientist (CNCNS-P29) and a consultant (CNCSN-NP47)



**Figure 4.1** Four study regions for the planning purposes in the Marine Life Protection Act Initiative (Kirlin et al., 2013:2)

Since the Central Coast Study Region (CCSR) MLPA Initiative process was the ‘pilot’ study, it could be argued that the CCSR MLPA Initiative was not perfect and the Initiative process improved as it moved through to different study regions<sup>25</sup> (Fox et al. 2013b). Furthermore, the specific details of the stakeholder process for each study region are different.

Nevertheless, it appears that the CCSR MLPA Initiative process was a very important study case and had a significant implication for the rest of the implementation processes. First of all, it could be argued that if the CCSR MLPA Initiative had not been successful, it would be unlikely that the remaining Initiative processes would be conducted. For instance, it is critically

<sup>25</sup> Interview with a staff member (CNCNSN-P26; NCSN-P30; CCNC-P97), a scientist (C-P5; CNCNSN-P29; CNCNSN-P119) an environmental stakeholder (C-NP25; NC-P108)



important to recognise that the MLPA Initiative process was the result of the PPP amongst the Resource Agency, the DFG, and the Resource Legacy Foundation Fund (RLFF). Subsequently, even though there were polarised perspectives towards the PPP, which will be explored in the case chapters, the PPP can be considered as the most important factor to have contributed to the successful implementation of the MLPA (Fox et al. 2013b; Kirlin et al. 2013).

As mentioned above, one of the key features of the MLPA Initiative is the PPP. The result of the very first PPP was the CCSR MLPA Initiative process which started from 2005 to 2006, whilst the MPAs were in effect from September 22, 2007<sup>26</sup>. However, according to the first MOU (Memorandum of Understanding), which was signed in 2004, the RLFF would initially fund the MLPA Initiative process for the selected area only until the end of 2006 (Kirlin et al. 2013). It was only after the successful implementation of the MLPA at the CCSR, that the second MOU, which reaffirmed the PPP through 2011, was signed (Amendment and Extension of Memorandum of Understanding; Kirlin et al. 2013). Based on this, it could be argued that the RLFF would likely not support the MLPA Initiative process, if the CCSR MLPA Initiative process had not been successful.

Furthermore, it is certainly worth mentioning that the implementation of the MLPA already suffered two previous failures (see Section 3.5). To make the matter worse, the state of California suffered from a fiscal crisis in 2003 (DeMaio et al. 2003). Under the circumstances, it could be argued that it was very unlikely that the state of California would be able to afford or would try to implement the MLPA, if the CCSR MLPA Initiative process was suffering yet another failure. In other words, as a staff member acknowledged:

*If that pilot project had not been successful, we would not have gone any further and the efforts to implement MLPA would have probably gone away<sup>27</sup>.*

<sup>26</sup> <http://www.dfg.ca.gov/mlpa/phase1.asp>

<sup>27</sup> Interview with a staff member (CNCSN-P26)

In light of this, it could be argued that it was critically important to have a successful implementation of the MLPA in the CCSR, not only to ensure continuous PPP but also to ensure successful implementation of MLPA to the entire California coastline. For this reason alone, it could be further argued that the CCSR MLPA implementation process was one of the most important case studies.

Secondly, the key factors which contributed to the success of the MLPA Initiative process remained intact throughout the process (Kirlin et al. 2013). As mentioned above, the PPP remained throughout the entire MLPA Initiative process. In addition, the core components of the MLPA Initiative, namely the Blue Ribbon Task Force (BRTF), the Science Advisory Team (SAT), the MLPA Initiative Team (I-Team), the Department of Fish and Game (DFG) and the Regional Stakeholder Group (RSG), remained intact throughout the MLPA Initiative process (Fox et al. 2013a). Moreover, the basic structure of the stakeholder process, which was developed for the CCSR MLPA Initiative process, has remained relatively intact throughout the entire MLPA Initiative process (Fox et al. 2013b).

Since the key factors which contributed to the success of the MLPA Initiative process remained intact throughout the process, it can be argued that analysing the CCSR case, which was the birthplace of the MLPA Initiative process, can provide a deeper understanding of the root cause behind the prevalent stakeholder scepticism regarding the process. At the same time, since the fieldwork was carried out three years after the CCSR MLPA Initiative process was completed, it could be further argued that the stakeholders would be able to reflect on their perspectives towards the process more rationally. Therefore, it could be argued that the CCSR case, despite the fact that it was the pilot case study, has an important meaning. Subsequently, the CCSR MLPA Initiative process will be explored as the main case study site for the purpose of the research.

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## **Chapter 5: Case study background: Road to MLPA Initiative and Central Coast Study Region**

### **Overview**

The MLPA Initiative process receives a great deal of attention in the MPA literature since it is considered not only as an important case study for the sub-national scale of governance, but also an important case study for a science-based stakeholder-driven process. However, the MLPA Initiative process is only the first half of the MLPA Implementation process. It is very important to recognise that the Fish and Game Commission represents the final decision maker. In other words, it is the Fish and Game Commissioners who decide the final outcome of the MLPA implementation process. Indeed, it appears that although the MLPA Initiative process gets the most credit for the successful implementation of the MLPA, the main objective of the MLPA Initiative process was to support the Fish and Game Commission's regulatory process.

Nevertheless, there can be hardly any dispute that the MLPA Initiative process, which was the result of Public Private Partnership (PPP), played a critical role in the implementation of the MLPA. On the other hand, while most studies which have analysed the MLPA Initiative process argued that it was a very successful case of the science-based stakeholder-driven process, the fieldwork suggests that many stakeholders feel otherwise. As such, it would be worthwhile exploring the root cause of such disjunction between the literature and the actual stakeholders' sentiment.

Meanwhile, it is important to recall that the implementation of the MLPA suffered two previous failures prior to the launch of the Central Coast Study Region (CCSR) MLPA Initiative. Subsequently, it was very important to successfully complete the MLPA implementation in the CCSR in order to ensure the continuous PPP (see Section 4.4).

Due to this, before analysing the CCSR MLPA implementation process, it is worthwhile exploring the certain characteristics which made the CCSR an ideal place to launch the very innovative MLPA Initiative process. Therefore, in the present chapter, and as an introduction chapter to the case study, the passage of the MLPA implementation process, which leads to the MLPA Initiative process, will be introduced. Following this, the bio-geographic and the socioeconomic characteristics of the CCSR will then be analysed.

### **5.1 Passage to the MLPA Initiative process**

As demonstrated in Chapter 3 (see Section 3.2 and 3.3), it can be argued that the ocean management in California was not very effective and was in need of improvement. Therefore, the enactment of the MLPA can be considered as an effort to generate the much needed improvement of the ocean governance in California. Indeed, the ocean management in California has changed dramatically as a result of the MLPA Initiative process. However, the implementation of the MLPA has not been an easy process (see Section 3.5). At the same time, it is very important to recognise that the MLPA Initiative process must be considered as a part of continuous efforts to implement the MLPA since 1999 (see Section 3.5). Although the two previous attempts, namely MLPA 1 and 2, were not successful, it appears that those processes provided valuable lessons for the MLPA Initiative process (Kirlin et al. 2013).

It is important to realise that the MPAs are a result of human decision-making processes and one of the purposes of MPAs is to manage the behaviours of people (Bromley 1991). As such, it can be contended that the participation of the stakeholders may represent one of the critical factors in determining the success of the MPAs (Jones 2001; Pollnac et al. 2001; Christie and White 2007; IUCN 2008). However, the stakeholder participation process can be difficult to manage, especially if the stakeholder process is based on reaching a consensus. The Channel Island Marine Reserve Network (CIMRN) process can be considered as one of the examples which demonstrates the potential challenges surrounding the management of the stakeholder participation process (see Section 3.5.1; Osmond et al. 2010). For example, the Marine Reserves Working Group (MRWG), which was the stakeholder group for the CIMRN process, had to reach a consensus in order to forward the proposal. It is important to recognise that the MRWG was comprised of state and federal agency staff, as well as commercial and recreational fishermen and environmental NGOs (Davis 2005). Therefore, it could be argued that the environmental NGOs likely took the position as the advocates of MPAs while commercial fishermen were likely proponents of resource exploitation. Indeed,

it appears that at least two different opinion groups would have formed within the MRWG (Davis 2005; Helvey 2004). Moreover, there are divergent opinions regarding the effectiveness of the MPAs, even in the scientific community (Ballantine 2002; Halpern et al. 2004; Hilborn et al. 2006; Kaiser 2005). Under these circumstances, it was very unlikely that the MRWG would come up with a unanimous proposal. Subsequently, the most serious consequence of this consensus approach was that it created a deadlock in the process. Indeed, it took 22 months for the MRWG process (Helvey 2004) and the Sanctuary Advisory Council ultimately had to recommend that agency staff come up with a proposal based on the MRWG's proposal (see Section 3.5.1). Thus, it can be argued that the CIMRN stakeholder process suffered due to its unachievable objective, namely making decisions based on consensus (Fox et al. 2013a).

At the same time, it is worth paying attention to the fact that the MRWG comprised only 17 members who only worked on five out of the eight Channel Islands (see Section 3.5.1). Nevertheless, it was considered as a very difficult stakeholder participation process. On the other hand, the state of California is the third largest state and has the largest population in the US (see Section 3.2), whilst most of California's population live near the 1,100 mile coastline (see Section 3.2). Based on these factors, it could be argued that there would be a very diverse and large number of stakeholders who are likely to be affected by the MLPA which directs to establish a network of MPAs (see Section 3.4.3).

Subsequently, one could say that it would have been very challenging to implement the MLPA across the entire coastline of California at once through the stakeholder participation process. Furthermore, it is important to remember that the DFG alone was in charge of the MLPA 1 and 2 (see Section 3.5.2 and 3.5.3). It would have been particularly difficult for the DFG, which had only limited funding and manpower to implement the MLPA along the entire coastline of California (Harty and John 2006). Therefore, it could be argued

that one of the biggest problems related to the MLPA 1 and 2 processes was that both processes tried to implement the MLPA for the state's entire coastline, all at once.

Furthermore, after the hard and long stakeholder process, the agency staff ultimately had to come up with a proposal based on the MRWG's work for the CIMRN process (see Section 3.5.1). Therefore, it can be argued that the staff from the DFG who were involved in the CIMRN process considered that it would have been much more effective if the stakeholders had a starting point to begin their work<sup>28</sup> (see Section 3.5.1). Indeed, this may have been particularly so under the circumstance that the DFG alone was in charge of implementing the MLPA throughout the entire state with its limited resources. Therefore, the DFG worked with the Master Science Advisory Team and *came up with their own draft design of the state-wide network of MPAs*<sup>29</sup> which was known as the Initial Draft Concepts (Harty and John 2006).

Unfortunately, such an approach by the DFG for the MLPA 1 was considered as a very top-down approach by many stakeholders. Particularly, *the draft proposal generated [Initial Draft Concepts] by the Master Science Advisory Team was presented to the stakeholders and was not received well*<sup>30</sup> (Harty and John 2006; Weible 2008), because many stakeholders considered Initial Draft Concepts as the final proposal (see Section 3.5.1). Based on this, it can be argued that a top-down approach was one of the main reasons for the failure of the MLPA 1. This is consistent with Jones' (2006) finding that an overly top-down approach will likely result in strong opposition from the stakeholders as they consider MPA as the top-down imposition (Jones 2006).

Following the failure of the MLPA 1, it appears that the DFG realised the importance of stakeholder involvement for the success of MLPA

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<sup>28</sup> Interview with a staff member (CNC-P97)

<sup>29</sup> Interview with a scientist (CNCSN-P29)

<sup>30</sup> Interview with a scientist (CNCSN-P29)

implementation. However, the DFG divided the coast into seven regions and formed seven regional working groups (see Figure 3.8), while the DFG persevered in its attempts to implement the MLPA across the entire state at once (see Section 3.5.3). Unfortunately, *after one or two meetings, they realised that they simply could not finance the process so the process was terminated*<sup>31</sup> (see Section 3.5.3). Indeed, it is not beyond the realms of possibility that an overly bottom-up approach was one of the main reasons for the failure of the MLPA. Furthermore, and perhaps more importantly, it could be argued that the MLPA 2 emphasised the importance of sufficient financial support. At the same time, it could be further argued that implementing the MLPA across the entire state at once may not be the most effective approach, since it would require a huge number of resources.

Overall, it appears that the previous attempts to implement the MLPA, namely the CIMRN process, MLPA 1 and 2, provided valuable lessons for the MLPA Initiative process. For example, it could be argued that MLPA 1 revealed the importance of stakeholder participation for the success of the MPAs. At the same time, the CIMRN process revealed that if the stakeholders process is based on reaching a consensus, the process is likely to suffer from deadlock (Osmond et al. 2010). Therefore, unlike the CIMRN process, for the MLPA Initiative process the stakeholders did not work towards reaching a consensus<sup>32</sup> (Gleason et al. 2013). Based on this, it appears that the CIMRN process and the MLPA 1 provided lessons for the MLPA Initiative stakeholder participation process.

Furthermore, the MLPA 2 revealed the importance of securing a sufficient number of resources to successfully implement the MLPA since one of the main reasons for the failure of the MLPA 2 was lack of resources (see Section 3.5.3). It appears that the MLPA Initiative managed to secure

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<sup>31</sup> Interview with a scientist (CNCSN-P29)

<sup>32</sup> Interview with a consultant (A-P32) verified by a consultant (CCNCSN-NP47) an environmental stakeholder (CC-P31), a scientist (CC-NP15) and a staff (CC-P46)



sufficient resources through the Public Private Partnership (PPP) among the Resource Agency, the DFG, and the Resources Legacy Fund Foundation (RLFF). Therefore, it can be argued that the MLPA 2 also provided valuable lessons for the MLPA Initiative process.

There is also an additional clue which indicates that previous experiences potentially influenced the MLPA Initiative process. Although the proposal for the CIMRN process passed the California Commission, which is comprised of 5 political appointees, designated by the governor, it was a very narrow victory, as two commissioners did not vote and one commissioner voted against the proposal. Only two commissioners voted for the proposal. The important part of the story is that the only commissioner who voted against the proposal was Mike Chrisman (LA times October 24 2002). Later, when Governor Schwarzenegger came into office, he was appointed as the Secretary of Resource (Kirlin et al. 2013). Mike Chrisman was the person who played the major role in making the PPP (Harty and John 2006), which can be considered as the starting point of the MLPA Initiative process. Therefore, it could be argued that he learnt from previous processes how to make the MLPA Initiative process successful, having voted against the proposal adopted in the CIMRN process.

Furthermore, it must be pointed out that both MLPA 1 and 2 attempted to implement the MLPA across the entire state at once. Unfortunately, the state-wide scale of implementation of the MLPA proved very challenging considering the size and the population of California (see Section 3.2). Consequently, the Memorandum Of Understanding (MOU), which was the result of PPP amongst the Resources Agency, the DFG and the RLFF, divided the 1,100 miles of California coastline into five study regions, namely the Central, the North Central, the South, the North Coast, and the San Francisco Bay study region<sup>33</sup> whilst the MLPA was implemented in that order (Fox et al.

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<sup>33</sup> DFG Website dedicated for the MLPA Initiative process. <http://www.dfg.ca.gov/mlpa/>

2013b; Gleason et al. 2010; Kirlin et al. 2013; see Section 4.4 and Figure 4.1).

Subsequently, the Central Coast was selected as the first region to launch the ‘pilot’ study relating to the MLPA Initiative process. However, it was no accident that the Central Coast was selected as the first region to test the MLPA initiative process. The subsequent sections will present a discussion of the characteristics which made the Central Coast an ideal place to launch the MLPA Initiative process.

## 5.2 Biogeographical background of Central Coast California



**Figure 5.1 Map of adopted Central Coast MPAs (DFG website)<sup>34</sup>**

The Central Coast Study Region (CCSR) was the first region where the MLPA Initiative was started and completed among five state-wide study regions. The CCSR is from Pigeon Point, which is the north end of the CCSR to Point Conception, which is the south end of the CCSR (see Figure 5.1). There are 5 counties within the study region covering 340 miles of Santa

<sup>34</sup> <http://www.dfg.ca.gov/mlpa/pdfs/ccmpas041907.pdf>

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Barbara County from the north to the south (DFG 2005; See Figure 5.1).

The CCSR encompasses approximately 1,144 sq mile of state water, which is 3 nautical miles from the shoreline. Although the state water only extends 3 nautical miles from the shoreline, the study region includes diverse habitats such as intertidal, continental shelf and slope, and submarine canyons. While the continental shelf habitat is the dominant feature of the CCSR, the Monterey submarine canyon, which has a maximum depth of approximately 1475 metres, extends into 3 nautical miles. The complex structure of the canyon supports high biodiversity. This relates to one of the most unique features of the study region, as deep-sea communities exist very close to the near-shore community (DFG 2005).

Furthermore, Central California is a part of the larger California Current system and more importantly, is one of four major coastal temperate upwelling zones in the world (DFG 2005). It is identified that the wind is the key factor for the upwelling of the California Current system (Song et al. 2011). The California Current system is moving south towards the equator parallel to the California coastline. When the seasonal wind also blows in the same direction as the California Current system, it pushes the surface water towards the offshore, thus resulting in Ekman Transport. The Ekman transport brings up cold and nutrient rich deep water to the nearshore surface. The primary production in coastal upwelling regions is 3-5 times higher in respect to open ocean waters (Garcia-Reyes and Largier 2012; Song et al. 2011).

Therefore, the study region, and particularly the intertidal and subtidal zone of the nearshore environment is one of the most ecologically productive and diverse habitats of the Central California marine ecosystem. Furthermore, it appears that the study region not only contributes to the significant amount of primary production for California, but also contributes to the world's primary production and species diversity. For example, the giant kelp forest found in California does not exist anywhere else in the world. Thus, the study region

also has a global implication for biodiversity (DFG 2005).

**Table 5.1 Existing MPAs in CCSR prior to implementation of the MLPA (DFG 2005)**

MPA name	Type of MPA	Area (nmi <sup>2</sup> )	Percentage of total region
Año Nuevo Invertebrate Area	Special Closure	1.66	0.19
Elkhorn Slough	State Marine Reserve	1.02	0.12
Hopkins	State Marine Reserve	0.12	0.01
Pacific Grove	State Marine Conservation Area	1.16	0.13
Carmel Bay	State Marine Conservation Area	2.11	0.24
Point Lobos	State Marine Reserve	0.90	0.10
Julia Pfeiffer Burns	State Marine Conservation Area	2.00	0.23
Big Creek	State Marine Reserve	1.71	0.20
Atascadero Beach State	State Marine Conservation Area	4.78	0.55
Morro Beach	State Marine Conservation Area	5.15	0.59
Pismo	State Marine Conservation Area	0.06	0.01
Pismo-Oceano Beach	State Marine Conservation Area	10.04	1.16
Vandenberg	State Marine Reserve	1.87	0.22
Total Area of State Marine Reserves		5.62	0.65
Total Area of State Marine Parks		0	0
Total Areas of State Marine Conservation Areas		25.3	2.91
Total Area of State MPAs in Central Coast		32.58	3.76
Total Areas Central Case Study Region (including Elkhorn Slough)		868.4	

Meanwhile, as discussed in Chapter 3 (see Section 3.2 and 3.3), the marine environment governance in California was very fragmented and MPAs were too small to function properly. Unfortunately, the CCSR was no exception for the inadequately managed marine environment. For instance, according to the regional profile (DFG 2005), there were 12 MPAs and a Special Closure area in the CCSR (see Table 5.1). However, as demonstrated in Table 5.1, existing MPAs prior to the implementation of MLPA were covering only 3.76% of CCSR. Perhaps more significantly, there were only 5 State Marine Reserves, which are the no-take areas (see Table 3.3) out of 12 MPAs, covering only

0.65% of CCSR. Therefore, it can be argued that the existing MPAs prior to the implementation of MLPA were not achieving their objectives, such as biodiversity conservation, because they were too small and too little (Starr et al. 2004a, b).

### 5.3. Socioeconomic background of Central Coast California

As mentioned earlier, the Central Coast Study Region (CCSR) comprises five counties (see Figure 5.1) whilst the counties within the CCSR are relatively small both in terms of population and economy. It is also worth noting that although CCSR comprised five counties, as the map of CCSR demonstrates, only the very southern part of Santa Mateo County was included in the CCSR (see Figure. 5.1). It is also important to recognise that only the very northern part of Santa Barbara County was included for the CCRS study (see Figure 5.1). Therefore, it would not be entirely inappropriate to exclude Santa Mateo and Santa Barbara County when considering the population.

**Table 5.2 Population and size of the CCSR (Source: California Institute for County in 2012)<sup>35</sup>**

	Population	Size (sq miles)
Santa Mateo	729,443	531
Santa Cruz	265,981	440
Monterey	420,688	3,324
San Luis Obispo	271,483	3,326
Santa Barbara	427,267	2,745
Total	2,114,862	10,366

In this case, the total population of CCRS becomes 958,152 (see Table 5.2) and the average population becomes approximately 135 per square mile with the average population density of California State coming in at 242 per square mile<sup>2</sup> (US Census 2010). Therefore, it could be considered that the CCSR has a relatively low population density.

<sup>35</sup> Available from: [www.counties.org](http://www.counties.org)

**Table 5.3 GDP of CCSR and the California State (based on National Ocean Economic program)<sup>36</sup>**

	1999 (MLPA 1)	2002 (MLPA2)	2004 (MLPA Initiative)
Santa Mateo	\$42,329,908,501	\$44,554,918,633	\$48,105,140,062
Santa Cruz	\$7,116,504,887	\$8,034,108,035	\$8,452,689,937
Monterey	\$10,503,868,608	\$12,200,003,751	\$13,696,040,066
San Luis Obispo	\$5,659,020,588	\$6,802,547,834	\$7,789,475,055
Santa Barbara	\$11,852,473,785	\$13,665,858,624	\$15,935,829,303
State Total	\$1,210,221,000,000	\$1,385,749,000,000	\$1,571,198,000,000

The years specified in the table (see Table 5.3) indicate the times at which different attempts to implement MLPA were made (see Section 3.5). The five counties for the CCSR contribute approximately 6% of California Growth Domestic Product (GDP). But again, when the two Counties, namely Santa Mateo and Santa Barbara, are not included, the remaining Counties within the CCSR only account for approximately 2% of total California GDP. With this in mind, it could be considered that the CCSR has relatively low significance in terms of economics. Indeed, the largest ocean economy is in Southern California, which is the most populated region in the state of California (Kildow and Colgan 2005).

The GPD data used for analysing the ocean economics of CCRS came from the National Ocean Economic Program (NOEP). Whilst there are several categories in the ocean sector according to NOEP for the purpose of this research, only two categories of ocean sectors are considered from the NOEP data. The first is the Living resource, which includes aquaculture, seafood harvesting, and processing, whilst the other is Tourism and Recreation, including recreational fishing, and other recreation related businesses such as amusement and recreational services, boat dealers, and hotels and motels

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<sup>36</sup> National Ocean Economic Program  
Source available from: [www.oceaneconomics.org](http://www.oceaneconomics.org)

(Colgan 2007). Thus, it is important to recognise that the GDP of commercial and recreational fishing is part of Living resource's and Tourism and Recreation's GDP respectively (Colgan 2007). Moreover, Santa Mateo and Santa Barbara Counties are not included for the same reasons as previously stated.

### 5.3.1 Commercial Fishery in Central Coast Study Region (CCSR)

Before conducting further analysis of the ocean economy of CCSR, it is perhaps worth pointing out an economic term known as value added. NOAA defines the valued added as:

*'An economic term to express the difference between the value of goods and the cost of materials or supplies that are used in producing them. It is a measure of economic activity which eliminates the duplication inherent in the sales value figure which results from the use of products of some establishments as materials or services by others. Value added is thus defined as the gross receipts of a firm minus the cost of goods and services purchased from other firms. Value added includes wages, salaries, interest, depreciation, rent, taxes and profit'* (NOAA: Frequently Asked Question (FAQ) Sheet for the Value Added Table)<sup>37</sup>.

Subsequently, the value added can be a good barometer for measuring the contribution of the fishing industry to the economy. It may not be a surprise that California has a strong seafood industry sector, since California's coastline, which stretches over 1,100 miles, is one of four major coastal temperate upwelling zones, which have very high productivity, in the world (DFG 2005). Indeed, it is worth noting that the California seafood industry generated \$7.1 billion in value added impacts in 2010, thus putting California's seafood industry at the top spot for generating the highest valued added impacts within

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<sup>37</sup> Available at [http://www.st.nmfs.noaa.gov/Assets/commercial/fus/FAQ\\_value\\_added.pdf](http://www.st.nmfs.noaa.gov/Assets/commercial/fus/FAQ_value_added.pdf)



the US (NMFS 2011).

Meanwhile, there are two main port areas in the CCSR. The first is the Monterey port area whilst the other is the Morro Bay port area. The major ports are the Monterey, Moss landing, and Santa Cruz while the Mill Creek, Willow Creek, and Big creeks are the minor ports in the Monterey port area. For the Morro Bay port area, the Morro Bay and Port San Luis are the major ports while San Simeon is the minor port (DFG, 2005). However, those two main port areas in the CCSR have different characteristics.

**Table 5.4 Ranking of Moss landing and Monterey amongst California commercial fishing ports for landing weight and landed value in 2004 and 2010 (Based on the Top Fishing Ports Data from NOEP)<sup>38</sup>**

Year	Moss Landing		Monterey	
	Landing Weight	Landed Value	Landing Weight	Landed Value
2004	3	7	9	10
2010	3	6	4	9

Firstly, it is worth noting that ports in the Morro Bay port area were not included in the NOEP's top commercial fishing ports data of California. As such, one could well argue that the ports in the Morro Bay area are relatively minor commercial fishing ports in California. On the other hand, Monterey and Moss landing were ranked as the third and ninth top fishing ports in terms of fish landing for California in 2004, when the MLPA initiative process was started. Interestingly, the ranking has not changed significantly for Moss landing, while Monterey ranked fourth in 2010 according to the NOEP data (see Table 5.4).

<sup>38</sup> NOEP

Source available from: <http://www.oceanconomics.org/LMR/topPorts.asp>

**Table 5.5 Landing weight and landed value of commercial fishing ports in Monterey Bay area and 2004 and 2010 (Based on the Top Fishing Ports Data from NOEP)<sup>39</sup>**

	Year 2004		Year 2010	
	Landing weight (pounds)	Landed value (\$)	Landing weight (pounds)	Landed value (\$)
Monterey Bay areas	59,200,000	8,800,000	55,000,000	14,400,000
All the ports in the California	284,700,000	106,600,000	414,000,000	139,700,000

In addition, it should not be overlooked that in terms of the value of fish, the ranking drops significantly for both ports. For instance, the Monterey port areas claimed approximately 20% of total landing weight but only claimed around 8% of total landed value of the fish in California in 2004 (see Table 5.5). It appears that the gap between landing weight and landed value was improved as the Monterey Port area claimed approximately 13% of total landing weight while claiming around 10% of total landed value of the fish in California in 2010 (see Table 5.5). Nevertheless, this data can be interpreted as an indication that the fisheries in the Monterey port areas are high volume and low value fisheries.

Furthermore, it appears that it is the agriculture industry which accounts for a significant amount of the economy rather than commercial fishing in the CCSR. For example, according to the Monterey County Crop report (2010)<sup>40</sup>, the value of crop produced in Monterey County alone was over \$4 billion, while total landed value of fish from every port in California was \$130 million in 2010 (see Table 5.5). Therefore, it can be argued that commercial fishing constitutes only a small part of the total economy in terms of both state and local. Nevertheless, the commercial fishing industry is a vital component for other related industries such as boat construction and repair, brokerage, dock handling, trucking and other transportation, gear and rigging

<sup>39</sup> NOPE

Source available from: <http://www.oceaneconomics.org/LMR/topPorts.asp>

<sup>40</sup> Monterey County Crop Report (2010)

Available from:

[http://ag.co.monterey.ca.us/assets/resources/assets/163/cropreport\\_2010.pdf?1313167433](http://ag.co.monterey.ca.us/assets/resources/assets/163/cropreport_2010.pdf?1313167433)

stores, fish processing, and commercial seafood trade (Kildow and Colgan 2005). Therefore, even though the commercial fishing industry contributes to a relatively small percentage of the economy in the study region, the commercial fishing industry remains a very important source of employment.

### *5.3.2 Recreational Fishing in Central Coast Study Region (CCSR)*

The tourism and recreational sector constituted around 47% of the ocean economy GDP in 1999. By 2004, the sector accounted for 54% of all ocean sectors' GDP. However, the major parts of the Tourism and Recreational Sector are hotels and motels, and restaurant businesses (Kildow and Colgan 2005). At the same time, it is also important to recognise that although the hotels and the restaurant businesses comprise the major parts of the tourism and recreational sector, the recreational fishing industry in California is one of the biggest in the US. Indeed, it is reported that over 2.7 million people participate in saltwater angling in California, thus putting California in second place, followed by Florida in terms of number of saltwater anglers (Pendleton et al. 2007). In addition, it is estimated that over 4.4 million individual fishing trips were made on the California state water (Sweetnam 2005).

According to the NMFS report (2011), recreational fishing activities in California generated the highest employment impact in the US with over 11,000 full and part-time employments (NMFS 2011). In addition, recreational fishing industries in California had the highest sales impacts in the US with 1.7 billion in sales impacts (NMFS 2011). Indeed, DFG claims on their website that the sport fishing industry is a \$4.9 billion industry<sup>41</sup>. Therefore, it was argued that even though recreational fishing lands fewer fish than commercial fishery, it has a more significant impact on the California economy (Starr et al. 2002a).

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<sup>41</sup> <http://www.dfg.ca.gov/fishingpassport/program.asp>

According to the California Recreational Fisheries Survey, there are four different categories when it comes to recreational fishing, depending on the type of fishing. The four categories are: The Commercial Passenger Fishing Vessel (CPFV), Private and rental skiffs, Beach and bank, and Manmade structure (DFG 2005).

Among them, CPFV is the most important category in terms of recreational fishing economy (Starr et al. 2002a). CPFVs operate at five ports, namely Santa Cruz, Moss Landing, Monterey, Morro Bay, and Port San Luis within the CCSR. CPFVs can cover the largest distance when compared to other modes of recreational fishing. However, they are limited by travel time and weather conditions like other modes of recreational fishing activities (DFG 2005). Private and rental skiffs also operate from the same location where CPFV operates in CCSR.

In addition, there are two more locations from which Private and rental skiffs can be launched. The first is the Capitola pier in Santa Cruz County whilst the other is a primitive small boat launch site at Leffingwell's in San Luis Obispo County (DFG 2005). Anglers using private and rental skiffs may travel over 20 miles from the port for the albacore and salmon fishing and/or when they get the fair weather occasionally. However, they usually fish within 10 miles of marinas and launch lamps. Kayakers and divers are included in the beach and bank mode of recreational fishing. Kayak fishing is usually carried out within 5 miles of any publicly accessible beach or other launch site. According to the regional profile report for the CCSR, a relatively high fishing effort occurs in areas such as Santa Cruz Pier, the Monterey Coast Guard breakwater, and the beach area south of Guadalupe Nipomo Dunes in San Luis Obispo County (DFG 2005). As the number of manmade structures is relatively small within the CCSR, it could be considered as not having made a significant contribution to the recreational fishing in the study region.

The primary target fish for the recreational fishermen are the residential, non-

migratory species which live in rocky habitats such as rockfish, lingcod, and cabazone (DFG 2005). Based on previous analysis, it can be considered that the most recreational fishing is carried out within the state water. Therefore, it can be safely assumed that recreational fishing is the most likely affected fishery along with the nearshore fishery by MLPA in the study region.

As previously mentioned, recreational fisheries land fewer fish than commercial fisheries. However, there are over 17 million anglers in California and since recreational fishermen target mainly long-living slow growing rockfish, which take up to 15 years to reach their sexual maturity (Mangel et al. 2007), it is possible that recreational fisheries may have a significant impact on the rockfish population in California (Schroeder and Love 2002).

At the same time, the biogeographical characteristics of CCSR have the potential to raise issues and secure a buy-in from stakeholders in the study region. For example, the distance between Monterey port and Morro Bay is around 120 miles<sup>42</sup>, which covers approximately one third of the study region, whilst there is no major port between them. According to the Regional Profile, there is one “primitive small boat launch”, which is used for private and rental skiff modes of recreational fishing, between the two major ports. In addition, since the population in the CCSR is fairly low and scattered around, it could be argued that *‘there was never that much pressure to begin with’*<sup>43</sup> so that *‘fish stocks in the Central California don’t necessary follow other parts of California’*<sup>44</sup>. For example, California Polytechnic State University, which is based at San Luis Obispo, has been conducting a series of research studies on rockfish in collaboration with local CPFV operators in South Central Coast, which is the southern half of CCSR. According to their research there is no evidence of declining rockfish numbers over the last 25 years, with the

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<sup>42</sup> The distance is based on Google maps, which measured the distance based on California Pacific Highway 1 between Monterey and Morro Bay. Although it is not an accurate distance on the waters, Highway 1 runs parallel to the coastal line. So the value reflects approximate distance between two ports.

<sup>43</sup> Interview with a commercial fisherman also owns a recreational fishing shop (C-NP90).

<sup>44</sup> Interview with a scientist (C-NP85)

exception of the *Sebastes Paucispinis* (Stephens et al. 2006). This has a significant implication, and one which will be discussed in more detail in the later part of the chapter, which will address stakeholder perspectives towards the MLPA Initiative process.

In addition, as Jones (2001) identified, one of the problems with the designation of MPA is that there are multiple users in the ocean and they can generate internal conflicts, which can arise when one sector feels they have lost out. while another sector gains from their loss, in the designation of MPA (Jones 2001). The internal conflicts could have occurred in the MLPA Initiative process, as there has been growing conflicts between commercial and recreational fishermen when it comes to the usage of ocean resources due to the growth of the coastal population in the US (Johnson and Griffith 2010). Indeed, it appears that, in the past, there have been similar conflicts in CCSR when there was a high level of commercial fishery, particularly using gillnet, in nearshore areas<sup>45</sup>.

However, it appears that the implementation of MLPA also had a significant impact on the recreational fishing. This, combined with the biogeographical characteristic of CCSR leads to an interesting phenomenon. It appears that the MLPA Initiative *process brought recreational and commercial fishermen together*<sup>46</sup> in opposition or resistance towards the implementation of the MLPA. More interestingly, this phenomenon is not limited to the CCSR. It appears that the North Central Study Region (NCSR), which was the next region for MLPA implementation, demonstrates the same trend<sup>47</sup>.

This phenomenon could be attributed to the fact that both commercial and recreational fishing were equally impacted by MLPA. As discussed earlier, it could be considered that the nearshore fishery is the main commercial fishing

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<sup>45</sup> Interview with a commercial fisherman also owns recreational fishing shop (C-P58)

<sup>46</sup> Interview with a scientists (C-P5)

<sup>47</sup> Interview with a commercial fisherman (NC-P56) and a recreational fisherman (NC-P57)

sector affected by MLPA. However, due to Nearshore Fisheries Management Plan under the Marine Life Management Act (MLMA), *there isn't much difference between the way recreational and commercial fishermen fish now*<sup>47</sup>. Moreover, based on the fieldwork observation and interviews, it seems as though there are many commercial fishermen who also participate in recreational fishing as owners of recreational fishing shops or those who work for CPFV as skippers, particularly in the Morro Bay ports area. Thus, it may well be no surprise that commercial fishermen '*were trying to stick together with recreational fishermen*' because '*the recreational industry was also affected badly*'<sup>48</sup>.

In addition, and as discussed above, scientists have argued that the impact of recreational fishing on fish stocks must not be overlooked and it seems likely that such an argument has been reflected in the MLPA. As a result, *commercial and recreational fishing were treated similarly by the science*<sup>49</sup>. This could also have been a contributing factor to the close partnership between the commercial and recreational fishermen in the MLPA initiative process.

### 5.3.3 Non-consumptive usage of ocean in Central Coast Study Region (CCSR)

Thus far, the ocean usage has been explained in terms of extractive usage, although it must not be overlooked that there are significantly more people who use the ocean in a non-extractive form. For example, it is reported that approximately 43% of the US public conducted some form of marine recreational activity in 1999 and 2000 (Leeworthy and Wiely 2001). Moreover, participants in marine recreational activities were expected to grow continually, with beach going activities predicted to grow the fastest. Indeed, in terms of ranking for ocean recreational activity participants, the State of California was in second place in the US with 17.6 million after Florida (Leeworthy et al.

<sup>48</sup> Interview with a commercial fisherman (C-NP66)

<sup>49</sup> Interview with an environmental stakeholder (NC-P108)

2005). Moreover, it is estimated that the beach going would generate \$5 billion when combining both market and non-market value (Kildow and Colgan 2005).

In addition, tourism is a very important industry in California. According to the report in 2005, California tourism generated \$88.1 billion and provided 912,000 jobs (Annual report 2005-2006)<sup>50</sup>. For example, Highway 1, which runs along the Central Coastline, is regarded as one of the most beautiful highways in the world (National Scenic Byways Online 2005). Naturally, tourism along with non-consumptive recreational activity is a big industry in the CCSR.

**Table 5.6 Total direct spending and employment of tourism industry in 2004 (Dean Runayan Associates 2006)**

	Total direct spending	Total direct employment
Santa Cruz	\$ 573.2 million	8,300
Monterey	\$ 1.9 billion	22,400
San Luis Obispo	\$ 1 billion	16,400
Total	\$3.47 billion	47,100

With this in mind, it is perhaps not a huge surprise that the tourism industries in the three counties of Santa Cruz, Monterey and San Luis Obispo alone, provided over 47,000 jobs and generated nearly \$3.5 billion in direct spending (see Table 5.6). At the same time, it must not be overlooked that the direct spending by visitors also included diverse activities such as recreational fishing. Nevertheless, a significantly large proportion of coastal tourism involves non-consumptive activities, such as sightseeing. Furthermore, it is worth noting that such non-consumptive users would not be affected by the MPAs. Therefore, it can be argued that the coastal tourism industry, which makes a significantly higher contribution to the economy of California than the fishing industry, was unlikely to oppose the implementation of MLPA.

<sup>50</sup> Source: <http://industry.visitcalifornia.com/media/uploads/files/editor/YIR05-06FINAL.pdf>



#### 5.4 Concluding remark

On the surface, it is claimed that CCSR was selected as the pilot case due to the relative abundance of available scientific knowledge for the region. Moreover, it is also claimed that stakeholders were relatively well aware of the marine resource management issues (Fox et al. 2013b). However, it has also been acknowledged that there were significant conflicts between the advocates of MPAs and proponents of resource exploitation throughout the CCSR stakeholder process (Fox et al. 2013b). Subsequently, it may well be a surprise to observe such conflicts, since one of the merits of the CCSR was the availability of stakeholders who were supposedly knowledgeable about the marine resource management issues. One may well argue that the stakeholders of the CCSR participated in the MLPA Initiative process while keeping their own interests close to heart, since the stakeholders were knowledgeable about the marine resource management issues. This could explain why there were significant conflicts amongst stakeholders throughout the CCSR stakeholder process.

On the other hand, it is important to recognise that the first MOU, which was the result of PPP, only ensured financial support until the end of 2006 for the selected area (see Section 4.4; Kirilin et al. 2013). Based on this, it could be argued that the success of the CCSR MLPA Initiative process was absolutely crucial to ensure the continuous PPP, which was a critical factor in the success of the entire MLPA Initiative process (see Section 4.4). In light of this, one could argue that it was critical to select the first study region; a region where it would be most likely to achieve success with the MLPA Initiative process.

For example, it could be considered that the political clout for the fishing industry in CCSR is relatively lower than other study regions based on the relatively small size of commercial fishing fleets and their contribution to the regional economy. Therefore, it is possible that CCSR might have been an ideal location from which to start the MLPA Initiative process. Indeed,

following this, the process could move to other regions where significantly larger populations live and fishermen, both commercial and recreational, have much stronger political influences. Consequently, it could be considered that the CCSR was selected as the first region to start the MLPA Initiative process because:

*There was the understanding that after the first study region, there were three more study regions to follow, so a very deliberate lesson learned effort was put into place. So they wanted the first study region to be one where there were relatively fewer use conflicts and where the stakeholders were relatively well aware of these types of issues. The initiative decided the Central Coast would probably be the best place in the state to do the case study, and it was very much treated as a pilot study<sup>51</sup>.*

With this in mind, it is possible that the organisers of the MLPA Initiative process could have selected the CCSR to carry out the “pilot” study because the CCSR was the most suitable region in terms of the bio-geographically and socioeconomically among the four study regions. Therefore, it could be further argued that the selection of the CCSR as the first study region in which to launch the MLPA Initiative process was not an accident but was based on careful strategic considerations.

Unfortunately, such selection of CCSR for the ‘pilot’ case could potentially raise more serious implications regarding the stakeholders’ perspectives towards the MLPA Initiative process, as stakeholders may feel they have been treated unfairly. Therefore, it can also be argued that those characteristics of the CCSR provided challenges whilst also contributing to the success of the MLPA Initiative process. Indeed, it appears that stakeholders in the CCSR felt that:

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<sup>51</sup> Interview with a staff member (CNCSN-P87) verified by a staff member (CNC-P97)

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*The fishing group is small and easily conquered compared to the big agriculture industry. So they started the process from the Central coast because it was easy take because we got all these small fishing towns that are not well organised<sup>52</sup>.*

Moreover, the MLPA not only affects the commercial fishery but also affects the recreational fishing as it regulates nearshore fishing. In addition, there are many commercial fishermen who are also involved in the recreational fishing business in the CCSR. Considering these factors, one might argue that it may well have been relatively easy for the commercial and recreational fishermen in the CCSR to establish common ground between each other.

Interestingly, it appears that the unification between the commercial and the recreational fishermen was not limited to the CCSR case. Indeed, it appears that the fishermen, whether commercial or recreational, represented a united front throughout the whole MLPA Initiative process; an issue which will be discussed more rigorously in the later sections. However, such unification can be considered as somewhat of a surprise as commercial and recreational fishermen have been engaged in a direct competition for resources (Jones 2001). Therefore, it can be argued that such a situation represented a great opportunity to obtain countenance from all fishing groups for the network of MPAs, if the designation process managed to secure sufficient support from the stakeholders.

Unfortunately, it seems as though there remain many feelings of injustice towards the process and such feelings do not seem to be limited to the CCSR. Such negative feelings among stakeholders are expressed though continuous attempts to overturn the MLPA implementation by means of lawsuits. Anglers from the Southern California Study Region (SCSR) are particularly active in

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<sup>52</sup> Interview with commercial fishermen (C-P39; C-NP62; CC-NP66; C-NP88), commercial fishermen also owns recreational fishing shop (C-NP74; C-NP90), a recreational fisherman (C-NP116), a non-consumptive user (C-NP72), a CPFV skipper (C-NP34), and an ocean related business owner (C-NP95).

filing lawsuits against the MLPA Initiative process<sup>53</sup> (Fox et al. 2013a). This is an irony considering that the SCSR is a study region where science guidelines have not been strictly applied in order to incorporate the socioeconomic impacts<sup>54</sup> (Harty 2010; Fox et al. 2013b). Subsequently, and paradoxically speaking, this can be considered as a demonstration that a number of stakeholders did not support the MLPA Initiative process despite the fact that many claimed it was a science-based stakeholder-driven process.

Particularly for the CCSR, feelings of injustice among the stakeholders mounted as research from the local academic institution, which had been working collaboratively with local fishermen, suggested that fish stocks are unlikely to be in danger in that region. However, the advocates of the MPAs argued that the feelings of injustice which were based on the fish stock assessment among many stakeholders were not appropriate considering the broader biodiversity conservation objectives of the MLPA.

At this point, it is very important to recognise that the advocates of MPAs claim that the primary objective of MLPA is biodiversity conservation rather than the fisheries benefits throughout the entire MLPA Initiative process. Therefore, the advocates of MPAs argued that MLPA *doesn't require fisheries benefits in order to achieve biodiversity conservation*<sup>55</sup>. Such an interpretation, i.e. that the fisheries benefits are not the primary concern, is further reinforced since the fishing industry's contribution to the Californian economy is significantly lower than other industries (see Section 5.3). In addition, it was argued that the MLPA is a state-wide law which should benefit the broad population of California rather than a small interest group. One interviewee fairly described such a view, stating that:

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<sup>53</sup> <http://coastsidefishingclub.com/2012/06/legal-effort-to-overturn-no-fishing-zones-in-california-continues/>

<sup>54</sup> Interview with a consultant (CNCSN-NP47) and staff (C-P32; CNCSN-P87)

<sup>55</sup> Interview with a scientists (CC-P5) verified by scientists (CNCSN-P23; CNCSN-P29) and a consultant (CNCSN-NP47)

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*Neither Commercial fishing nor recreational fishing is a significant component of the California economy (Fox et al. 2013a). ... But there is a strong view of having a right to fish and to use public resources. That has a profound impact on decision-making at the state level. The MLPA is basically a reflection of people of the state of California and our democracy and a values choice. ... But there has been fierce battle and huge influence to protect this perceived right to protect the use of public resources from a relatively small contributor to the California economy. The statute said to establish a network of MPAs. .... That's the will of the people and anyone that doesn't start with that, they are just telling their own story<sup>56</sup>.*

The advocates' interpretation of the MLPA was adopted and had a profound impact on how the MLPA implementation process, particularly the MLPA Initiative process, was conducted. More critically, it significantly contributed to prevalent scepticism towards the MLPA implementation process amongst many stakeholders. Therefore, in the subsequent chapters, the implementation process will be explored in much more detail so as to develop a deeper understanding of the root cause of this aforementioned prevalent stakeholder scepticism.

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<sup>56</sup> Interview with a staff member (CNCSN-P87)

## **Chapter 6: The MLPA Implementation process**

### **Overview**

As demonstrated in Chapter 5, it is apparent that the Central Coast Study Region was strategically selected as the first ‘pilot study’ case for launching the MLPA Initiative process due to its relatively lower socio-economic impact when compared to other study regions. Unfortunately, this also contributed to stakeholders’ scepticism regarding the MLPA implementation process. Nevertheless, this is not the sole reason behind many stakeholders’ scepticism.

Indeed, it appears that there is widespread discontent among many stakeholders regarding how the MLPA implementation process, and particularly the Initiative process, has been carried out. Interestingly, this is in contrast with the widely publicised claim that the MLPA Initiative process was a successful case of a science-based stakeholder-driven process.

In this chapter, the MLPA implementation process will be analysed based on the CCSR case in order to develop a deeper understanding of the root cause of such disjunction between the stakeholders’ accounts and the widely publicised claim.

## 6.1 Introduction to the CCSR MLPA Implementation process

The CCSR is the first ‘pilot’ study region, and the MLPA Initiative was launched from June 2004 to August 2006. After the Fish and Game Commission’s regulatory process, 29 MPAs covering approximately 19% of the state water in Central Coast, which is 3 nautical miles from the shore, were designated in September 22, 2007 (Harty and John 2006; Rabb 2006; Harty and Raab 2008).

Meanwhile, it is critically important to recognise that the MLPA implementation process comprised two phases. The first phase was the MLPA Initiative process while the second phase was the regulatory process. However, it is the MLPA Initiative process which, for several reasons, attracts the most attention in the literature. Firstly, the MLPA Initiative process, which was the result of the Public Private Partnership (PPP) amongst the Resources Agency, the DFG and the RLFF, is widely publicised as a very successful case of a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010; 2013; Kirlin et al. 2013; Libernecht 2008; Sayce et al. 2012; Scholz et al. 2004; Stevenson et al. 2012). Furthermore, it is important to acknowledge that the MLPA Initiative process adopted *absolute transparency*<sup>57</sup> in order to establish the legitimacy of the process (Fox et al. 2013a; Gleason et al. 2010, 2013; Sayce et al. 2013; Kirlin et al. 2013; Saarman et al. 2013). Subsequently, there are a vast number of documents available which describe the MLPA Initiative process in detail. In addition, the MLPA Initiative process is considered as a very important case study for the sub-national scale of governance (Gleason et al. 2013; Kirlin et al. 2013; Toropova et al. 2010).

Therefore, it is not a surprise to find a number of studies which have analysed the MLPA Initiative process. Indeed, most of the literature which

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<sup>57</sup> Interview with a staff member (C-P46) verified by staff (C-P24; CNCSN-P26; CNC-P97; C-P120), scientists (C-P5; CNCSN-P29; CNCSN-119) and environmental stakeholders (C-P31; NC-P108)

deals with the MLPA implementation process analyses the MLPA Initiative process (Fox et al. 2013a, 2013b; Gleason et al. 2010, 2013; Kirlin et al. 2013; Saarman et al. 2013; Sayce et al. 2013; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012). Subsequently, the MLPA Initiative process can be easily considered as equivalent to the wider MLPA implementation process.

With this said however, it is important to acknowledge that the MLPA Initiative process is a part of continuous efforts, beginning in 1999, to implement the MLPA (see Section 5.1). For instance, it appears that based on the CIMRN process experiences, the architects of the MLPA Initiative process realised it would be almost impossible for the stakeholders to come up with a proposal based on consensus (see Section 5.1). Therefore, the MLPA Initiative process was not meant to reach a consensus (Fox et al. 2013a, b).

Subsequently, the main objective of the MLPA Initiative process was to produce a number of MPA proposals through a substantial level of stakeholder participation so that the Fish and Game Commissioners could make final decisions based on those proposals (see Section 5.1; Gleason et al. 2013). One particular staff member, who was deeply involved in structuring the MLPA Initiative process, said that:

*The aim of the stakeholder process should not be to come up with a single proposal and to come up with consensus. That's what they tried to do at the Channel Islands and what resulted was that there was a proposal that had some support within the stakeholder group but there were many people who did not support it. So the idea was rather than forcing stakeholders to come to a consensus, that the aim should really be to develop several alternatives so that the ultimate decision makers, the Fish and Game Commission, have what decision-makers should have which is a set of alternatives that had been thoroughly reviewed, embedded and represent a range of different points of*



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*view*<sup>58</sup>.

The above statement clearly demonstrates that the MLPA Initiative process, which was the result of PPP among the Resource Agency, DFG and RLFF, was launched to support the regulatory process of the Fish and Game Commission (see Section 5.1; Kirilin et al. 2013). Indeed, the MLPA clearly states that the Fish and Game Commission is the ultimate decision maker when it comes to MLPA implementation (see Section 3.4.3; the MLPA). In other words, the MLPA Initiative process is only the first half of the MLPA implementation process.

The fact that the Fish and Game Commission is the ultimate decision maker has had very significant implications for the MLPA implementation process. For instance, even though it would not likely occur for several reasons, it is, technically possible for the Commissioners to overturn or to reject the recommendations forwarded from the MLPA Initiative process. Therefore, it could be argued that the regulatory process may have significant influence on the outcome and subsequent stakeholders' perspectives on the MLPA Implementation process.

Indeed, it appears that the way in which the regulatory process was conducted also significantly contributed to stakeholders' scepticism towards the implementation process. However, it seems that the regulatory process did not receive the same level of attention as the MLPA Initiative process in the literature. Subsequently, it would be worth conducting much deeper analysis of the regulatory process, as will be done in this chapter.

More importantly, the fieldwork reveals that there remain very polarised perspectives on the MLPA implementation process among the stakeholders. For instance, it is worth noting that the CCSR MPAs went into effect on

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<sup>58</sup> Interview with a staff member (C-P32) verified by a consultant (CNCSN-NP47) an environmental stakeholder (C-P31), a scientist (C-NP15) and a staff (C-P46)

September 22, 2007 (Harty and John 2006; Rabb 2006; Harty and Rabb 2008). Considering that the fieldwork was carried out from 2010-2011, it was somewhat of a surprise to encounter very polarised perspectives towards the MLPA implementation process among the stakeholders (see Chapter 5). Although it is somewhat understandable that consumptive users did not necessarily welcome the MLPA implementation, it was interesting when many non-consumptive users, who are not necessarily considered as opponents of the MPA, expressed their scepticism regarding the entire MLPA implementation process.

Such prevalent stakeholder scepticism disputes, head-on, the widely publicised claim that the MLPA Initiative process was a very successful case of a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010; 2013; Kirlin et al. 2013; Libernecht 2008; Sayce et al. 2012; Scholz et al. 2004; Stevenson et al. 2012). Indeed, it appears that stakeholders actively expressed their dissatisfaction regarding the MLPA Initiative, thus resulting in a number of lawsuits against the MLPA Initiative process<sup>59</sup> (Fox et al. 2013a; Gleason et al. 2013).

Ironically, it appears that the PPP, which enabled the science-based stakeholder-driven MLPA Initiative process, was one of the most controversial factors to have significantly contributed to the stakeholders' discontent towards the MLPA implementation process. The significant implication of the PPP will be described in the next chapter. Meanwhile, it could be argued that the stakeholders' suspicions of the PPP were based on the outcome of the process and the way in which the process was conducted. Subsequently, the key strategies which were deployed for the stakeholder process will be analysed based on the CCSR MLPA implementation process.

Interestingly, amongst the literature which analysed the MLPA Initiative, it was

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<sup>59</sup> <http://coastsidefishingclub.com/2012/06/legal-effort-to-overturn-no-fishing-zones-in-california-continues/>

also acknowledged that there are sceptical views towards the MLPA Initiative process (Fox et al. 2013a, b; Gleason et al. 2010, 2013; Harty and John, 2006; Harty and Rabb 2008; Kirlin et al. 2013; Saarman et al. 2013; Sayce et al. 2013). However, these studies are more heavily focussed on the claim that it was a very successful case of a stakeholder-driven process.

Consequently, many stakeholders considered the nuisances of these studies as dismissing their perspectives. Indeed, as stated by one stakeholder:

*Their report concluded that there were just a few sore losers<sup>60</sup>.*

As mentioned above, the fieldwork revealed that a number of the stakeholders, including both consumptive and non-consumptive users, were very sceptical about the MLPA implementation process, and particularly about the MLPA Initiative process. Such prevalent stakeholder scepticism towards the MLPA Initiative process confronted head-on the widely publicised description of the process as a very successful case of a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010; 2013; Kirlin et al. 2013; Libernecht 2008; Sayce et al. 2013; Scholz et al. 2004; Stevenson et al. 2012). With this in mind, it may well be slightly premature to claim that the MLPA Initiative process has won approval and compliance from the stakeholders. It is worth conducting further investigation of the MLPA Initiative process in order to understand the root cause of such polarisation rather than simply dismissing the stakeholders' sceptical view as a very confined view of '*few sore losers*'.

In the subsequent chapters, the MLPA implementation process, the structure of the MLPA implementation process and the implication of the PPP, which is commonly referred to as the MLPA Initiative, will be analysed. Meanwhile, as mentioned previously (see Section 4.4), it is worth noting that the CCSR MLPA Initiative process was considered as the 'pilot case' (Harty and John

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<sup>60</sup> Interview with non-consumptive user (C-P48)

2006). Since the CCSR MLPA Initiative process was the ‘pilot’ study, it can be considered that the CCSR MLPA Initiative was not perfect and the Initiative process improved as it moved through to different study regions<sup>61</sup>. Indeed, the MLPA Initiative process evolved as the process moved through different study regions (see Section 4.4). Therefore, it can be considered that the CCSR MLPA Initiative process was not perfect since it was the ‘pilot case’.

Nevertheless, it could be argued that the CCSR MLPA Initiative process had very significant implications for the rest of the implementation process. Firstly, one may well contend that successful implementation of the MLPA in the CCSR was vitally important, not only to ensure continuous PPP, which is commonly referred to as the MLPA Initiative, but also to ensure successful implementation of MLPA across the entire California coastline (see Section 4.4). Indeed, for this reason alone, it can be argued that the CCSR MLPA implementation process was one of the most important case studies. Secondly, the structure of the CCSR MLPA Initiative process has remained relatively intact throughout the entire MLPA Initiative process (see Section 4.4). Therefore, it is possible to say that analysing the CCSR MLPA Initiative process, which is the birthplace of the MLPA Initiative process, can provide a deeper understanding of the root cause of the prevalent stakeholder scepticism towards the process (see Section 4.4).

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<sup>61</sup> Interview with a staff member (CNCSN-P26; NCSN-P30; CNC-P97), a scientist (C-P5; CNCSN-P29; CNCSN-P119) an environmental stakeholder (C-NP25; NC-P108)

## 6.2 The CCSR MLPA Implementation process

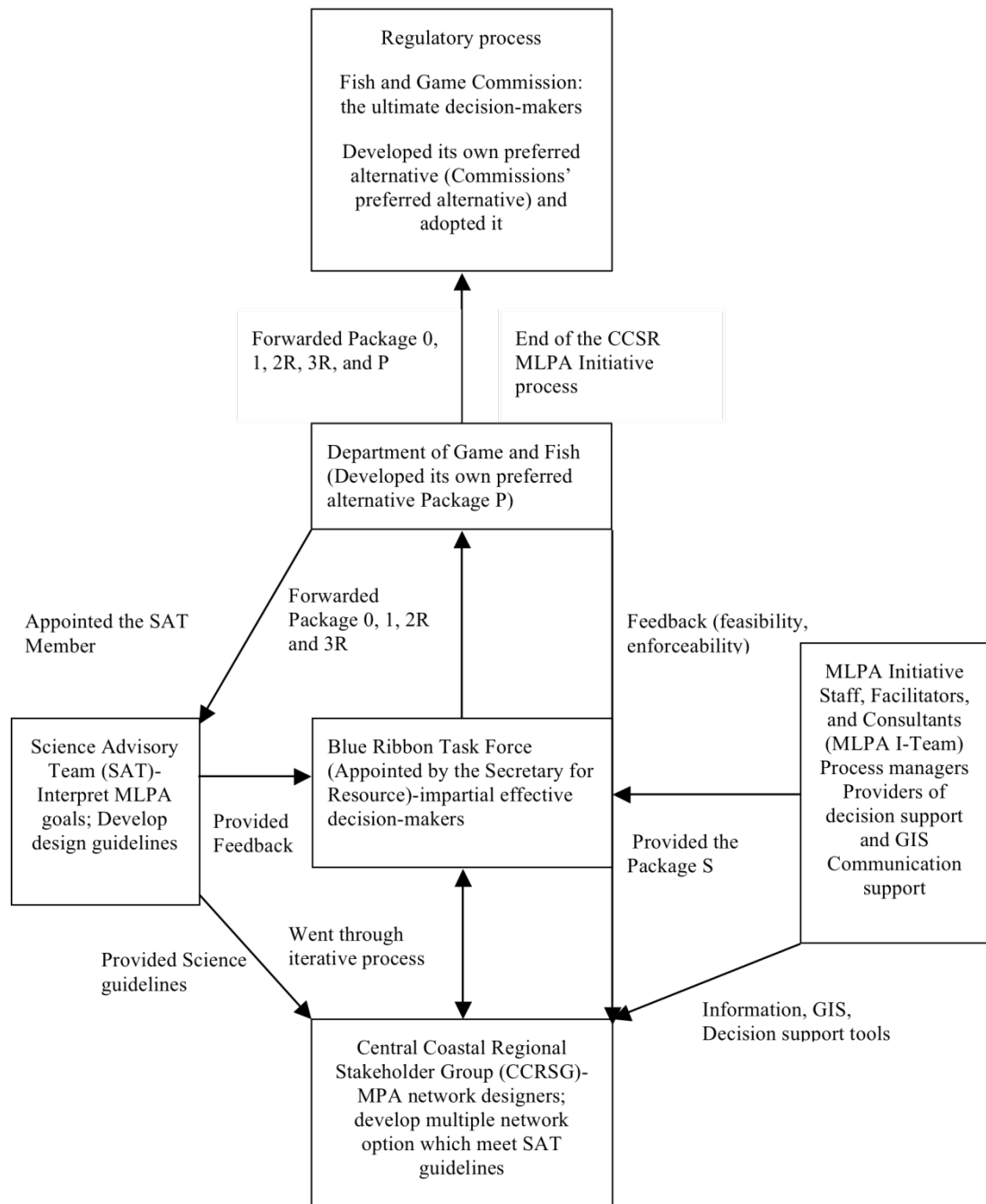


Figure 6.1 The CCSR MLPA Implementation process structure (based on Rabb 2006:16)

**Table 6.1 Sequence of CCSR MLPA Implementation process (Rabb 2006; Harty and Rabb 2008)<sup>62</sup>**

Time period	Actions
August 27 2004	➤Memorandum of Understanding (MOU) between the Resources Agency, DFG, and Resources Legacy Foundation Fund (RLFF).
October 2004 to April 2005	➤Blue Ribbon Task Force (BRTF) decided areas for the CCSR from Pigeon Point to Point Conceptions.
October 2005 to November 2005 (The first round of iterative process)	➤Central Coastal Regional Stakeholder Group (CCRSG) produced three alternative packages of MPAs (Package 1, 2).
November 2005	➤The SAT completed an analysis of Package 1,2 and presented its findings to the BRTF.
December 2005	➤BRTF authorised to create MPA package by MLPA-I team (Package S). ➤BRTF also directed CCRSG to refine their packages based on SAT evaluation.
December 2005 to March 2006 (The second round of iterative process)	➤BRTF directed CCRSG to further refine their packages based on SAT evaluation. ➤A splinter group of the CCRSG developed Package 3. ➤BRTF directed to merge Package 3 and Package S to create Package 3R. ➤BRTF unilaterally made changes to Package 2 and named it as Package 2R. ➤BRTF also unilaterally made further changes to Package 3R.
April 28, 2006	➤BRTF forwarded Package 1, Package 2R, and Package 3R. Package 1 did not get any vote and Package 2R and 3R got split vote for Preferred Alternative. ➤Ultimately, Package 3R became the BRTF's preferred alternative.
After April 28, 2006 to August 2, 2006 (The third round of iterative process)	➤DFG developed its own preferred alternative Package P. ➤DFG forwarded Package 0, 1, 2R, 3R, and P to the Fish and Game Commission.
August 2006 (The Regulatory Process)	➤The Fish and Game Commission developed its own preferred alternative Package, which was known as Commission's Preferred Alternative.
April 13, 2007	➤The California Fish and Game Commission adopt the Commission's Preferred Alternative.
September 22 2007	➤29 MPAs went into effect (DFG Website)

As previously mentioned, the MLPA implementation comprised two phases. The first phase was the MLPA Initiative process from 2004 to 2006, while the second phase was the regulatory process during August 2006 (see Table

<sup>62</sup> Note: Package 0 was the existing MPAs and no-action. Package P was modification of Package 3R. Commissioned Preferred was modification of Package 3R based on revision from Package P. (Rabb 2006).

6.1 and Figure 6.1).

Subsequently, the CCSR MLPA Initiative process, which attracts the most attention in the literature, can be considered as a stakeholder participation process which is widely recognised as an important mechanism. Indeed, stakeholder participation is increasingly incorporated into the environmental policy decision-making process as it can increase both the legitimacy and quality of the decision (Beierle 2002; Daniels and Walker 2001; Daley 2007; Jones 2007; Dietz and Stern 2008; Pomeroy and Douvere 2008; Reed 2008; Stringer et al. 2007; Fox et al. 2013a; Sayce et al. 2013). Meanwhile, it is interesting to note that stakeholder participation typically meant the ‘consultation’ stakeholder process. The ‘consultation’ stakeholder process usually means two-way interaction, whereby the decision makers (i.e. government agencies) present proposals and gather the public responses before making a final decision (Abelson et al. 2003; Daley 2007; Innes and Booher, 2004).

It appears that such an approach can be considered as a good description of previous attempts to implement the MLPA. For example, as mentioned earlier (see Section 3.5.2 and 5.1), the DFG were the first to come up with Initial Draft Concepts and later attempted to incorporate stakeholders’ opinions. It could be argued that such ‘consolation’ stakeholder participation is the least participative form of co-management. Unfortunately, such an approach was not well received by the stakeholders and ultimately became one of the contributing factors to the failure of previous attempts to implement the MLPA (see Section 3.5 and 5.1).

Therefore, it is no surprise that staff of the MLPA Initiative sought different ways in which to incorporate stakeholder participation. It is claimed that the MLPA Initiative process has adopted a collaborative participation approach (Sayce et al. 2013). According to Sayce (Sayce et al. 2013), ‘collaborative participation’ adopts multi-dimensional dialogue between the public, participants

of the process, and decision makers (Sayce et al. 2013). It is argued that collaborative participation allows for the co-evolution of policies, interests and the public. Furthermore, many also state that such participation is more effective when it comes to incorporating the diverse communities which are affected by the policy decision (Sayce et al. 2013). In light of this, one could well contend that ‘collaborative participation’ is a more participative stakeholder participation process than the ‘consultation’ stakeholder process.

Indeed, the majority of participants, including both staff of the MLPA Initiative and the stakeholders, agreed that the MLPA Initiative process incorporated a substantial number of stakeholders who represent diverse interests, as stated by a staff member:

*There was fair representation to the greatest extent possible. We recommended to the director that they take as broad a cross-section as possible and represent all the key interests<sup>63</sup>.*

Furthermore, it is important to recall that the MLPA Initiative process adopted *absolute transparency*<sup>64</sup> (see Section 6.1). This means that the general public could attend every meeting or watch it via a live webcast. More importantly, it enabled staff of the MLPA Initiative to incorporate the opinions from the stakeholders who did not directly participate in the MLPA Initiative process. A member of staff stated that:

*There’s public comment at every single meeting and the public comes up and people who were not in the stakeholder group gave their perspectives. The way*

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<sup>63</sup> Interview with a staff member (C-P24) verified by commercial fishermen (C-P39; C-P86; C-NP88), commercial fisherman also owns recreational fishing shop (C-P58; C-NP74), recreational fishermen (C-P16; C-NP21; C-P75; C-NP116), ocean related business owner (C-NP95), non-consumptive user (C-P48), environmental stakeholder (C-P31), scientists (C-P5; C-NP15; CNCSN-P23; CNCSN-P29; CC-NP85), staff (NCSN-P30; C-P32; C-P46; CNCSN-P87; CNC-P97; SN-P107) and a consultant (CCNCSN-NP47)

<sup>64</sup> Interview with a staff member (C-P46) verified by staff (C-P24; CNCSN-P26; CNC-P97; C-P120), scientists (C-P5; CNCSN-P29; CNCSN-119) and environmental stakeholders (C-P31; NC-P108)



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*the system is set up, there's an opportunity to be flexible and create room for people who have other expertise that may not be represented in the stakeholder group or who are from areas that may not be well represented in the stakeholder group*<sup>65</sup>.

However, it is inevitable that the stakeholders, who participated in the MLPA Initiative process, either directly or through public comment, mainly represented the coastal community interests. On the other hand, and as stated by an environmental stakeholder:

*It [the MLPA] is a state-wide conservation law then in theory benefits of the law should be for the people of California*<sup>66</sup>.

This has significant implications, because such arguments, particularly by the advocates of MPA, were used to justify the primary objective of the MLPA as biodiversity conservation rather than fisheries benefits (see Section 5.4). Indeed, it could be argued that the biodiversity conservation would benefit all Californians rather than a small number of interest groups. However, since California has the highest population in the US (see Section 3.2), it is literally impossible to accommodate every state-wide interest in the stakeholder process. However, since the MLPA was enacted through legislative process (see Section 3.4.2), it could be argued that Californians were already participating, to a certain degree, in the MLPA implementation process through elected officials' input.

Nevertheless, in order to resolve such problems, the MLPA Initiative process was installed with Blue Ribbon Task Force (BRTF). It was argued that the BRTF was meant to provide state-wide perspectives<sup>67</sup>. However, it turns out that the BRTF did much more than that; an issue which will be explored in

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<sup>65</sup> Interview with a staff member (NCSN-P30) verified by staff (C-P24; SN-P107) scientist (CNCN-P29)

<sup>66</sup> Interview with an environmental stakeholder (CNC-P55)

<sup>67</sup> Interview with a staff member (C-P32), an environmental stakeholder (CCNC-P55)

the subsequent sections. To sum up, there can be hardly any dispute that the MLPA Initiative process incorporated a substantial level of various perspectives through stakeholder participation, public comment session, and the BRTF.

On the other hand, it is important to recall that the MLPA does not require socioeconomic impacts to be taken into consideration for the designation of MPAs <sup>68</sup> (see Section 3.4.3). Thus, technically speaking, the MLPA implementation process, and particularly the MLPA Initiative process, did not have to incorporate such a high level of stakeholder participation.

In addition, even though the interpretation can be varied, it is clear that four out of six goals of the MLPA (goals 1, 2, 4 and 6) were interpreted as concerning biodiversity conservation (see Section 3.4.3; Saarman et al. 2013). However, such biodiversity conservation objectives set by the MLPA could have been significantly undermined due to the high level of participation by stakeholders, who represented various interests (McClanahan 2004; Saunders et al. 2008; Walters 2004). Subsequently, it could be argued that stakeholder participation does not guarantee the production of MPAs which can fulfil the biodiversity conservation objectives of the MLPA (see Section 3.4.3). Subsequently, it is argued that certain top-down forces would have been required in order to achieve biodiversity conservation objectives set by the MLPA (Erwin 2003; Jones 2013).

Indeed, it was claimed that the staff applied several strategies to manage the MLPA Initiative process in order to achieve the biodiversity conservation objectives of the MLPA (Fox et al. 2013b; Gleason et al. 2013; Saarman et al. 2013; Sayce et al. 2013). Indeed, it was claimed that the MLPA Initiative process managed to produce MPA proposals which reflected not only the cross-interests but also incorporated the best readily available science through the iterative process (Fox et al. 2013b; Gleason et al. 2013; Sayce et al.

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<sup>68</sup> Interview with a staff member (CC-P46)

2013). Subsequently, one could well argue that the most notable and probably most important strategies were the iterative process and usage of the science guidelines.

Indeed, it appears that the iterative process was very effective, at least for the CCSR MLPA Initiative process. The iterative process of the MLPA Initiative process is a circular process amongst the stakeholders, the SAT, and the BRTF. The first step involved the developing of stakeholders' proposals which were evaluated by the SAT. Following this, the SAT provided feedback for each proposal to the BRTF. Lastly, the BRTF directed the stakeholders to modify their proposals based on the SAT's evaluation. This completes the first round of the iterative process (Fox et al 2013b; Gleason et al. 2010). The MLPA Initiative process went through 3 rounds of the interactive process for each study region (Fox et al. 2013b; Gleason et al. 2010). More detailed analysis of the iterative process will be conducted in the subsequent section.

With regard to the CCSR MLPA implementation process, the first phase (the MLPA Initiative process) was completed when the DFG passed a number of recommendations (Package 0, 1, 2R, and 3R) along with its own preferred alternative (Package P) to the Fish and Game Commission (see Figure 6.1 and Table 6.1). Once the Fish and Game Commission received the sets of alternatives from the DFG, the MLPA implementation process entered its regulatory process phase.

During the regulatory process, the Fish and Game Commission produced its own alternative based on the BRTF's preferred alternative (Package 3R) and DFG's preferred alternative (Package P) (Rabb 2006; Harty and Rabb 2008; Kirlin et al. 2013; see Figure 6.1 and Table 6.1). After the public hearing, the Fish and Game Commission adopted its preferred alternative (the Commission's Preferred Alternative) on September 22, 2007 (Harty and John 2006; Rabb 2006; Harty and Raab, 2008).

Since the Fish and Game Commission developed the Commission's Preferred Alternative based on Package 3R and Package P, which were developed through the MLPA Initiative process. One might also argue that the MLPA Initiative process played a decisive role in, or at least significantly contributed to the outcome of the MLPA implementation process. Furthermore, it is argued that the MLPA Initiative process involved a substantial level of stakeholder participation based on the best readily available science (Gleason et al. 2010; Fox et al. 2013a; Sayce et al. 2013). Subsequently, most of the literature which has analysed the MLPA implementation process was focussed on the MLPA Initiative process while claiming it was a very successful case of a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010, 2013; Kirilin et al. 2013; Sayce et al. 2013; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012).

At this point, it is necessary to recall that several strategies, particularly the iterative process, were applied to effectively manage the MLPA Initiative process. It is also important to recognise that the main purpose of the iterative process was to produce proposals which reflect the cross-sectoral interests whilst also achieving the biodiversity conservation objectives (Fox et al. 2013b; Gleason et al. 2013; Saarman et al. 2013; Sayce et al. 2013). It appears that such objectives were successfully achieved, at least for the CCSR MLPA Initiative process.

It is also necessary to recall the MLPA 1 process, which was the very first attempt to implement the MLPA (see Section 3.5.2), in order to understand why many see the iterative process as being effective. As discussed earlier (see Section 3.5.2 and 5.1), the DFG worked with the Master Science Advisory Team to develop Initial Draft Concepts. Therefore, it could be argued that the MLPA 1 was likely to achieve the biodiversity conservation objectives since the MLPA implementation process would have been based on the Initial Draft Concepts which were designed by the scientists.

On the contrary, the CCSR MLPA implementation process carried with it many potential risks which could have resulted in biodiversity objectives not being met. Indeed, there are several potential reasons for this. First of all, and as mentioned above, the MLPA Initiative involved many stakeholders, including a large number of consumptive users (Fox et al. 2013b; Gleason et al. 2010; Sayce et al. 2013). Furthermore, and unlike previous attempts to implement the MLPA, the scientists were not only prohibited from drawing any maps but also from making direct recommendations regarding which proposals were better or worse<sup>69</sup> (Fox et al. 2013c; Gleason et al. 2010; Saarman et al. 2013). Subsequently, the scientists were not able to make a direct contribution to the design of MPA proposals, unlike with MLPA 1. Nevertheless, it appears that the scientists, particularly the core members of SAT, did have a significant impact on the outcome of the process through science guidelines. The significant implications of the science guidelines and SAT will be discussed in the subsequent section.

Meanwhile, it can be argued that local resource exploitation objectives were more likely reflected in the MPA proposals through the stakeholder process (McClanahan, 2004; Saunders et al. 2008; Walters, 2004). However, the outcome of the CCSR MLPA implementation dispelled such worries, as stated by one scientist:

*The MPAs generated by the stakeholder process created more and may be bigger MPAs than were generated by the original Master Plan Team*<sup>70</sup> (see Table 6.2).

Therefore, it is truly remarkable that the CCSR MLPA implementation process, which was supposedly driven by stakeholders, actually produced more and bigger MPAs than the MLPA 1 process, which did not involve stakeholders sufficiently (see Section 3.5.2).

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<sup>69</sup> Interview with a scientist (CNCSN-P29) and staff (C-P32; C-P46; CNC-P97; C-P120)

<sup>70</sup> Interview with a scientist (CNCNS-P29)

**Table 6.2 Initial Draft concept<sup>71</sup> vs actual MPA(Guide to the Central California MPAs, 2013)**

	Initial Draft Concept			Central Coast MPAs		
	Number	Size (mi <sup>2</sup> )	Location	Number	Size (mi <sup>2</sup> )	Location
SMR	8	39	<ul style="list-style-type: none"> <li>➤ Año Nuevo</li> <li>➤ Natural Bridges</li> <li>➤ Hopkins (includes Ed Ricketts)</li> <li>➤ Point Lobos</li> <li>➤ Julia Pfeiffer Burns</li> <li>➤ Big Creek</li> <li>➤ Salmon Creek</li> <li>➤ Cambria</li> </ul>	13	85.34	<ul style="list-style-type: none"> <li>➤ Natural Bridges</li> <li>➤ Elkhorn Slough</li> <li>➤ Moro Cojo Slough</li> <li>➤ Lovers Point</li> <li>➤ Asilomar</li> <li>➤ Carmel Pinnacles</li> <li>➤ Point Lobos</li> <li>➤ Point Sur</li> <li>➤ Big Creek</li> <li>➤ Piedras Blancas</li> <li>➤ Morro Bay</li> <li>➤ Point Buchon</li> <li>➤ Vandenberg</li> </ul>
SMP	1	55	➤ Conception	0	0	N/A
SMCA	13	95	<ul style="list-style-type: none"> <li>➤ Año Nuevo</li> <li>➤ Natural Bridges</li> <li>➤ Soquel Canyon</li> <li>➤ Portuguese Ledge</li> <li>➤ Pacific Grove</li> <li>➤ Carmel Bay</li> <li>➤ Point Lobos</li> <li>➤ Point Sur</li> <li>➤ Big Creek</li> <li>➤ Piedras Blancas</li> <li>➤ Cambria</li> <li>➤ Point Buchon</li> <li>➤ Purisima</li> </ul>	15	112.19	<ul style="list-style-type: none"> <li>➤ Año Nuevo</li> <li>➤ Greyhound Rock</li> <li>➤ Elkhorn Slough</li> <li>➤ Soquel Canyon</li> <li>➤ Portuguese Ledge</li> <li>➤ Edward F. Ricketts</li> <li>➤ Pacific Grove</li> <li>➤ Marine Gardens</li> <li>➤ Carmel Bay</li> <li>➤ Point Lobos</li> <li>➤ Point Sur</li> <li>➤ Big Creek</li> <li>➤ Piedras Blancas</li> <li>➤ Cambria</li> <li>➤ White Rock (Cambria)</li> <li>➤ Point Buchon</li> </ul>
SMRMA	0	0	N/A	1	6.35	➤ Morro Bay
Total	22	189		29	203.88	29 MPAs

<sup>71</sup> [http://www.dfg.ca.gov/mlpa/pdfs/agenda\\_110905handout3.pdf](http://www.dfg.ca.gov/mlpa/pdfs/agenda_110905handout3.pdf)

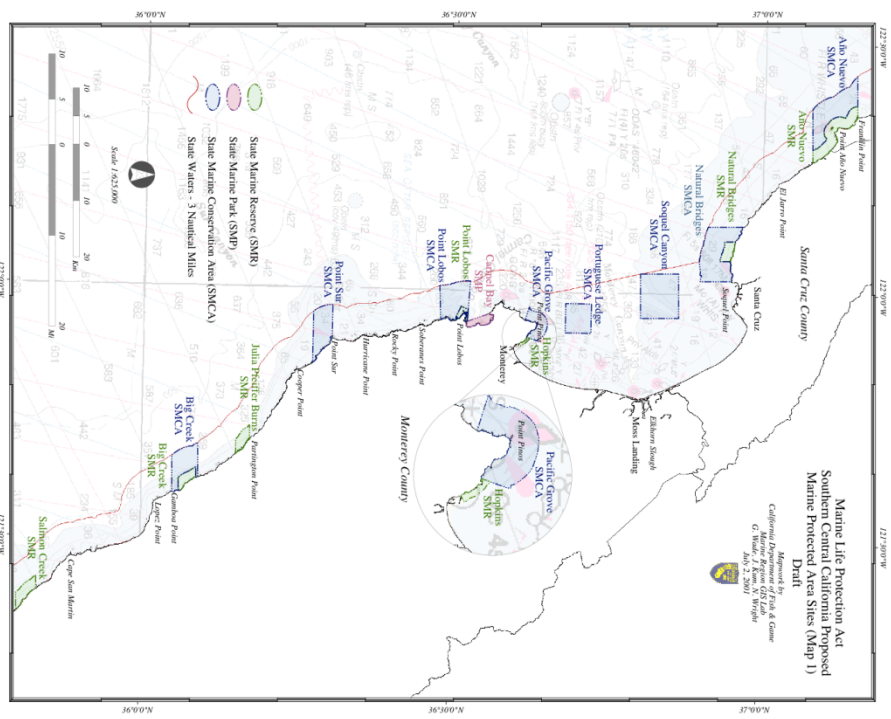
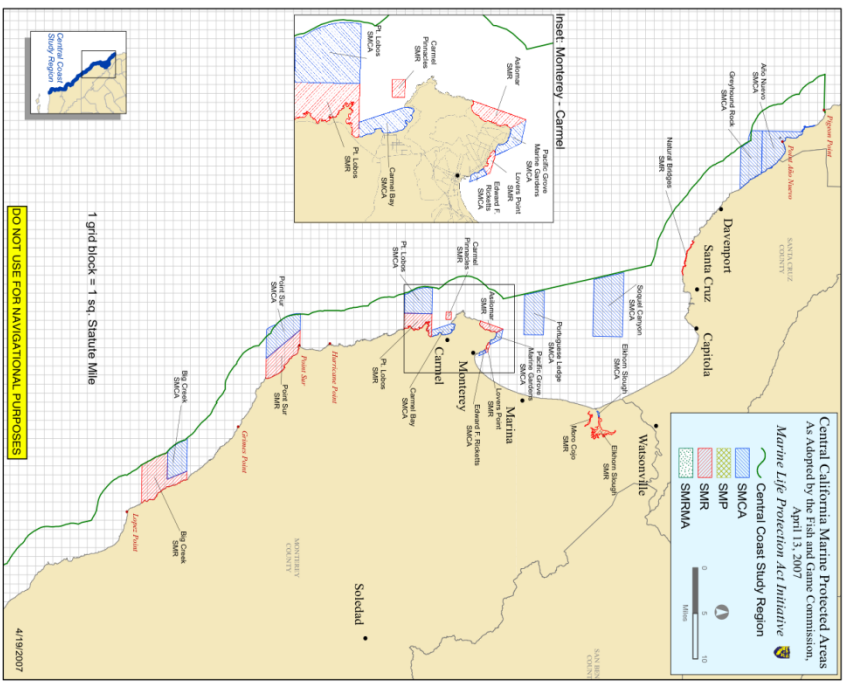
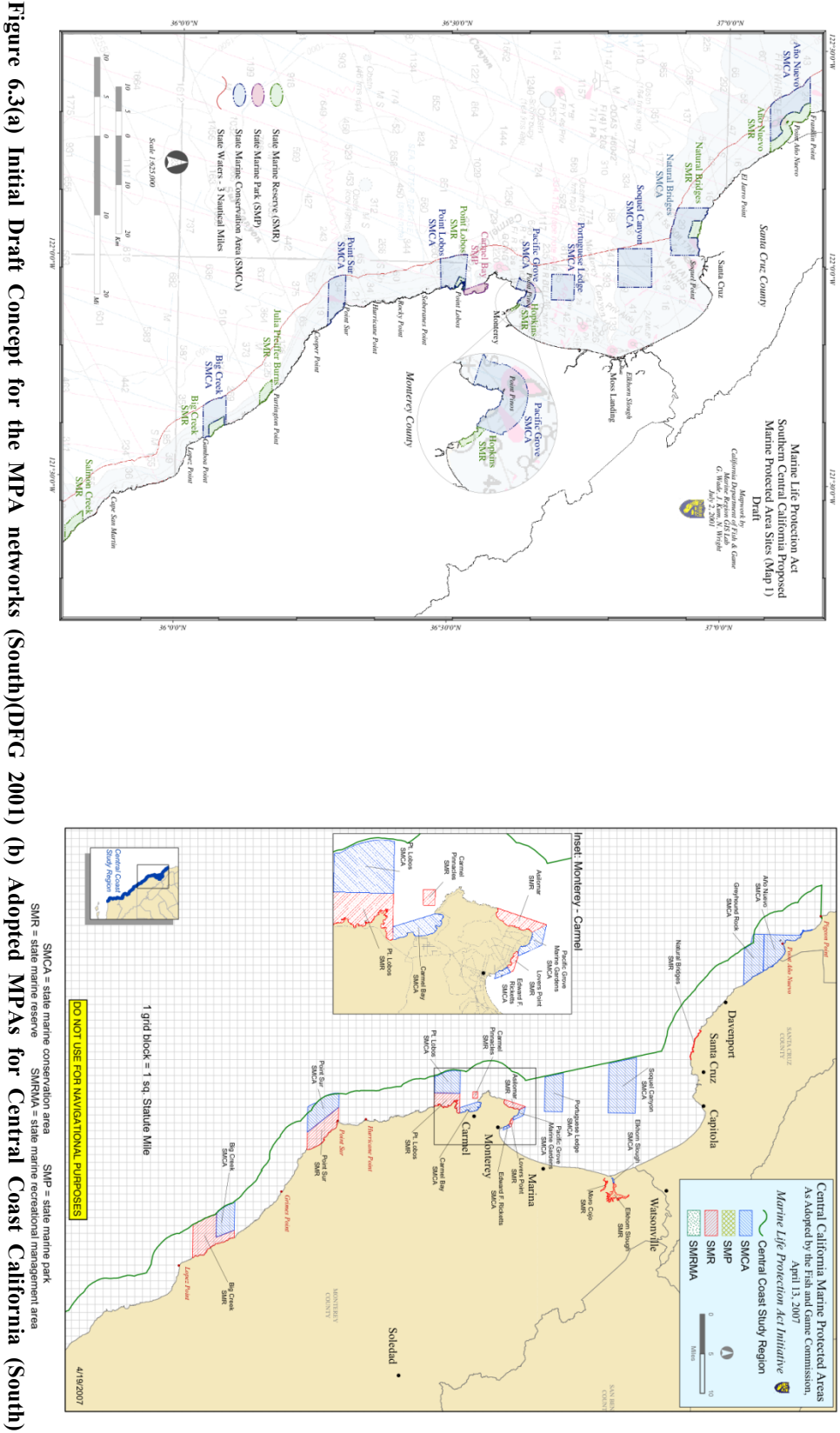


Figure 6.2(a) Initial Draft Concept for the MPA networks (North) (DFG 2001) (b) Adopted MPAs for Central Coast California (North)







The outcome of the CCSR MLPA implementation process is even more surprising because of the location of MPAs. The map of the newly placed 29 MPAs (see Figure 6.2 (b) and 6.3 (b)) bears a remarkable similarity to the maps of the Initial Draft Concepts from MLPA 1 (see Figure 6.2 (a) and 6.3 (a)). Based on this, it could be argued that the MLPA Initiative process incorporated the best readily available science, since the Initial Draft Concepts were designed exclusively by the scientists and the experts.

Furthermore, this coincides with the widely publicised claim that the MLPA Initiative process was a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010; 2013; Kirlin et al. 2013; Libernecht 2008; Sayce et al. 2013; Scholz et al. 2004; Stevenson et al. 2012). At this point, it is important to acknowledge that the MLPA Initiative process was considered as science-based because the stakeholders developed MPA proposals based on the science guidelines. More importantly, the science guidelines were developed by scientists in order to fulfil the biodiversity objectives of the MLPA (Saarman et al. 2013). However, it is worth noting that such usage of science guidelines can ultimately result in a strong top-down approach (Jones 2012). Subsequently, it can be argued that the concept of a science-based stakeholder-driven process is an oxymoron. The significant implication of the science guidelines will be analysed in the subsequent sections.

Based on the outcome of the CCSR MLPA implementation process, it could be argued that the MLPA Initiative process achieved the ‘middle ground’ approach by combining both a top-down and a bottom-up approach (Jones and Burgess 2005). For instance, several strategies, such as an iterative process and usage of science guidelines, which were applied in the MLPA Initiative process (Fox et al. 2013b; Gleason et al. 2010), can be considered as necessary top-down forces in order to achieve the biodiversity conservation (Jones 2013). On the other hand, the bottom-up part was introduced through stakeholder participation since the stakeholders designed the network of MPAs (Fox et al. 2013b, Gleason et al. 2010; Sayce et al. 2013). Indeed, few

participants, especially those who were environmentally oriented stakeholders or members of staff, claimed that *the MLPA initiative is a combination of top-down and bottom-up*<sup>72</sup>.

Therefore, it could be considered that the MLPA Initiative process successfully managed to reconcile ‘science-based’ and ‘stakeholder-driven’ concepts whilst avoiding a potential oxymoron. However, ironically, and most unfortunately, the remarkable resemblance between the outcome of the CCSR MLPA implementation process (see Figure 6.2 (b) and 6.3 (b)) and Initial Draft Concepts from MLPA 1 (see Figure 6.2 (a) and 6.3 (a)) had an entirely opposite impact on stakeholders’ perspectives towards the MLPA Initiative process. Indeed, as stated by a stakeholder:

*When I saw the map it was basically the same plan as the map I saw 15 years ago for the first attempt of MLPA implementation. So they knew what they wanted all along, I felt they included us just to meet the requirements of the law and to say we got the stakeholder input. It was just like a train ride. Get us on board and do what they wanted to do anyway*<sup>73</sup>.

More seriously, many stakeholders, including both consumptive and non-consumptive users, believed that it was not simply a coincidence that the adopted MPAs (see Figure 6.2 (b) and 6.2 (b)) had many similarities with the Initial Draft Concepts (see Figure 6.2 (a) and 6.3 (a)). They believed that such remarkable resemblance was clear evidence that the MLPA implementation process had a predetermined outcome<sup>74</sup>.

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<sup>72</sup> Interview with a staff member (CNCSN-P87) verified by staff (NCSN-P30), environmental stakeholder (NCP-108), and a scientist (CNCSN-P29; CCNCSN-P119)

<sup>73</sup> Interview with a commercial fisherman also owns recreational fishing shop (C-P58) verified by a staff member (CNC-P97)

<sup>74</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP82; C-P86; C-NP111), a commercial fisherman also owns recreational fishing shop (C-P58; C-NP74; C-NP90), recreational fisherman (C-NP18; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP35; C-NP95; C-NP102), and non-consumptive stakeholders (C-NP11; C-P48; C-NP72).

An interview with a non-consumptive user, who worked as a government officer for a long time, described the prevalent stakeholder perspectives on MLPA implementation, and particularly the MLPA Initiative:

*They did a really good job of white washing the whole thing and sold the process as a transparent and feel good bottom-up process. After the MLPA Initiative process, they came in and interviewed people for the lessons learned report. Despite at least half of the people having very bitter and non-complimentary assessments of the process, their report, which was again paid by RLFF, concluded that there were a few sore losers but it was a great bottom-up process. They spin it one way and they have the power to do it<sup>75</sup>.*

Such prevalent scepticism among the many stakeholders contradicts the widely publicised claim that the MLPA implementation process, and particularly the MLPA Initiative process, was a very successful case of a science-based stakeholder-driven process (Fox et al. 2012a; Gleason et al. 2012; Kirlin et al. 2012; Sayce et al. 2012; Gleason et al. 2010; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012).

Therefore, it would be worth investigating the root cause of such disjunction between this widely publicised claim and the stakeholders. Thus, in the subsequent sections, the MLPA implementation process will be analysed based on the CCSR case.

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<sup>75</sup> Interview with a non-consumptive user (C-P48) verified by commercial fisherman (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP70; C-NP82; C-P86; C-NP88; C-NP111), commercial fishermen also own recreational fishing shop (C-P58; C-NP90), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116) ocean related business owner (C-NP35; C-NP95; C-NP102) and non-consumptive users (C-NP72)

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### 6.3 Part one: The CCSR MLPA Initiative process

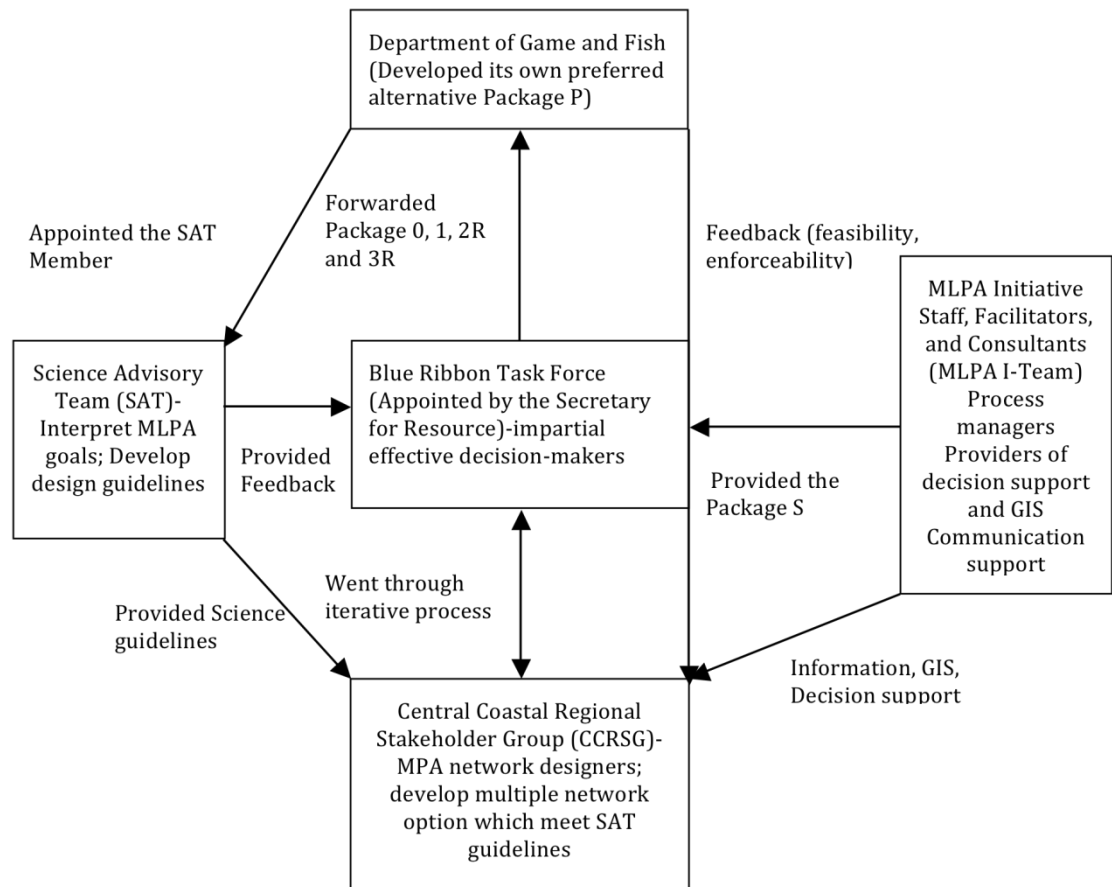
As previously mentioned (see Section 6.2), it would seem that the MLPA Initiative process was the most important key factor to have led to the successful implementation of the MLPA; an implementation which had suffered two previous failed attempts (see Section 5.1). Furthermore, it could be argued that the MLPA Initiative process incorporated a substantial level of stakeholder participation. On the other hand, such a high level of stakeholder participation could potentially compromise the biodiversity objectives of the MLPA since the resource exploitation interests of stakeholders would also be reflected and could thereby undermine the fulfilment of conservation objectives (McClanahan 2004; Saunders et al. 2008; Walters 2004). In light of this, it is remarkable that the MLPA Initiative process produced the proposals which incorporated the best readily available science while reflecting cross-sectoral interests from diverse stakeholders (see Figure 6.2 (a), (b) and Figure 6.3 (a), (b); Fox et al. 2013b; Gleason et al. 2010).

Paradoxically speaking, such a remarkable result is also an important clue and indication that certain top-down elements were introduced to the MLPA Initiative process (Jones and Burgess 2005; Jones 2013; Erwin 2003). Indeed, it was claimed that several strategies were applied in the MLPA Initiative (Fox et al. 2013b). Among those strategies, it appears that the iterative process and the science guidelines were two very important top-down strategies for the MLPA Initiative process.

The iterative process was a very apparent top-down element which was applied to produce stakeholders' proposals; proposals which not only incorporated the best readily available science but also reflected the cross-sectoral interests. Indeed, it was claimed that:

*'The iterative process was intended to provide RSG members with evaluation of their draft proposals relative to science and feasibility design guidelines, build trust among stakeholders, increase awareness of constituencies' key interests,*

and allow development of improved cross-interest proposals' (Fox et al., 2013b: 5).



**Figure 6.4 The CCSR MLPA Initiative process structure (based on Rabb, 2006:16)**

**Table 6.3 Sequence of CCSR MLPA Initiative process (Rabb 2006; Harty and Rabb 2008)**

Time period	Actions
August 27 2004	➤Memorandum of Understanding (MOU) between the Resources Agency, DFG, and Resources Legacy Foundation Fund (RLFF).
October 2004 to April 2005	➤Blue Ribbon Task Force (BRTF) decided areas for the CCSR from Pigeon Point to Point Conceptions
October 2005 to November 2005 (The first round of iterative process)	➤Central Coastal Regional Stakeholder Group (CCRSG) produced three alternative packages of MPAs (Package 1, 2).
November 2005	➤The SAT completed an analysis of Package 1,2 and presented its findings to the BRTF
December 2005	➤BRTF authorised to create MPA package by MLPA-I team (Package S). ➤BRTF also directed CCRSG to refine their packages based on SAT evaluation.
December 2005 to March 2006 (The second round of iterative process)	➤BRTF directed CCRSG to further refine their packages based on SAT evaluation. ➤A splinter group of the CCRSG developed Package 3. ➤BRTF directed to merge Package 3 and Package S to create Package 3R. ➤BRTF unilaterally made changes to Package 2 and named it as Package 2R. ➤BRTF also unilaterally made further changes to Package 3R.
April 28, 2006	➤BRTF forwarded Package 1, Package 2R, and Package 3R. Package 1 did not get any vote and Package 2R and 3R got split vote for Preferred Alternative. ➤Ultimately, Package 3R became the BRTF's preferred alternative.
After April 28, 2006 to August 2, 2006 (The third round of iterative process)	➤DFG developed its own preferred alternative Package P. ➤DFG forwarded Package 0, 1, 2R, 3R, and P to the Fish and Game Commission.

During the first round (June 2005 to December 2005) of the CCSR MLPA Initiative process, 3 packages of MPA proposals, namely Packages 1, 2 and S, were developed (see Table 6.3). Package 1 was developed by stakeholders who represented commercial and recreational fishing interests. Package 2 was developed by stakeholders who represented non-consumptive interests. Meanwhile, the BRTF directed the MLPA Initiative Team (I-Team) to separately create Package S, which was developed to more effectively comply with the science guidelines, in December 2005 (Harty and John 2006; Rabb 2006; Fox et al. 2013b; see Figure 6.4 and Table 6.3).

During the second round (December 2005 to March 2006), Package 3 was developed by a ‘splinter group’, which comprised six stakeholders, all wanting to integrate ideas from the other two groups during the second round of the iterative process (Rabb 2006; Fox et al. 2013b; see Table 6.3). The SAT evaluated all the packages which were developed during the first and second rounds and presented the results to the BRTF (Rabb 2006). Following this, the BRTF unilaterally decided to merge Package 3 and Package S, which was developed by the I-team at the first round, to create Package 3 R. Furthermore, the BRTF made further unilateral modifications not only to Package 3R but also to Package 2 so as to create Package 2R (Rabb 2006; see Table 6.3). After all the modifications were made, the BRTF voted on the packages to decide its preferred alternatives. Package 1 did not receive a single vote from the BRTF, while Package 2R received two votes. Ultimately, Package 3R received three out of five votes and became the BRTF’s preferred alternative (Rabb 2006; see Table 6.3). The BRTF forwarded all three packages to the DFG.

In the third round (April 2006 to August 2006), the DFG carried out its own analysis and developed its own preferred alternative package by modifying package 3R (Fox et al. 2013b; Gleason et al. 2010; see Table 6.3). The DFG’s preferred Package is known as Package P. Following this, the DFG forwarded the three packages it received from the BRTF (Package 1, 2R and 3R) along with its own preferred alternative (Package P), and Package 0, which was the existing MPAs or no-action alternative, to the Fish and Game Commission (Rabb, 2006; see Table 6.3).

At first glance, the significant implication of the science guidelines appeared to be subtler, as the guidelines were operated under the iterative process. Nevertheless, based on the fieldwork, it appears that the science guidelines did have a significant impact on the outcome of the MLPA Initiative process. Subsequently, the significance of the science guidelines will be discussed within the iterative process frame.

At the same time, it could be argued that the iterative process and the science guidelines were two key top-down elements, which not only determined the outcome of the MLPA Initiative process but also decisively contributed to stakeholders' scepticism regarding the process. Therefore, in this section, the significant implications of the iterative process and the science guidelines will be analysed in order to explore the root cause of stakeholders' scepticism towards the MLPA Initiative process.

### *6.3.1 Analysis of the MLPA Initiative process: Implication of the science guidelines*

The iterative process reveals a few interesting factors with regard to the stakeholder process of the MLPA Initiative process. First of all, the iterative process also revealed the significance of the MLPA, and particularly the importance of how the MLPA was interpreted. It was argued that the main purpose of the iterative process was to incorporate the best readily available science into the stakeholder proposals so that those proposals would meet the requirements for the biodiversity conservation objectives of the MLPA (see Section 6.2.1; Fox et al. 2013b; Gleason et al. 2013; Sayce et al. 2013). This clearly indicates that the MLPA was interpreted as a biodiversity conservation-focussed law.

On the other hand, it is important to recall that certain goals of the MLPA, particularly Goal 2, can be considered as equivalent to fisheries management, since it requires the rebuilding of fish stocks which have economic value (see Section 3.4.3; the MLPA). Furthermore since the MLPA only regulates legal fishing activities (see Section 3.4.3), it may not be a surprise that many stakeholders viewed the MLPA as a type of fisheries management-focussed law<sup>76</sup>. Indeed, it appears that the disjunction between the main objective of the

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<sup>76</sup> Interview with commercial fishermen (C-P42; NC-P56; C-NP82; C-NP111; C-NP70), commercial fishermen also own recreational fishing shop (C-P58; C-NP74; C-NP90), recreational fishermen (C-P16; C-NP19; NC-P57; CC-P75), non-consumptive user (C-P48) and scientists (C-NP85; NCS-P1024)



MLPA and its jurisdiction contributed to stakeholders' suspicion of the true intention of the MLPA implementation process. In addition, it is important to recall that there are divergent opinions even among the scientific community about what constitutes the best readily available science; something which depends on the objective of the MPA (see Section 3.4.3; Jones 2001, 2007). Under the circumstances, it is understandable that there were fierce debates regarding which discipline of science should be adopted for the MLPA implementation (see Section 3.4.3).

Subsequently, this has significant implications in terms of defining the main objective of MLPA implementation as biodiversity conservation. As a result, it is not a surprise that marine ecology, rather than fisheries science, was adopted as the best readily available science for the MLPA implementation. In other words, the interpretation of the MLPA drew a critically important line for the definition of the best readily available science for the MLPA implementation. Furthermore, it justified the usage of marine ecology as the principle science. More detailed analyses regarding the significant implications of the MLPA and its impact on the usage of the best readily available science will be conducted in the next chapter.

Once the stakeholders developed proposals for each round based on the science guidelines, the SAT evaluated the proposals based on the science guidelines and provided the information to the BRTF. Based on the SAT's evaluation, which provided the information regarding how well each proposal met the science guidelines, the BRTF directed stakeholders to revise their proposals<sup>77</sup> (Kirlin et al. 2013). A scientist explained the significant implication of the science guidelines for the stakeholder process as:

*The nature of dynamics once the process got going was, in theory, stakeholders were designing the networks. But the networks had to come close to meeting*

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<sup>77</sup> Interview with a environmental stakeholder (CNC-P55) verified by scientists (C-P5; CNCN-P23; CNCN-P29), staff (NCSN-P30; CNCN-P87) and a recreational fisherman (C-P16)

*the scientific guidelines put forward by SAT. If you went far beyond the guidelines that proposal wasn't going to get accepted because it had too high socio-economic impacts. What you ended up with was all of the stakeholder groups trying to design a network that would meet the guidelines but not too far beyond it. So effectively, the network was the result of the guidelines. Obviously there was some tinkering where you put down the MPAs but to a great extent, the guidelines determined the scale of the overall MPA system<sup>78</sup>.*

Subsequently, it could be argued that the science guidelines had a profound impact on the outcome of the MLPA Initiative process. Indeed, it appears that two out of the four categories, namely size and spacing guidelines, had a significant influence on the MPA configuration, as one scientist remarked:

*The SAT developed guidelines, which means the context is already defined, and then handed the guidelines to stakeholder groups to design. Even though stakeholders are designing MPAs, their work is so well defined already because they are doing it based on the guidelines. So functionally the outcome is the same<sup>79</sup>.*

In addition, another scientist said:

*Once you laid a combination of size, spacing, replication and sub-areas, you have very little flexibility in the minimum configuration<sup>80</sup>.*

At this point, it is important to recall that it was the remarkable resemblance between the Initial Draft Concepts and the outcome of the CCSR MLPA implementation which significantly contributed to the stakeholders' suspicion (see Section 6.2; Figure 6.2 (a), (b) and Figure 6.3 (a), (b)). Unfortunately, it appears that many stakeholders perceived the science guidelines as a tool with

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<sup>78</sup> Interview with a scientist (NCS-P1024)

<sup>79</sup> Interview with a scientist (C-P5)

<sup>80</sup> Interview with a scientist (NCS-P1024) verified by a scientist (CNCSN-P29; CNCSN-P119)

which to place MPAs in certain places. Indeed, as a stakeholder said:

*It's almost like they designed the criteria around where they wanted the areas because you couldn't lend your MPAs anywhere else. It wouldn't work any other way. So that was a little disturbing from a stakeholder's standpoint. The strange coincidence was that if you met the scientific guideline, almost by default you ended up at the original maps that Fish and Game had at the very first attempt. It is almost like they said, here's where we want MPAs to be<sup>81</sup>.*

Subsequently, many stakeholders believed that the science guidelines were used as a tool to drive the MLPA Initiative to a certain predetermined outcome. Although such accusations may be over exaggerations, it could be argued that the science guidelines constituted top-down elements. Indeed, it appears both advocates of MPAs and stakeholders acknowledge that the science guidelines constrained or led the stakeholder process to a certain degree (Saarman et al. 2013)<sup>82</sup>.

Nevertheless, the usage of science guidelines should not be a subject of criticism. On the contrary, it is argued that certain top-down elements are essential, particularly in order to achieve biodiversity conservation objectives of MPAs (Jones 2013). Indeed, it appears that MPAs in California prior to the MLPA implementation were designated using an ad-hoc, case-by-case approach without any kind of strategy to achieve the concurrence objectives of protecting the marine environment. As a result, it can be considered that MPAs in California have suffered from fragmented conservation objectives and have not achieved their objectives (see Section 3.2).

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<sup>81</sup> Interview with a recreational fisherman (C-P75) verified by commercial fisherman (NC-P56), commercial fisherman also owns recreational fishing shop (C-NP90), recreational fisherman (NC-P57), an environmental stakeholder (C-NP25), non-consumptive users (C-NP11), ocean related business owner (C-NP102), and a scientist (NCS-P1024).

<sup>82</sup> Interview with commercial fishermen (C-P39; C-P42; C-NP62; C-P86), a commercial fisherman also owns a recreational fishing shop (C-NP90), a recreational fisherman (NC-P57; C-P75), environmental stakeholders (C-P31; CNC-P55), non-consumptive users (C-NP11), scientists (C-P5; CNCSN-P23; CNCSN-P29; CNCSN-P119; NCS-P1024) and staff (C-P24; CNCSN-P26; C-P32; CC-P120)

Indeed, a scientist who has been deeply involved in the development of science guidelines also stated that:

*It clearly wasn't a strictly bottom up process. My perception of what a total bottom-up process would be is that you would have a bunch of people writing initiatives to the state legislative, saying this is where we want MPAs to be created, go make them now. In fact in one sense, that is what created existing MPAs prior to the MLPA process. Clearly they were not science-based and clearly they were not going to contribute valuably to conserving marine ecosystems along the coast of California. Thus, the problem with a complete bottom-up process is that it could have been void of any science and as a consequence MPAs would fail to achieve any kind of conservation value<sup>83</sup>.*

Furthermore, this does not mean that the usage of science guidelines drove the stakeholder process to the pre-determined outcome. On the contrary, the MLPA Initiative process should be considered as one of the exemplary cases where the expert science was successfully incorporated into the stakeholder process. Indeed, when considering that the MLPA Initiative incorporated a substantial level of stakeholder participation (see Section 6.2), it is clear that there was a high risk of not achieving biodiversity conservation objectives (McClanahan 2004; Saunders et al. 2008; Walters 2004). Besides this, it has also been argued that certain top-down elements are necessary, especially when it comes to achieving a certain level of biodiversity conservation objectives (Jones and Burgess 2005; Erwin 2003).

Furthermore, it was argued, particularly by the advocates of MPAs, that even though the science guideline restricted certain aspects of the stakeholder process, *there was still a great deal of flexibility with the application of those*

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<sup>83</sup> Interview with a scientist (CNCSN-P29) verified by scientists (C-P5; CNCSN-P23; CNCSN-P119), staff (CC-P24; C-P32; C-P46; CNCSN-P87; CNC-P97; SN-P107), a consultant (CCNCSN-P47), and an environmental stakeholder (CNC-P55)

*criteria to generate the MPAs and location of the MPAs*<sup>84</sup> (Gleason et al. 2010; Saarman et al. 2013). In essence, the advocates considered the science guidelines as “*the rule of the game*” rather than a means of achieving a certain outcome<sup>85</sup>.

Thus, it may be true that the MLPA Initiative process achieved the ‘middle ground’ (Jones and Burgess 2005). Indeed, as stated by an environment stakeholder:

*The top-down part was the mandate to create a network of MPAs and the guidance in the law. The bottom-up was actually giving stakeholders ability to create alternatives and design the areas and even develop objectives for those areas. So it can ultimately win approval and compliance from participants*<sup>86</sup>.

However, such a claim can be considered as slightly premature because of the prevalent scepticism among stakeholders. It appears that stakeholder scepticism regarding the science guidelines was founded upon two reasons.

The first was the role of the SAT and its composition, particularly regarding the core scientists who developed the science guidelines. More detailed analysis of the role of SAT will be carried out in the next chapter. The second related to how the science guidelines were applied through the iterative process; something which will be analysed in the next section.

### *6.3.2 Analysis of the MLPA Initiative process: Implication of the iterative process*

It is first vital to recall that the main objective of the iterative process was to

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<sup>84</sup> Interview with a scientist (CNCSN-P29) verified by environmental stakeholder (NC-P108), and staff (NCSN-P30; C-P46)

<sup>85</sup> Interview with staff (NCSN-P30) verified by staff (CNCSN-P26; C-P32; C-P46; CNCSN-P87; CNC-P97; SN-P107), a consultant (CNCSN-NP47), scientists (CNCSN-P23; CNCSN-P29), environmental stakeholders (CNC-P55; NC-P108) and a recreational fisherman (C-P16)

<sup>86</sup> Interview with a environmental stakeholder (NC-P108)

incorporate the best readily available science into the stakeholder proposals while reflecting the cross-sectoral interests (see Section 6.3; Table 6.3). Subsequently, the stakeholders developed the proposals based on the science guidelines, which were exclusively developed by a small number of marine ecologists (see Section 6.3.1). Once the stakeholders developed the proposals, those proposals were evaluated by the SAT. The SAT then advised the BRTF based on its evaluation of the stakeholders' proposals (See Section 6.3; Figure 6.4 and Table 6.3). Indeed, as one scientist stated:

*The third role was to evaluate the proposals that were generated by the stakeholder groups and the BRTF to determine and convey how well they met the science guidelines<sup>87</sup>.*

The BRTF then directed the stakeholders to revise their proposals so that the proposals could meet the science guidelines to the greatest possible extent, thus completing the first round of the iterative process (see Section 6.3; Table 6.3; Gleason et al. 2013). Once the stakeholders changed the proposals based on the BRTF's instruction, the SAT would review them again.

Based on this, the iterative process can be considered as an important mechanism through which to incorporate the best readily available science (Fox et al. 2013b; Gleason et al. 2010, 2013; Saarman et al. 2013). Indeed, an interview with a staff member who was deeply involved in developing the MLPA Initiative process revealed that:

*It [the stakeholder process] was a kind of a circular iterative process, where a proposal would come in and SAT would review it and return it<sup>88</sup> (Fox et al. 2013b; Gleason et al. 2013; Sayce et al. 2013).*

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<sup>87</sup> Interview with a scientist (CNCSN-P29) verified by a scientist (CNCSN-P23), a consultant (CNCSN-NP47), staff (C-P32; CNCSN-P87), recreational fisherman (C-P16) and an environmental stakeholder (CNC-P55)

<sup>88</sup> Interview with a staff member (C-P32)

At this point, it is important to recall that certain categories of the science guidelines had a significant impact on the MPA configurations (see Section 6.3.1). Subsequently, it may not be a surprise that the stakeholder groups ended up with the MPA network which would meet the guidelines very closely, since the stakeholders had to go through the iterative process. This could well represent an explanation for the remarkable resemblance between Initial Draft Concepts and the adopted MPAs (see Section 6.2; Figure 6.2 (a), (b) and Figure 6.3 (a), (b)).

The iterative process also reveals the subtle yet significant influence of scientists (the SAT) on the outcome of the MLPA implementation process. Unlike the previous attempts to implement the MLPA (MLPA 1 and 2), the MLPA Initiative process prohibited direct participation from the scientists. For instance, and as mentioned earlier, the scientists were neither allowed to draw lines on the maps nor to make direct recommendations regarding which proposal was better or worse<sup>89</sup> (see Section 6.2; Fox et al. 2013c; Gleason et al. 2010; Saarman et al. 2013). Subsequently, it could be considered that the scientists' role was significantly subdued on the surface compared to the two previous attempts.

However, it is very important to recognise that the science guidelines were developed by a small number of marine ecologists in the SAT<sup>90</sup>, in order to achieve the biodiversity conservation objectives of the MLPA (Saarman et al. 2013). More importantly, the stakeholders had to develop the proposals based on the science guidelines (Fox et al. 2013b; Gleason et al. 2010; Kirlin et al. 2013; Saarman et al. 2013). Furthermore, the SAT was in charge of evaluating stakeholder proposals and advising the BRTF. More critically, the BRTF directed the stakeholders to refine the proposals based on the SAT's evaluation (see Figure 6.4 and Table 6.3). Subsequently, it can be argued that the SAT

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<sup>89</sup> Interview with a scientist (CNCSN-P29) and staff (C-P32; CC-P46; CNC-P97; C-P120)

<sup>90</sup> Interview with a scientist (C-P5; C-NP15; CNCSN-P23; CNCSN-P119; NCS-P1024) and staff (C-P24)

expressed its recommendation indirectly.

Therefore, it could be considered that the SAT maintained significant leverage on the outcome of the MLPA Initiative process through the science guidelines and evaluations and revisions of stakeholders' proposals. Indeed, as a scientist said:

*Even if it seems a shift in power, but in fact it is merely huge shift in power because the SAT still defined how the network of MPAs would be looked like by their rules<sup>91</sup>.*

Once again, more detailed analysis of the role of SAT will be conducted in the next chapter. Meanwhile, usage of the science guidelines and the iterative process should be considered as a way in which to incorporate the 'best readily available science' into the stakeholder process. On the other hand, it could be argued that the iterative process connotes a strong top-down approach for the MLPA Initiative stakeholder process. Nevertheless, it appears that the SAT exercised the top-down force in a subtle way since the SAT did not make any direct contributions to the MPA design (see Section 6.2).

The more critical factor is how the BRTF responded to SAT's advice. It appears that the BRTF repeatedly directed the stakeholders to produce proposals which complied with science guidelines as applicable (Saarman et al. 2013). This was confirmed by an interview with a scientist, who was deeply involved in the development of science guidelines:

*If the proposals didn't meet the scientific guidelines, BRTF told the people to go back and revise them<sup>92</sup>.*

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<sup>91</sup> Interview with a scientist (C-P5) verified by a scientist (CNCSN-P23; CNCSN-P119; NCS-P1024), recreational fisherman (C-P75), staff (C-P120), ocean related business owner (C-NP102)

<sup>92</sup> Interview with a scientist (CNCSN-P23) verified by a scientist (CNCSN-P29), an environmental stakeholder (C-P31), and staff (CCNCSN-P26; NCSN-P30; C-P32; CCNC-P97)



Subsequently, it could be argued that the BRTF exercised strong steering in a more apparent way through the iterative process. It can also be argued that the BRTF exercised a necessary top-down approach to achieve the biodiversity objectives of the MLPA. At this point, it is important to recall that the science guidelines had a significant influence on the MPA configuration (see Section 6.3.1). Furthermore, the stakeholders went through the three rounds of the iterative process (see Section 6.3; Table 6.3), while repeatedly being directed to revise their proposals so as to comply with the science guidelines. Therefore, it follows that the stakeholders ended up with proposals which resembled the Initial Draft Concepts. Unfortunately, it appears that the remarkable resemblance between the Initial Draft Concepts and the outcome of the CCSR MLPA implementation (see Figure 6.2 (a), (b) and Figure 6.3 (a), (b)) convinced the stakeholders that the MLPA Initiative process had a predetermined outcome<sup>93</sup> (see Section 6.2).

It actually appears that many stakeholders perceived the iterative process as a mechanism which significantly constrained the stakeholders' ability to produce their preferred alternatives, as stated by a commercial fisherman:

*It was absolutely not true that stakeholders could design the map. There were four to five stakeholder groups and each one got to design their own maps. We designed our own and we tried to make it workable for everyone. We sent our proposal to BRTF and they said we had to do it again. After third time of doing that, it wasn't your design anymore. If I keep giving back your design and asked to do again, soon it's not your design anymore. It's mine. Our designs were constantly rejected and sent back. So why did they even ask me to design it? They should design it because they weren't going to say yes until*

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<sup>93</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP82; C-P86; C-NP111), a commercial fisherman also owns recreational fishing shop (C-P58; C-NP74; C-NP90), recreational fisherman (C-NP18; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP35; C-NP95; C-NP102), and non-consumptive stakeholders (C-NP11; C-P48; C-NP72).

they liked it<sup>94</sup>.

Meanwhile, it is important to recall that the BRTF was initially installed to bring in the state-wide perspectives (see Section 6.1). Indeed, the BRTF was the advisory body which oversaw the planning effort. One particular staff member, who was deeply involved in structuring the MLPA Initiative, described the BRTF as *the counsel of the wise*<sup>95</sup>.

**Table 6.4 Name of Package and its developer for each round of CCSR MLPA Initiative process**

Round 1		Round 2		Round 3	
Package Name	Developer	Package name	Developer	Package name	Developer
Package 1	Consumptive stakeholders	Package 3	'Splinter group' of stakeholders	Package P (DFG's Preferred Alternative)	DFG modified Package 3R
Package 2	Environmental and non-consumptive stakeholders	Package 2R	BRTF unilaterally modified Package 2	Package 0	Existing MPAs and no-action
Package S	I-Team under the BRTF's direction	Package 3R (BRTF's Preferred Alternative)	BRTF unilaterally merged Package 3 and Package P Further modified by BRTF	N/A	N/A

However the iterative process reveals that the BRTF did not just act as "*the counsel of the wise*". For instance, the BRTF unilaterally directed the I-team to produce a separate package, Package S at the first round (see Section 6.3; Table 6.4). During the second round of the iterative process, the BRTF unilaterally directed to merge Package 3 and S to create Package 3 R, which was further modified by the BRTF (see Section 6.3; Table 6.4). In addition, the BRTF implemented another unilateral modification to Package 2 to create

<sup>94</sup> Interview with a commercial fisherman (C-P42) verified by commercial fishermen (C-P39; NC-P56; C-NP62; C-NP68; C-NP70; C-NP82; C-P86; C-NP88; C-NP111), commercial fisherman also owns recreational fishing shop (C-NP74; C-NP90), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP35; C-NP102), non-consumptive user (C-P48; C-NP72)

<sup>95</sup> Interview with a staff member (C-P32)

Package 2R (see Section 6.3; Table 6.4). It could be argued that the BRTF carried out such modifications so that the stakeholders' proposal could more effectively comply with the science guidelines, thus in turn achieving biodiversity conservation. Nevertheless, it is important to recognise that the BRTF unilaterally modified the stakeholders' proposals based on their judgement in relation to the design principles (Fox et al. 2013a; Kirlin et al. 2013), not the stakeholders' preferences.

Furthermore, at the end of the iterative process, the BRTF picked or produced BRTF's preferred alternatives from amongst the proposals. The BRTF then forwarded stakeholders' proposals along with the BRTF's preferred alternative to the Fish and Game Commission (Kirlin et al. 2013). For the CCSR MLPA Initiative process, the Package 3R became the BRTF's preferred alternative (see Section 6.3; Table 6.4). It had a significant implication that the BRTF unilaterally merged and modified the stakeholders' proposals then picked one of them as BRTF's preferred alternative.

Even a staff member of the MLPA Initiative process, who emphasised that the stakeholders drove the MLPA Initiative process, also acknowledged that:

*The BRTF's recommendations to the Fish and Game Commission were highly valued and weighted heavily. For the most part, the Fish and Game Commission chose the BRTF's preferred alternatives for each region<sup>96</sup>.*

Indeed, it could be considered that the proposals that went forward to the DFG were merged and revised forms of the stakeholders' proposals so were actually as much the BRTF's proposals as they were the stakeholders'. Therefore, it could be argued that the BRTF not only directed the stakeholder process using the strong top-down steering control, but also had a significant

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<sup>96</sup> Interview with a staff member (SN-P107) verified by staff (C-P24; NCSN-P30; CNCSN-P87; C-P120), scientists (CNCSN-P23; CNCSN-P119; NCS-P1024), and environmental stakeholder (CNC-P55)

influence on the outcome of the MLPA implementation process.

Unfortunately, the BRTF's activity had very serious consequences, because many stakeholders perceived the BRTF's activities as strong interference. Indeed, one stakeholder stated that:

*Their [BRTF] role was supposed to be in providing advice to the stakeholder group and helping them develop proposals but what they really became was heavy-handed arbitrator to establish a foregone conclusion<sup>97</sup>.*

More seriously, a number of stakeholders felt that the BRTF took over or steered the process to a predetermined outcome, as pointed out by a certain stakeholder:

*It was probably one of the most disappointing public processes that I've ever seen... At the beginning, we thought it [the BRTF] was purely sort of a policy body that was going to guide us through the law to help us make sure we're meeting the law's objectives and the scientific objectives via the SAT...[But] At every step of the way, BRTF monkey with the map and tweaked the map so they basically created their own set of maps with the stuff that they wanted or thought needed to be on the map. They created what I would call the Frankenstein map out of whatever they wanted to make it out of. Once they started changing everything, it was like, "Why did we bother? Why don't you just create your maps and do what you want to do from the beginning?" It seems like they did what they wanted to do anyway... The BRTF took over the process and did what they wanted to do<sup>98</sup>.*

Regrettably, it appears that the outcome of the CCSR MLPA Initiative process

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<sup>97</sup> Interview with a recreational fisherman (NC-P57) verified by commercial fisherman also owns recreational fishing shop (C-P58)

<sup>98</sup> Interview with a recreational fisherman (C-P75) verified by commercial fishermen (C-P42; NC-P56; C-NP62; C-NP66; C-P86; C-NP88; C-NP111), commercial fisherman also owns recreational fishing shop (C-P58), recreational fisherman (C-NP116), ocean related business owner (C-NP35; C-NP95) and a non-consumptive user (C-P48)

(see Section 6.3; Figure 6.2 (a), (b), Figure 6.3 (a), (b)) was one of the decisive factors which fortified stakeholders' scepticism towards the BRTF as *"heavy-handed arbitrator to establish a foregone conclusion"*<sup>99</sup> while *totally disregarding the will of stakeholders*<sup>100</sup> and *took over the process*<sup>101</sup>.

The stakeholders' suspicion that the BRTF drove the process to a predetermined outcome might be mere speculation, since the BRTF simply executed its duty. Indeed, it was the DFG which was accused of taking over the process, at least for the CCSR MLPA Initiative process. Once the BRTF picked its preferred alternative (Package 3R), the CCSR MLPA Initiative process entered the third round of the iterative process. The third round for the CCSR MLPA Initiative process was very unique because it was the only region where the DFG produced its own preferred alternatives (Package P) (see Section 6.3. and Table 6.4). The critical factor with regard to Package P was that unlike the previous two rounds, the stakeholders did not draw the lines on the Package P (Rabb 2006).

However, it is important to recognise that the DFG developed Package P based on the BRTF's preferred alternatives to Package 3R and based on more than 35 meetings with regional stakeholders and other constituents (Rabb 2006). This indicates that the DFG's preferred alternative (Package P) was not something entirely new, as confirmed by an environment stakeholder:

*Only in Central Coast, DFG came up with its own MPA proposal after the stakeholder process but it was a modification. It wasn't a whole new proposal instead it was a compromise middle ground of three stakeholder proposals with tweak to address their concerns*<sup>102</sup>.

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<sup>99</sup> Interview with a recreational fisherman (NC-P57) verified by non-consumptive user (C-P48)

<sup>100</sup> Interview with a commercial fisherman also owns recreational fishing shop (C-P58) verified by a recreational fisherman (C-P75)

<sup>101</sup> Interview with a recreational fisherman (C-P75) verified by commercial fishermen (C-P39)

<sup>102</sup> Interview with an environment stakeholder (CNC-P55)

Furthermore, it is very important to recall that the MLPA directed the DFG to prepare the master plan based on the best readily available science (see Section 3.4.3). Therefore, it can be considered that *the MLPA Initiative is definitely a DFG process. They are identified as the lead agency in the legislation for developing the master plan and the MPA proposals*<sup>103</sup> (Fox et al. 2013b). Furthermore, under the first MOU, the DFG could “*independently review and make any amendments or modifications to the [BRTF’s] draft documents that it determines appropriate*” (Harty and John, 2006: 25) prior to the Fish and Game Commission’s final decision. Subsequently, it appears that the DFG, which was supposedly the agency in charge, maintained its original role as the MLPA specifies, at least for the CCSR MLPA Initiative process<sup>104</sup>.

Nevertheless, it was heavily criticised as an inappropriate intervention which significantly compromised the stakeholder process (Fox et al. 2013b; Gleason et al. 2010, 2013; Harty and John 2006; Rabb 2006) as alluded to by a consultant:

*On the Central Coast, DFG came up with their own alternative, but they basically did it behind closed doors and from my perspective, it is a breakdown in a whole process*<sup>105</sup>.

It was argued that one of the fundamental requirements of the stakeholder participation was that stakeholders possess the actual ability to influence the decision (Chase et al. 2004; Tippet et al. 2007; Reed et al. 2009). However, the iterative process reveals that there had been strong top-down interference from both the BRTF and the DFG. This has very serious implications because stakeholders did not feel associated with the outcome of the MLPA Initiative process, which was supposedly driven by a stakeholder process. In other words,

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<sup>103</sup> Interview with a staff member (CNCSN-P26) verified by staff (CNC-P97)

<sup>104</sup> Interview with staff (C-P24; CNCSN-P26; CNCSN-P87; CNC-P97; CC-P120), consultants (CNCSN-NP47), commercial fisherman also owns recreational fishing shop (C-P58), recreational fisherman (NC-P57) and scientists (C-P5; NCS-P1024)

<sup>105</sup> Interview with a staff member (C-P32) verified by consultant (CNCSN-NP47), recreational fisherman (C-P16), environmental stakeholder (CNC-P55), staff (CNCSN-P87; SN-P107)

it appears that the way in which the MLPA Initiative process was managed resulted in many stakeholders feeling that it was top-down imposition of MPAs rather than the stakeholder-driven process it was presented as.

At this point, it is important to recognise that another of the fundamental reasons for stakeholder participation is to increase the quality of decisions by incorporating local knowledge (Inners and Booher 2004; Beierle 2002; Daley 2007; Dietz and Stern 2008; Pomeroy and Douvere 2008; Reed 2008; Stringer et al. 2007; Fox et al. 2013a). It was argued that the science guidelines were providing necessary guidance, although the stakeholder process allowed stakeholders to create alternatives based on the local knowledge of the MLPA Initiative process (see Section 6.3.1; Fox et al. 2013a, Gleason et al. 2010; 2013). However, the usage of science guidelines and BRTF's action, such as unilaterally deciding to merge or to modify proposals (see Section 6.3; Table 6.4), had very significant implications.

It could be argued that through the use of science guidelines and an iterative process, the local knowledge was systemically sidelined, either intentionally or unintentionally. For instance, the stakeholders had to develop the proposals based on the science guidelines which were exclusively developed by a small number of scientists. Furthermore, those proposals had to go through an iterative process in order to more effectively comply with the science guidelines. Subsequently, many stakeholders felt that their local knowledge was not adequately reflected or totally ignored, as stated by a stakeholder:

*I think the local knowledge was used for the preferred plan but BRTF disregarded all that information. So local knowledge was used during the process but at the end it was just disregarded<sup>106</sup>.*

Indeed, it appears that staff and scientists generally considered the local

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<sup>106</sup> Commercial fisherman also owns recreational fishing shop (C-P58) verified by commercial fisherman (C-P39; NC-P56) recreational fisherman (C-P75) Non-consumptive user (C-P48)

knowledge, particularly related to the socioeconomic impact, as anecdotal information:

*In terms of socioeconomics, people could argue there should have been socioeconomic impact analysis but the fact of the matter is there's almost nothing in it. They were unable to describe what it was but would continue to bring that up. I think one of the struggles of the MLPA Initiative has been in trying to figure out how to take into account what is clearly and politically very potent concern about socioeconomic impacts without totally undermining the act. I think much of the EcoTrust approach and the analysis of economic impacts is widely overstated. We just don't seem to have the right tool<sup>107</sup>.*

Nevertheless, it appears that the MLPA Initiative tried to take into account the socioeconomic impact by contracting out to EcoTrust. According to EcoTrust's website, EcoTrust used custom-developed a software tool called Open OceanMap to collect socioeconomic impacts. It is claimed that Open OceanMap allows EcoTrust *'to collect and compile ecological and economic data through an intuitive 100-pennies stakeholder interview process'*<sup>108</sup>.

It appears that the intention of the 100-pennies stakeholder interview process was to take socioeconomic impacts into consideration for designing MPA proposals. According to EcoTrust's website, for the 100-pennies stakeholder interview process, *the fishermen were asked to identify areas of economic importance over their cumulative fishing experience, and to rank these areas using a weighted percentage — an imaginary "bag of 100 pennies."* These data are aggregated to protect confidentiality and delivered to the MLPA Initiative Regional Stakeholder Groups, who are then able to consider socioeconomic factors in their marine protected area recommendations<sup>109</sup>.

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<sup>107</sup> Interview with a staff member (C-P32) verified by scientists (CC-P5; CCNCSN-P119), staff (CC-P46)

<sup>108</sup> Ecotrust Website

Available from: <http://www.EcoTrust.org/marineplanning/OpenOceanMap.html>

<sup>109</sup> Ecotrust website



Subsequently, it appears that stakeholders, particularly commercial and recreational fishermen, initially believed that if they identified the important fishing grounds for them, at least those areas would not be designated as State Marine Reserve (SMR), which is a no-take MPA (see Table 3.3). However, it appears that important fishing grounds for the fishermen are also likely the important areas for the biodiversity conservation. Perhaps more importantly, the MLPA specifically states that the socioeconomic impacts are not the main concern for the designating network of MPA (see Section 3.4.3). Therefore, it appears that those important fishing grounds were ultimately designated as SMR, which in turn caused many stakeholders to feel that their local knowledge was used against them, as stated by a particular stakeholder:

*Some of the local knowledge was used against them. For example, initially there were no socioeconomic scientists who would have pointed out the impact of MPAs on the community. So this time, EcoTrust was hired to study socioeconomic impacts and it consisted of supposedly confidentially asking the commercial fishermen. They called it 100 penny exercise because you distribute 100 pennies around in your most valuable fishing areas that are also very important economic areas, on the map. The theory was the socio economic impacts on both fishermen and recreational could be minimised by avoiding economically important areas. But all of a sudden, the groups that wanted heavy, heavy protection could look at those maps and say, let's protect that reef because everyone wants that one because there must be a lot of fish there. That kind of worked against them and it was not used really the way it was supposed to. So local knowledge was kind of got used against them in terms of the coastal communities and the local fishermen<sup>110</sup>.*

It may well be an unfair accusation to say that the EcoTrust's socioeconomic

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Available from: <http://www.EcoTrust.org/mlpa/>

<sup>110</sup> Interview with a recreational fisherman (C-P75) verified by recreational fisherman (NC-P57; C-NP116), commercial fishermen (C-NP62; C-NP66; C-NP111), commercial fisherman also owns recreational fishing shop (C-NP74), ocean related business owner (C-NP95), non-consumptive user (C-NP11; C-P48; C-NP72)

impact research was used intentionally against the stakeholders, because stakeholders' ability to develop the proposals was already constrained by the science guidelines (see Section 6.3.1), as stated by a scientist:

*The local knowledge wasn't integrated very well into the scientific guidelines. I don't think the data collected by the EcoTrust was used to decide to close down anything, I would say the process would have intrinsically tried to avoid the most productive areas. But it is certainly true that many of the most productive fishing areas got closed off because those areas tended to be the rocky reef habitat. So by the nature of scientific guidelines, you had to include those areas every time you built a MPA<sup>111</sup>.*

However, this clearly did not help the stakeholders' perspective towards the MLPA Initiative process. In addition, and somewhat unfortunately, the outcome of the MLPA implementation process (see Section Figure 6.2. (a), (b) and Figure 6.3 (a), (b)) aggravated stakeholders' feeling that the MLPA Initiative process had a predetermined outcome. Ultimately, many stakeholders felt that it was not a meaningful stakeholder participation process<sup>112</sup>. Such prevalent scepticism among stakeholders refuted, head-on, the widely publicised claims that the MLPA Initiative process was a very transparent stakeholder-driven process.

#### **6.4 The Part Two: The Regulatory Process**

As previously mentioned (see Section 6.1), the MLPA Initiative process is only the first half of the MLPA implementation process. Furthermore, it is important to recall that the objective of the MLPA Initiative was to produce a number of recommendations to assist the Fish and Game Commission's regulatory process (see Section 6.1). In other words, the Fish and Game

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<sup>111</sup> Interview with a scientists (NCS-P1024)

<sup>112</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP70; C-NP82; C-P86; C-NP111), recreational commercial fishermen also own recreational fishing shop (C-P58; C-NP74; C-NP90), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP35; C-NP102), and non-consumptive user (C-P48; C-NP72)

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Commission is the ultimate decision maker and implementation body under the MLPA (see Section 3.4.3; Kirlin et al. 2013; Harty and Rabb 2008).

Since the Fish and Game Commission is the ultimate decision maker, technically speaking, it is possible for the Fish and Game Commission to overturn the proposals from the stakeholder process. It was unlikely that the Fish and Game Commission would totally disregard the stakeholders' proposals mainly for political reasons, which will be discussed in the subsequent section. Nevertheless, the Fish and Game Commission clearly possessed the authority to amend the proposal unilaterally.

Actually, once the Fish and Game Commission received Packages 0, 1, 2R, 3R, and P, it developed its initial preferred alternative, known as the Commission's preferred (Harty and John 2006; Rabb 2006). It was the Commission's preferred alternative that was adopted as the network of MPAs in CCSR. The Fish and Game Commission developed the Commission's preferred Package 3R as a basis, with some revisions from the Department's preferred Package P (California Fish and Game Commission initial preferred alternatives for MPAs in the Central Coast)<sup>113</sup>.

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<sup>113</sup> Available from: <http://www.dfg.ca.gov/mlpa/commissiondocs.asp>

**Table 6.5 Recommended Central Coast MPA Packages (Harty and John 2006; Rabb 2006)**

	Number of MPAs	Total Area of MPAs (mi <sup>2</sup> )	Percentage of Study Region (%)	Number of SMR	Areas of SMR(mi <sup>2</sup> )	Percentage of Study Region (%)
Package 0 (Existing MPAs)	13	43.15	3.75	5	7.45	0.65
Package 1 (Consumptive stakeholders' Package)	29	171.33	14.90	21	59.56	5.18
Package 2 R (Based on environmental and non-consumptive stakeholders' Package)	30	221.45	19.26	21	147.68	12.84
Package 3 R (BRTF's Preferred)	31	198.38	17.25	18	110.00	9.56
Package P (DFG's Preferred)	26	208.4	18.1	13	93.3	8.12
Commission's Preferred	29	204	18	13	85.34	7.43

It is worth noting the differences in the total size of SMRs, which are essentially the no-take MPAs (see Table 3.3), because these have the highest level of protection and subsequently the highest socioeconomic impact. In terms of area of the SMRs, the Commission's preferred alternatives almost fall between Package 1 and Package 2R (see Table 6.5). For instance, the Commission's preferred alternatives had significantly larger SMR than Package 1, which was developed by the consumptive stakeholders (see Table 6.4), but significantly less SMA than the Package 2R, which was developed by the environmental and non-consumptive stakeholders (see Table 6.4).

It is no coincidence that the Commission's preferred alternative is somewhere between the consumptive users' proposal and the environmentalists' proposal. As mentioned above, the Commission produced its preferred alternative based on Packages 3R, which was the BRTF's preferred alternative (see Table 6.4) and P, which was the DFG's preferred alternative (see Table 6.4). Package 3R

was the product of a combination between Package 3 and Package S (see Table 6.4). It is worth noting that Package 3 was originally developed by a ‘splinter’ group comprised of stakeholders who regarded themselves neither as consumptive nor non-consumptive users (see Section 6.3 and Table 6.4). On the other hand, Package S was developed by the I-team under the BRTF’s order to produce a package that complied with science guidelines (see Section 6.3; see Table 6.4).

Therefore, on the surface, it can be considered that the MLPA Initiative stakeholder process managed to produce a proposal which reflects cross-sectoral interests, while also achieving biodiversity conservation objectives (Fox et al. 2013b; Sayce et al. 2013), since Package 3R, which was developed by the middle group, was used as a backbone of the Commission’s preferred alternative.

Unfortunately, the story is not that simple. It is very important to recall that it was not the stakeholders who decided to combine Packages 3 and S. It was the BRTF that unilaterally decided to merge Packages 3 and S so as to create Package 3R (see Section 6.3 and Table 6.4). Furthermore, the BRTF carried out further unilateral modification to the Package 3R before choosing it as the BRTF’s preferred alternative (see Section 6.3.3 and Table 6.4). Subsequently, many stakeholders considered Package 3R as resulting from the BRTF’s strong steering and did not see Package 3R as their product (see Section 6.3.3). Furthermore, the DFG’s action to produce Package P, even though it was a minor modification of Package 3R, was heavily criticised as a package which undermined the stakeholders’ efforts and preferences (see 6.3.3). Therefore, as was demonstrated in the previous sections, it appears that many stakeholders did not feel a strong association with either package (see Section 6.3; 6.3.1; 6.3.2).

On the other hand, the regulatory process clearly demonstrated that the BRTF’s preferred alternative (Package 3R) had a significant impact on the

outcome of the process, since the Fish and Game Commission produced its own preferred alternative based on Packages 3R and P. Therefore, paradoxically speaking, Package 3R demonstrates that the BRTF had a significant impact, or at least had significant leverage, on the outcome of the MLPA implementation process. Subsequently, many stakeholders considered the BRTF as a symbol of strong imposition to implement the MLPA. This perspective of stakeholders ultimately led to a situation where many stakeholders thought *the Commission acted as a rubber stamp for whatever the BRTF did*<sup>114</sup>.

However, at the regulatory process, the Fish and Game Commission carried out yet another unilateral modification to the packages which were supposedly produced by the stakeholders. Interestingly, and somewhat ironically, the Fish and Game Commissions' ability to make unilateral modifications was used to eliminate stakeholders' suspicion surrounding the BRTF. Indeed, it was claimed that:

*'The Commission exercised independent decision making regarding MPA designation in each study region. In no incident did the Commission simply approve recommendations of the BRTF (or an alternative package of proposed MPAs from the RSG transmitted by the BRTF), or the recommendations of the CDFG'* (Kirlin et al., 2013: 23).

Although the Commissions' preferred alternative might have proved that it was the Fish and Game Commission which was the ultimate decision maker, it immediately raises another important issue. It is important to acknowledge that many stakeholders already felt no strong association with either Package 3R or P due to the way those packages were developed (see Section 6.3.3). Since the adopted MPAs (the Commissions' preferred alternatives) were the result of

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<sup>114</sup> Interview with a recreational fisherman (NC-P57) verified by commercial fishermen (C-P39; NC-P56; C-NP62; CC-NP88; CC-NP111), commercial fishermen also owns recreational fishing shop (C-P58; C-NP90), recreational fishermen (C-P16; C-P75; C-NP118), ocean related business owner (C-NP102) and a non-consumptive user (C-P48)

another modification by the Fish and Game Commission, it is somewhat understandable that the stakeholders did not feel a strong association with the outcome of the process. Indeed, a scientist who participated in the CCSR MLPA Initiative process, pointed out that:

*When it came out the commission they developed brand new designation that was not part of our process... We never heard anything about [the Fish and Game Commission would develop new designations during the MLPA Initiative process]<sup>115</sup>.*

More significantly, some of those “brand new” MPAs were considered as more politically based decisions rather than scientific decisions, as a recreational stakeholder pointed out:

*There were a couple of marine-protected areas that were eventually adopted that didn't meet any size and spacing guidelines<sup>116</sup>.*

However, once again, it is important to recognise that the Fish and Game Commission is the ultimate decision maker when it comes to the MLPA implementation process. More importantly, the Fish and Game Commissioners are comprised of five political appointees of the Governor (Fox et al. 2013a; Kirlin et al. 2013). Subsequently, it was only natural to assume that the final decision would be political in nature.

Indeed, a member of staff acknowledged that:

*It was a political process. Political in the sense that government exercises the authority in through the MLPA. It's not top-down but it's authoritative<sup>117</sup>.*

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<sup>115</sup> Interview with a scientist (C-P5) verified by commercial fisherman (C-P39), recreational fisherman (C-P75) non-consumptive user (C-P48)

<sup>116</sup> Interview with a recreational fisherman (C-P75) verified by a scientist (C-P5), non-consumptive user (C-P48)

<sup>117</sup> Interview with a staff member (C-P46) verified by a staff member (CNC-P97)

Another staff member also said:

*We cannot pretend this was not a political process. Environmental decision-making is about trade-offs and negotiations<sup>118</sup>.*

However, there is nothing inherently wrong that the regulatory process was a political process, as stated by a consultant:

*Designing an MPA network isn't simply about satisfying science guideline. There are a lot of other things having to do with the trade-offs between different activities. Scientists really have no role in that. Those are policy issues and issues for stakeholders to work out, and there's no real technical answer to them. There's still a lot of grey area and the science in those areas can provide guidance, that's it. It really comes down to conversation and judgment calls and ultimately a decision-maker is weighing evidence and interest and will come out with the decision. It can be a decision that's informed by science but it's not a scientific decision.*

His account is consistent with the argument that the social factors are often considered as major determinants of the success or failure of the MPAs (Kelleher and Recchia 1998; McClanahan 1999; Pollnac et al. 2001; Christie 2004).

On the other hand, it is worth noting that the Commission process was often characterised as highly political with intense lobbying (Harty and John 2006). Subsequently, it could be argued that, ultimately, the MLPA implementation process was a highly political process which involved lobbying from environmentally oriented philanthropic funds such as RLFF. More significantly, it suggests that there is high probability that the external political pressure can influence the implementation process and potentially the outcome of the

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<sup>118</sup> Interview with a staff member (SN-P107)



process. Ultimately, it is one of the fundamental reasons behind the prevalent scepticism amongst stakeholders towards the MLPA implementation process, which will be discussed further in the subsequent section.

#### *6.4.1 Analysis of the Regulatory process*

As has been demonstrated, many stakeholders did not feel a strong association with Package 3R or P. Many stakeholders felt that the participation process was constrained by the science guidelines and the iterative process. Furthermore, Package 3R was modified unilaterally by the BRTF, while the stakeholder did not directly participate in the development of Package P (see Section 6.3 and Table 6.4). Subsequently, it appears that the stakeholders did not feel a strong association with either of the packages (see Section 6.3; 6.3.1; 6.3.2).

In addition, the Fish and Game Commission developed the Commission's preferred choice. Although the Commission's preferred was developed based on Package 3R and P, which were developed in the MLPA Initiative process, the Commission's preferred was perceived as something new by many stakeholders (see Section 6.4). Critically, although the Fish and Game Commission made a decision which was informed by science, it was not a scientific decision. It was closer to a political decision.

Indeed, the highly political nature of the Fish and Game Commission process is more apparent in the subsequent study region. For instance, the Fish and Game Commission reached the unanimous decision with 4-0 votes in the CCSR. However, the votes were split in the North Central Coast (3-2), South Coast (3-2), and North Coast (4-1) (Fox et al. 2013a; Harty and Rabb 2008; Kirlin et al. 2013).

Interviews with stakeholders who were involved in the NCCSR, which was followed by the CCSR, demonstrated the highly political nature of the Fish

and Game Commission process.

*Don Benninghoven was the member of BRTF but it was clear that he was there as a stand for Mike Chrisman. When the North Central Coast proposals went to the Fish and Game Commission, the vote was split into two and two supporting fishermen's proposal and environmentalist's proposal in respect. But then just few days before their decision, Don Benninghoven was appointed and sided with conservation's side<sup>119</sup>.*

This had very serious implications, not only for the NCCSR but also for general perspectives among the stakeholders on the MLPA implementation process. Indeed, Don Benninghoven was originally appointed as a new member of BRTF for the NCCSR (Fox et al. 2013a; Harty and Rabb, 2008). Towards the end of the NCCSR process, Don Benninghoven was appointed as a member of the commissioner by Governor Schwarzenegger to fill the vacancy left by the resignation of the previous commissioner (Harty 2010). The most critical thing was the timing of the appointment. He was appointed as the commissioner on 4<sup>th</sup> of August<sup>120</sup>. The Fish and Game Commission adopted the NCCSR MPAs with a split vote (3-2) on the 7<sup>th</sup> of August (Article by Richard Holland, on August 7<sup>th</sup> 2009). Considering that Don Benninghoven left the Fish and Game Commission in August 2010 as he failed to secure the senate's approval (Harty 2010), it could well be argued that the last minute appointment of Don Benninghoven for the NCCSR regulatory process was a highly political move.

However, Don Benninghoven was not the only one at the centre of controversy. Michael Sutton, who is currently the president of the Fish and Game Commission, was appointed as a commissioner on 4<sup>th</sup> May 2007. Michael Sutton had one particularly significant career prior to being Fish and

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<sup>119</sup> Interview with a recreational fisherman (NC-P57) verified by a commercial fisherman (NC-P56)

<sup>120</sup> CFC Website (<http://californiafisheriescoalition.blogspot.co.uk/2009/08/donald-benninghoven-appointed-to-fish.html>)

Game Commissioner. Indeed, he had been vice-president of the Monterey Bay Aquarium since 2004 (Fish and Game Commission)<sup>121</sup>. This is particularly important because of the very close connection between the Monterey Bay Aquarium and the David and Lucile Packard Foundation. Indeed, according to the David and Lucile Packard Foundation:

*The Monterey Bay Aquarium was a personal gift to the local community by David and Lucile, who gave an estimated \$55 million to help found the institution, which opened in 1984*<sup>122</sup>.

The Aquarium still has a very strong and close relationship with the Packard foundation. For instance, Julie Packard, who is one of the daughters of David and Lucile, is executive director and vice chairman of the Aquarium's Board of Trustees (Monterey Bay Aquarium website)<sup>123</sup>. The critical factor, which also caused the most controversy, is that the Packard and Lucile Foundation is also one of the major funders of the RLFF, which funded the MLPA Initiative process. This does not suggest that Michael Sutton committed any wrongdoing nor does it suggest in any way that he lacks the capabilities to successfully carry out his role as a Fish and Game Commissioner. Nevertheless, it is understandable that many stakeholders viewed his appointment as a conflict of interests<sup>124</sup> (San Diego Union-Tribune, March 14, 2009). Unfortunately, it clearly did not help the prevalent stakeholder suspicion of the PPP, which will be discussed in more detail in a later chapter.

Meanwhile, the appointment of the commissioner clearly demonstrates the highly political nature of the Fish and Game Commission process. It is worth noting that apart from the CCSR, the Commission's vote was very closely

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<sup>121</sup> Available from: <http://www.fgc.ca.gov/public/information/bios.aspx>

<sup>122</sup> David and Lucile Packard Foundation website  
Available from <http://www.packard.org/what-we-fund/foundation-commitments/monterey-bay-aquarium/>

<sup>123</sup> <http://www.montereybayaquarium.org/aa/timelineBrowser.asp?tf=3>

<sup>124</sup> Interview with a staff member (CNC-P97), commercial fishermen (C-P39; C-P42), recreational fisherman (C-NP116), ocean related business owner (C-NP106)

contested in the subsequent study regions. Thus, it was very important to secure sufficient support from the Fish and Game Commission as lack of Commission support could result in the outcome of the stakeholder process being disregarded, or the MPA designation being delayed (Fox et al. 2013a; Harty and Rabb 2008).

At this point, it is worth noting that the Fish and Game Commission is composed of five members who are appointed by the Governor (Fox et al. 2013a; Kirlin et al. 2013). Therefore, it could be argued that *they are appointed for political reasons*<sup>125</sup>. Based on this, one could also contend that the governor, who supported the implementation of the MLPA, would appoint the commissioner who is likely to approve the designation of the MPA. This is exactly what happened in the NCCSR regulatory process. Therefore, it could be considered that the appointment of the commission was a very clear manifestation of strong political will for the successful implementation of the MLPA. This sent a clear signal to stakeholders that the MLPA implementation process, which had already suffered two previous failures, would not be derailed this time. Indeed, as certain scientists remarked:

*The political will of the governor was absolutely crucial because whenever the stakeholder interests like the fishing community went to the Resources Agency to complain about the MLPA and tried to derail the process... the response back to that stakeholder was that the governor supports the process and it will not be derailed*<sup>126</sup>.

Furthermore, it appears that the stakeholders, particularly consumptive users, understood that the Fish and Game Commission is a political process, since

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<sup>125</sup> Interview with a consultant (CNCNS-NP47) verified by a scientist (C-P5), a commercial fisherman (C-NP111), a recreational fisherman (C-NP21), an environmental stakeholder (NC-P108)

<sup>126</sup> Interview with a scientist (CNCSN-P29) verified by a scientist (C-P5; CC-NP15; CNCSN-P23), environmental stakeholder (C-P31; CNC-P55; NC-P108), staff (SN-P107)

they also tried to influence the Commissioner<sup>127</sup>. Subsequently, the appointment of the Commissioner should be considered as a way in which to express the strong political will of Governor Schwarzenegger to implement the MLPA, with a staff member pointing out that:

*The change of commissioners before the final meeting would have happened anyway*<sup>128</sup>.

Indeed, the strong political support was identified as one of the key factors for the successful implementation of the MLPA (Fox et al. 2013a; Kirlin et al. 2013). Moreover, it was argued that the establishment of a strong political will from the very early stage and continued political support represent critical factors for the successful MPA designation (Cicin-sain and Belfiore 2005; Jones et al. 2011).

Therefore, it could be argued that the expression of strong political will through the commissioner appointment only demonstrates a part of the highly political nature of the MLPA implementation process. The important question, and one which could potentially help to understand the root cause of stakeholders' prevalent scepticism towards the MLPA implementation process, is how was the crucial political will generated? At this point, it is worth noting that initially, the Schwarzenegger administration announced the indefinite postponement of the implementation of MLPA until funding could be found to support administration, staffing, and necessary scientific support for the designation process (Mize 2006).

Indeed, the number of staff pointed that political will from the Sectary of the Resources Agency, Mike Chrisman, played a more significant role at the very beginning of the MLPA implementation process. It appears that it was Mike Chrisman who played the critical role in establishing PPP, which was

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<sup>127</sup> Interview with a commercial fishermen (C-P39; C-P59)

<sup>128</sup> Interview with a staff member (CNC-P97)

commonly referred to as the MLPA Initiative. The significant implication of the political will of the Secretary of Resource, as well as the significant implication of PPP and its impact on the stakeholders' perspectives will be discussed in the subsequent chapters.

### 6.5 Concluding remark

As previously mentioned, the MLPA Initiative process was widely publicised as a very successful case of a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010, 2013; Kirlin et al. 2013; Sayce et al. 2013; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012). The term 'stakeholder-driven process' gives the impression that the MLPA Initiative process was bottom-up in nature. The bottom-up process typically describes a process which was operated by community-based self-organised local actors with minimum top-down intervention (Hayes 2004; Hayes and Ostrom 2005; Ostrom and Nagendra 2006; Ostrom 1990, 1998, 1999). However, it can be argued that the term 'stakeholder-driven process' for the MLPA Initiative process has a very different meaning from the conventional meaning of the bottom-up process.

It could be argued that the MLPA Initiative process was closer to a top-down process than a bottom-up process. One of the most immediate examples of the top-down approach was the selection of the study regions for the implementation of the MLPA. For example, as was discussed in Chapter 5, the CCSR was selected as the first study region to carry out the MLPA Initiative process due to its bio-geographic and socioeconomic characteristics (see Section 5.4). Furthermore, it appears that the sequence of the study regions for the MLPA Initiative process was carefully selected as it moved to the North Central Study region to perfect the MLPA Initiative process before it moved on to the relatively more challenging areas<sup>129</sup>. Furthermore, even though there can be hardly any dispute that the CCSR MLPA Initiative

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<sup>129</sup> Interview with staff (C-P32; CNC-P97)

process involved a substantial number of stakeholders, it clearly did not involve community based, self-organised stakeholders, which will be discussed in the next chapter.

More critically, it could be argued that the MLPA Initiative process was not operated with minimum top-down intervention. It could even be argued that the MLPA Initiative process was closer to the relatively strong top-down process than the bottom-up process, in terms of how the MLPA Initiative process was conducted. For instance, the stakeholders had to develop their proposals based on the science guidelines, which were exclusively developed by the scientists (see Section 6.3.1). Although it was argued as a rule of the game, it is arguable that the science guidelines restricted the stakeholder process as the guidelines had a significant impact on the MPA configuration (see Section 6.3.1)

Furthermore, the stakeholders had to go through the iterative process. It appears that the iterative process was recognised as an important mechanism for stakeholder participation because it enables the exchange of different knowledge and perspectives not only between the stakeholders but also between stakeholders and scientists (Reed 2008). It was also argued that the iterative process enables more effective adaptive management, since it allows the stakeholders to reflect on the simulated outcome (Gunderson and Holing 2002; Reed 2008). Indeed, the MLPA Initiative process carried out “collaborative participation”, which enables the co-evolvement of policies, interests and the public through multidimensional dialogue (Sayce et al. 2013). Subsequently, it is only natural that the iterative process was adopted as a key feature for the MLPA Initiative process.

Nevertheless, it may be necessary to pay attention to the way in which knowledge and perspective exchanges occurred between stakeholders and scientists in the MLPA Initiative process. It is important to acknowledge that the stakeholders had to develop the proposals based on the science guidelines,

which were exclusively developed by the scientists and also restricted the MPA configurations. Following this, the SAT then evaluated the stakeholders' proposals. Based on the SAT's evaluation, the BRTF directed the stakeholders to comply with the science guidelines (see Section 6.3.2). Based on this, it could be argued that the knowledge and perspective exchange was closer to a top-down than a bottom-up approach. Furthermore, it could be argued that the iterative process restricted the stakeholders' ability to place the MPAs. Therefore, it is understandable as to why the stakeholders felt that the stakeholder process was very constrained (see Section 6.3.2). Indeed, a scientist who was deeply involved in developing science guidelines and the MLPA Initiative process said:

*The role of bottom-up is very prescribed in the sense that individuals were elected to represent each stakeholder group's interests and then required to sit down and work with one and other to generate the MPAs. That is the real bottom-up component of the process, which otherwise it is quite top-down<sup>130</sup>.*

Therefore, it seems that the MLPA Initiative, even though it was claimed to be a stakeholder process, was, in effect, steered by a relatively strong top-down force.

However, it should not be a subject of criticism that the MLPA Initiative was managed by relatively strong top-down force. On the contrary, certain top-down forces would have been required in order to achieve the biodiversity conservation objectives of the MLPA (Erwin 2003). Indeed, the pre-existing MPAs prior to the MLPA Initiative, which were designated through a bottom-up approach and ultimately failed to function properly, arguably emphasise the importance of top-down forces (see Section 3.2; and 3.3).

Besides, there is no doubt that the MLPA Initiative invested a huge amount of

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<sup>130</sup> Interview with a scientist (CNCSN-P29) verified by a scientist (C-P5; CCNCSN-P119; NCS-P1024), staff (C-P24; C-P120), and commercial fishermen (C-P42; NC-P56)



energy and resources in the stakeholder participation process (Fox et al. 2013b, Gleason et al. 2010; Sayce et al. 2013). Perhaps more critically, it is clear that the stakeholders played key roles in designing the network of MPAs (Fox et al. 2013b, Gleason et al. 2010; Sayce et al. 2013). Thus, one could well contend that the MLPA Initiative process achieved the ‘middle ground’ approach (Jones and Burgess 2005), by combining both a top-down and bottom-up approach. Indeed, the number of participants, including the advocates of the MPAs, acknowledged that *the MLPA initiative is a combination of top-down and bottom-up*<sup>131</sup>.

However, based on the prevalent stakeholder scepticism towards the process (see Section 6.3), it may be premature to claim that the MLPA Initiative process was a stakeholder-driven process through the combination of top-down and bottom-up approaches. It appears that it was the manner in which Packages 3R and P were developed which raised significant scepticism among the stakeholders. Thus, it may be necessary to look back at the key incidents of the MLPA Initiative process.

The most critical incidents can be considered as the creation of Packages S, 2R and 3R as well as the subsequent modifications of those proposals (see Table 6.3). It is particularly significant because of the manner in which those packages were created. As demonstrated earlier, the BRTF ordered the I-team to create Package S. The BRTF then unilaterally directed to merge Package S with Package 3, which was developed by a splinter group of stakeholders, to create Package 3R (see Table 6.3). In addition, the BRTF carried out further unilateral modification not only to Package 3R but also to Package 2 which became Package 2R after the BRTF’s modification (see Figure 6.4 and Table 6.3). At this point, it is important to recall that the stakeholders already felt that their ability to place the MPAs was significantly restricted by the science guidelines and the iterative process which were managed through relatively

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<sup>131</sup> Interview with a staff member (CNCSN-P87) verified by staff (NCSN-P30), environmental stakeholder (NCP-108), and a scientist (CNCSN-P29; CNCSN-P119)

strong steering from the BRTF (see Section 6.3.1; 6.3.2). Based on this, it could be argued that there had been strong top-down steering from the BRTF.

Furthermore, the DFG produced its own preferred alternative Package P (see Table 6.3). Even though the Package P was a minor modification of Package 3R in order to address the DFG's concern, it was heavily criticised for undermining stakeholders' efforts (see Section 6.3.3; Fox et al. 2013b; Gleason et al. 2010, 2013; Harty and John 2006; Rabb 2006; Harty and Rabb 2008). Therefore, it appears that a number of stakeholders did not feel a strong association with Packages 3R and P.

At this point, it is worth noting that even though the DFG carried out over 35 meetings with regional stakeholders and other constituents, the stakeholders did not directly participate in developing Package P (see Section 6.3.2). Consequently, it could be argued that the DFG activity which produced Package P, and which came after the stakeholder participation process, should have produced substantial negative perspectives towards the DFG. Very interestingly, a number of stakeholders, including both consumptive and non-consumptive users, expressed their scepticism towards the BRTF rather than towards the DFG. Indeed, the interviewees who criticised the DFG's role were mainly the external contractors for the MLPA Initiative process or the environmentally-oriented stakeholders. Such polarised perspectives strongly suggest that the stakeholders perceive the DFG, which represents the State, more favourably than the BRTF, which was comprised of private citizens (see Section 6.3.2). More detailed stakeholder perspectives on the role of BRTF and DFG will be presented in the next chapter.

As mentioned, the MLPA Initiative process was only the first half of the MLPA implementation process. The MLPA Initiative process, with the objective of producing a number of recommendations for the Fish and Game Commission process, was completed as the DFG forwarded Packages 0, 1, 2R, 3R and P to the Fish and Game Commission (see Figure 6.4 and Table 6.3).

More critically, the Fish and Game Commission is the ultimate decision maker for the MLPA implementation. This means that the Commission reserves the right to change things and come up with their own ideas at any point since they could disregard the outcome of the stakeholder process (Fox et al. 2013a). Therefore, technically speaking, it is even possible for the Fish and Game Commission to come up with a proposal which is totally different from the MLPA Initiative process and adopt it as the new MPA network. Indeed, the Fish and Game Commission did develop its own preferred alternative based on Packages 3R and P (see Section 6.4).

Since the stakeholders already felt no strong association with either Package 3R or P, it follows that the stakeholders did not feel a strong association with the outcome of the process. Such feelings ultimately led to a situation where the stakeholders did not think they had any actual ability to influence the outcome of the process. Indeed, it was argued that one of the fundamental requirements of the stakeholder participation is that the stakeholders must have the actual ability to influence the decision (Chase et al. 2004; Tippet et al. 2007; Reed et al. 2009).

As a result, many stakeholders felt that it was not a meaningful participation process at all, thus confronting the widely publicised claim head-on. Unfortunately, the outcome of the process, which ended with bigger and more MPAs than the Initial Draft Concepts, but with remarkable resemblance in terms of the location of the MPAs (see Figure 6.2 (a), (b) and Figure 6.3 (a), (b); Section 6.3), was the final nail in the coffin. An interview with a non-consumptive user, who had worked as a civil servant for a long time, revealed the many stakeholder perspectives fairly well:

*As soon as the process is finished, the I-team and BRTF claimed that they had wonderful bottom-up approach with stakeholders and came up with this wonderful system. But most of stakeholder felt really bitter. I don't think the process was great, a lot of us thought it was really dirty and dismissed us as*

*sore losers. It was so dirty; it made me lose faith in the government. I feel like they used us and continue to use us because they are saying they had all those stakeholders input throughout the process. It is true we came up with MPAs, but BRTF took the environmentalists' alternative and made it even more restrictive. So they can say they had stakeholder's input but they totally ignored it and disregarded it. They got what they wanted and they can say now that we participated in the process<sup>132</sup>.*

At this point, it is very important to recognise that the MLPA specifically directed that the process “*re-examine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's marine life, habitat, and ecosystems*” based on the “*best readily available science*” (see Section 3.4.3; The MLPA Fish and Game Code Section 2853). Indeed, it is clearly demonstrated from MPAs prior to the MLPA implementation, that stakeholders' ability to influence the decision can potentially result in the undermining of biodiversity conservation objectives (see Section 6.2). Since, the MLPA Initiative involved a substantial level of stakeholder participation, it was absolutely necessary to have certain restrictions in order to fulfil the requirements of the law (see Section 6.3.1; 6.3.2). Besides, the combination of top-down and bottom-up approaches is recognised as a critical factor for the successful designation of MPAs (Jones and Burgess 2005; Jones et al. 2011), though it would seem that the MLPA process had particularly strong top-down elements.

At the same time, it is critical to acknowledge that the stakeholders must have an ability to influence the outcome in order to achieve meaningful stakeholder participation (Chase et al. 2004; Tippet et al. 2007; Reed et al. 2009). Thus, whether or not the designation of MPA process was achieved on the ‘middle

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<sup>132</sup> Interview with a non-consumptive user (C-P48) verified by commercial fisherman (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP70; C-NP82; C-P86; C-NP88; C-NP111), commercial fishermen also own recreational fishing shop (C-P58; C-NP90), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116) ocean related business owner (C-NP35; C-NP95; C-NP102) and non-consumptive users (C-NP72)

ground' is no longer a question because it is the basic requirement for the successful designation of the MPA (Jones and Burgess, 2005). Besides, even though the Commission did develop its own proposal, the outcome of the process was based on the minor alteration of Packages 3R and P (see Section 6.4). Subsequently, it could be argued the stakeholders' opinions were reflected substantially in the outcome of the MLPA implementation process, since Packages 3R and P were supposedly developed through the stakeholder process. Therefore, the prevalent stakeholder scepticism, namely that the MLPA implementation process had a predetermined outcome, might be an unfair accusation. The real question should be whether it was the right balance between top-down and bottom-up (Cicin-sain and Belfiore, 2005; Jones et al. 2011).

Meanwhile, in order to truly understand the root cause of prevalent stakeholders' scepticism it is also important to recognise that the implementation of the MLPA process was essentially a political process (see Section 6.4.1). An interview with a member of staff, who was one of the central figures for the CCSR and NCCSR MLPA Initiative process, provided an insight into the political nature of the MLPA implementation process as he said:

*It's very difficult to make the stakeholders understand what their role is and they don't make the decision at the end. When they don't understand that, they feel disenfranchised. Everybody understood that the Fish and Game Commission would make the final decision and make the regulations. But people didn't understand that the steps would be stakeholder group, taskforce, DFG then commission... If they felt like their input had been ignored and/or they didn't get their favourite map, the process didn't work out for them. In the Central Coast, it [Package P] even had things that were more favourable to fishermen, but Fish and Game Commission didn't accept it. So in the end, regardless of who's controlling the process, it's a political process. Somebody is going to*

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*make a decision and not everybody's going to be happy*<sup>133</sup>.

Indeed, it appears that the MLPA implementation process was a political battleground between the environmental groups and the local community. It also appears that the stakeholder scepticism regarding the MLPA implementation has its root in the PPP. More specifically, there are close connections between key members, who had significant leverage on the outcome of the MLPA, and the RLFF, which funded the process. Indeed, as stated by one scientist:

*The connections between people, who are running the process, are not immediately associated necessarily with funders under this arena but they are actually. If you really look at it, there are close connections to people who were very important in this process who are also part of functioning. They were very involved and directed. It was not just about the money. In the actual play out of creating the master plan, which defines how this process would happen. For instance the person who designed the MLPA Initiative process structure was centrally connected to RLFF*<sup>134</sup>.

The significant implication of the PPP and its impact on the stakeholders' perspectives will be discussed in the subsequent chapter.

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<sup>133</sup> Interview with a staff member (CNC-P97)

<sup>134</sup> Interview with a scientist (C-P5)

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## **Chapter 7: The Public-Private Partnership of the MLPA**

### **Implementation process**

#### **Overview**

As demonstrated in Chapter 6, the MLPA implementation process, which also includes the MLPA Initiative, involved an unprecedented level of stakeholder participation. Subsequently, it is understandable that the MLPA implementation process, particularly the MLPA Initiative process, has been publicised as a science-based stakeholder-driven process.

However, the analysis of the process revealed that the MLPA implementation process was managed using a process which was more top-down in nature than bottom-up. For instance, the MLPA Initiative process was installed with several top-down steering mechanisms, such as usage of science guidelines and iteration of the stakeholder process, involving the key top-down role of the BRTF, SAT and the DFG. More critically, the stakeholders' proposals were unilaterally processed by the BRTF and the DFG throughout the MLPA Initiative process.

When the MLPA implementation process reached its critical point, which is the Fish and Game Commission's regulatory process, the stakeholders' proposals were once again unilaterally modified by the Fish and Game Commission. Unfortunately, such a series of modifications caused the stakeholders to feel dissociated from the proposals. Ultimately, such dissociation and the subsequent outcome of the implementation process, which resembles the Initial Draft Concepts (see Figure 6.2 (a), (b) and 6.3 (a), (b)), raised prevalent scepticism among many stakeholders, who felt that the process already had a predetermined outcome.

However, stakeholders' accusations that the implementation process had a predetermined outcome may well be unfair, as it is absolutely necessary to

have certain top-down elements to achieve the biodiversity conservation objectives. Furthermore, it is vitally important to recognise that the ultimate decision makers were the Fish and Game Commission, not the stakeholders.

Actually, it could be argued that a combination of the stakeholders' deep-rooted mistrust towards the PPP with the relatively strong top-down steering of the MLPA implementation process was the root cause of the prevalent stakeholder scepticism. In this chapter, the significant implication of the PPP for the MLPA implementation process, and particularly the MLPA Initiative process, will be explored.



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### 7.1. Road to the MLPA Initiative process: The Public-Private Partnership

As has been demonstrated, the first attempt to implement the MLPA (the MLPA 1) suffered from serious opposition of stakeholders which resulted from a lack of stakeholder participation (see Section 3.5.2 and 5.1). At the same time, it is also very important to recognise that the DFG was solely in charge of the implementation of the MLPA across the entire coastline of California. Unfortunately, since the MLPA was not allocated specific funding (see Section 3.4.3), the DFG was not able to secure sufficient resources to implement the law. Therefore, it can be argued that the DFG was not in the position to effectively execute a state-wide stakeholder participation process.

The importance of securing adequate resources to implement the MLPA was re-emphasised through the MLPA 2. It appears that the DFG learnt from the MLPA 1, and thus in an attempt to overcome the shortcomings of the MLPA 1, the MLPA 2 adopted stakeholder participation from the very beginning of the implementation process (see Section 3.5.3). Unfortunately, as was discussed previously, due to a lack of funding, the MLPA 2 suffered yet another failure (see Section 3.5.3 and 5.1). Therefore, it can be argued that a lack of adequate resources with which to carry out successful implementation was one of the main reasons for the failure of MLPA 1 and 2. Subsequently, the DFG's attempt to implement the MLPA suffered two major failures in 2003.

To make the matter worse, the state of California was in disequilibrium in 2003 as the state not only suffered from a fiscal crisis (DeMaio et al. 2003) but also a political crisis. Governor Gray Davis was recalled in October 2003 and Arnold Schwarzenegger took over office in November 2003 (Harty and John 2006). Under the circumstances, it might not be a surprise that the Schwarzenegger administration made a decision to postpone the implementation of the MLPA until a sufficient amount of funding could be secured<sup>135</sup> (Mize

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<sup>135</sup> Interview with a staff member (CCNC-P97)

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2006).

Based on this, even though the actual CCSR MLPA Initiative process was launched from 2005 (Kirlin et al. 2013; Gleason et al. 2013; see Figure 4.1), it could be argued that the starting point of the process may have been early in 2004 when the RLFF, the Resources Agency, and the DFG started to negotiate for the PPP (Fox et al. 2013a; Gleason et al. 2013; Kirlin et al. 2013). After six months of intense negotiations, the RLFF, the Resources Agency, and the DFG agreed the Memorandum of Understanding (MOU) (Harty and John 2006).

It took over seven years to complete the MLPA Initiative process for the entire coastline of California. Subsequently, the most obvious implication of the MOU was that the state of California could secure a sufficient amount of funding through the PPP. Indeed, the RLFF, which was the private part of the PPP, provided approximately \$19.5 million while the state spent around \$18.5 million (Kirlin et al. 2013; Gleason et al. 2013). It was particularly important to acquire the necessary funding from RLFF through the PPP because the state of California suffered yet another fiscal crisis in 2009 (Fox et al. 2013a). This additional fiscal crisis emphasised the importance of securing a PPP for the successful implementation of the MLPA.

As mentioned above, the major contributing factor to the failure of the MLPA 1 and 2 was the unsuccessful stakeholder participation process due to a limitation of available resources. The PPP resolved the problem by providing sufficient funding to carry out an unprecedented level of stakeholder participation. Therefore, there can be hardly any dispute that securing adequate funding through the PPP was one of the most important factors leading to the successful implementation of the MLPA (Fox et al. 2013a; Gleason et al. 2013).

For instance, Fox (Fox et al. 2013a) identified the factors which led to the success of the MLPA Initiative in terms of six ‘enabling conditions’, namely:

- Strong legal mandate
- Political support and leadership
- Adequate funding
- Aggressive timeline with firm deadlines
- Engaging civil society
- Effective and transparent process design

Among these ‘six enabling conditions’ (Fox et al. 2013a), the term ‘Adequate funding’ can be explained in terms of the PPP. Perhaps more interestingly, it could be argued that the remaining enabling conditions, with the exception of ‘strong legal mandate’ were either created or related to the term ‘Adequate Funding’.

For example, the ‘engaging civil society’, which can be explained in terms of stakeholder participation, was only possible because of the adequate funding, which became available through the PPP. ‘Aggressive timeline with firm deadlines’ and ‘effective and transparent process design’ were the terms of the MOU, which was the result of the PPP. Furthermore, it appears that ‘political support and the leadership’ came after the PPP, as the Schwarzenegger administration, which was considered a strong supporter of the MLPA implementation, initially postponed the implementation of the MLPA (Mize 2006). Furthermore, it could be argued that most of the enabling conditions were established either through or by the PPP.

Meanwhile, it is worth noting that the ‘political support and the leadership’ from the Secretary of Resources Agency was also the biggest contributing factor for attaining the PPP, as will be discussed later. Therefore, one could contend that the strong political will of the Secretary of Resources Agency at the beginning played a critical role in launching the MLPA Initiative.

Following this, the strong political will from the Governor throughout the process also played a critical role in the completion of the MLPA implementation process. Indeed, this coincides with the finding of Jones et al. (2011), namely that it is important to establish the strong political will from the beginning and maintain it throughout in order to achieve successful MPA designation (Jones et al. 2011).

At the same time, it is important to recognise the nature of the RLFF, which was the private part of the PPP, since it can be considered as a pool of environmentally oriented philanthropic foundations, particularly the Packard Foundation. Indeed, it was this inherent attribute of the RLFF which roused the stakeholders' antipathy towards the PPP<sup>136</sup>. The significant implication of the RLFF will be discussed in more detail in the next chapter.

Nevertheless, there can be hardly any dispute that the PPP was one of the most critical factors leading to the successful implementation of the MLPA. Indeed, number of participants, particularly those who are mainly staff, scientists, or the environmentally-oriented stakeholders, pointed out that the PPP was the most important factor leading to the successful implementation of the MLPA<sup>137</sup>, with a member of staff stating that:

*Stakeholder participation process was extremely expensive and there was no way that the state had that kind of money to fund<sup>138</sup>.*

For instance, although it was not applied to the CCSR MLPA Initiative

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<sup>136</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP70; C-NP82; C-P86; C-NP88; C-NP111; commercial fishermen also own recreational fishing shop (C-P58; C-NP74; C-NP90; C-NP102), a CPFV skipper (C-NP34), recreational fishermen (C-NP21; NC-P57; CC-P75; C-NP116), ocean related business owner (C-NP35; C-NP95; C-NP102) and non-consumptive users (C-P48; C-NP72) a scientists (NCS-P1024).

<sup>137</sup> Interview with a scientist (CNCSN-P119) verified by interview with environmentally oriented stakeholders (C-P16; C-P31; CNC-P55; NC-P108), staff (C-P24; CNCSN-P26; NCSN-P30; C-P32; CNC-P97; SN-P107), scientists (C-NP15; CNCSN-P29) and consultants (CNCSN-NP47).

<sup>138</sup> Interview with a staff member (NCSN-P30) verified by a staff member (CNCSN-P26), environmental stakeholders (C-P55; NC-P108) and scientist (CNCSN-P29)

process, a revolutionary new Geographic Information System (GIS) called MarineMap was developed and applied for the South Coast Study Region (SCSR) MLPA Initiative process (Merrifield et al. 2013). However, it appears that the development and operation of MarineMap was not cheap. Indeed, it cost approximately \$300,000 to develop the MarineMap alone (McClintock 2009), while it cost between \$250,000 to \$700,000 per study region for software development, data-base maintenance, and cartography (Merrifield et al. 2013). Subsequently, it could be argued that it was only possible to develop and operate the MarineMap because of the PPP (Merrifield et al. 2013). Indeed, one staff member stated that;

*The development and initial operation of it cost maybe million dollars. So it was a very significant investment in making sure that stakeholders and scientists had tools for designing and evaluating marine-protected areas. That would have never happened in state government<sup>139</sup>.*

Therefore, the advocates of MPAs claimed that *what the money bought was meaningful stakeholder participation process<sup>140</sup>.*

However, as mentioned earlier, *it was not just about the money<sup>141</sup>* (see Section 6.5). Indeed, apart from providing the adequate funding for the process, there were a few significant underlying implications of the PPP. Those implications not only contributed to the successful implementation of the MLPA but also caused the controversy. Those significant underlying implications of the PPP will be discussed in the subsequent sections.

## **7.2 Implication of the PPP: Location and Timeline**

It is important to recognise that the PPP not only provided resources to carry

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<sup>139</sup> Interview with a staff member (C-P32)

<sup>140</sup> Interview with an environmental stakeholder (C-P55)

<sup>141</sup> Interview with a scientist (C-P5)

out the stakeholder participation process. Indeed, it appears that the PPP also provided critical frameworks for the MLPA Initiative process through the MOU.

Firstly, the MOU divided the entire California Coast into four study regions, namely the Central, the North Central, the South and the North Coast Study Regions (Kirlin et al. 2012; Fox et al. 2012a). Following this, the MOU stipulated a specific timeline for the completion of the state-wide MLPA Initiative process by 2011 (Fox et al. 2012a). This indicates that the MOU, which was signed for the first time in 2004, estimated that it would take at least seven years to complete the process even with the adequate resources.

At this point, it is worth recalling that the legislatures did set the deadline for the implementation of the MLPA. Although the deadline was extended to 1<sup>st</sup> December 2005, the initial deadline, which was set by the legislature, was 1<sup>st</sup> July 2002 (Fox et al. 2013a). However, the legislature did not allocate specific funding for the MLPA (see Section 3.4.3). Since, the MLPA became law in 1999 (see Section 3.4.3), it could be argued that the legislature's expectation to complete the implementation of the MLPA across the entire coastline in California within three years with very limited resources, was unrealistic. This situation can serve as a good explanation of the reasons behind the DFG's top-down approach to implement the MLPA prior to the MLPA Initiative (see Section 3.5.2).

The concept of setting up a specific deadline is not something new, since deadlines are widely used to drive negotiations (Carnevale et al. 1993). It appears that the strictly applied deadline was one of the critical factors which encouraged stakeholder participation, as stated by an environmental stakeholder:

*At first a lot of people were still trying to derail the whole process, but once everybody accepted the process was a done deal and it's going to happen, then the participation process got a lot smoother. So the point when stakeholders*

*realised this was going to happen with them or without them, they become cooperative<sup>142</sup>.*

Subsequently, it is clear that setting up the ‘aggressive timeline with firm deadlines’ was one of the important enabling conditions (Fox et al. 2013a).

On the other hand, it is very important to recognise that even though the MOU stipulated the deadline for the completion of the process, specifically 2011, the first MOU only guaranteed the funding until the end of 2006. In other words, the RLFF only guaranteed to provide funding for the MLPA Initiative for the CCSR initially. Indeed, the second MOU that affirmed the continuous funding through 2011 was signed only after the success of the CCSR MLPA Initiative process (see Section 5.1; Kirlin et al. 2013).

This reveals the important implication of using private money to implement a public policy. Indeed, one staff member, who was deeply involved with developing the MLPA Initiative process structure said:

*Since it was the private sector through the philanthropic foundations and the resources legacy fund foundation [RLFF] were going to be providing significant funding to make this process work, they needed to have an assurance that a process was going to produce something on time but the products and the timeline were really quite general though. So it was a hard deadline and it was a very clear target but it was at a very general level and it left all the details regarding specifics of a Marine Protected Area network<sup>143</sup>.*

This clearly indicates that the private part was not likely to fund the process continuously if the CCSR MLPA Initiative had not been completed by the end

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<sup>142</sup> Interview with environmental stakeholder (C-P31) verified by commercial fishermen (C-NP62; C-NP66), commercial fishermen also own recreational fishing shop (C-P58; C-NP90), recreational fishermen (C-P16; C-NP18), environmental stakeholders (CNC-P55; NC-P108), staff (C-P24; NCSN-P30; C-P32; C-P46; CNCSN-P87; SN-P107; C-P120) and scientists (C-P5; CNCSN-P23; CNCSN-P29)

<sup>143</sup> Interview with a staff member (C-P32)

of 2006. Subsequently, it could be argued that the staff of the MLPA Initiative process tried to meet the timelines and deadlines more aggressively and firmly (Fox et al. 2013a). Indeed, it appears that setting up the clear deadline and, more importantly, meeting that deadline, were the key factors which drove the participation process forward. More importantly, it could be argued that the strict deadline was applied because the private funding demanded it. At the same time, this confirms that the MLPA Initiative process was managed through relatively strong top-down steering (see Chapter 6).

Completing the CCSR MLPA Initiative on time also had a profound impact on the subsequent study regions as stated by a member of staff:

*The fact that we were successful and we completed process was a huge statement about the political will behind this. That was a big motivator in the next study region for people to actively participate<sup>144</sup>*

Indeed, Scholz et al. (2004) found that when fishermen acknowledged that new marine reserves were likely to be implemented under the MLPA, they were willing to engage in discussion regarding the MPA designation despite their opposition (Scholz et al. 2004). Based on this, it could be argued that the success of the CCSR MLPA Initiative process was critical not only in terms of ensuring the continuous PPP (see Section 5.1) but also to encourage the stakeholders in the subsequent study regions to cooperate with the MLPA implementation process, regardless of whether or not they were in favour of MPAs.

Therefore, it could be argued that it was vitally important to successfully complete the CCSR MLPA implementation process on time. Subsequently, the CCSR was selected very deliberately as the first pilot study region because of its bio-geographic and, particularly, socioeconomic characteristics (see Section

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<sup>144</sup> Interview with a staff member (CNCSN-P26)



5.4). Such strategic selection of CCSR as the first study region clearly indicates that the MLPA implementation definitely connoted relatively strong top-down steering.

Unfortunately, as was discussed in the Chapter 5, this resulted in dissatisfaction among the many stakeholders in the CCSR. They believed that the CCSR was selected as the first region to implement the MLPA because they possess relatively low political clout (see Section 5.4). As a result, there were widespread feelings of injustice among the stakeholders and such feelings could have contributed to an escalation of the sceptical perspectives on the PPP and the MLPA Initiative process.

However, as was discussed previously, there is nothing wrong with applying certain top-down steering. On the contrary, it is critical to install certain top-down forces to successfully manage the stakeholder participation process (see Chapter 6; Jones and Burgess 2005; Jones et al. 2011). The critical question is how those top-down forces were applied and by whom. Exploring those questions could help to understand the root cause of the stakeholders' scepticism regarding the MLPA implementation process. Indeed, it appears that for the MLPA Initiative process, it was the BRTF and the I-team that applied the top-down steering. A more detailed analysis of the BRTF and the I-team will be conducted in the subsequent section.

### **7.3 Implication of the PPP: Structure of the MLPA Initiative process**

Apart from setting the specific time line and dividing the California coastlines into the four study regions (see Figure 4.1), the MOU provided the foundation from which to design the MLPA Initiative process structure. It specifically requested the creation of key components such as the BRTF, the I-team, and the Regional Stakeholder Group (RSG) (Kirlin et al. 2013; Fox et al. 2013a). Based on the MOU, the Resources Law Group (RLG) designed the structure

of the MLPA Initiative process<sup>145</sup> (Harty and Rabb 2008; Rabb 2006; see Figure 7.1).

The fact that the RLG designed the MLPA Initiative process has very significant implications because of its close political relationship with highly significant political figures. For example, it is widely acknowledged that Michael Mantell, a former Resources Agency Undersecretary who now works for the RLG, played a major role in the accomplishment of PPP (Harty and Raab 2008). Furthermore, Michael Mantell is also on the Board of Trustees for the Monterey Bay Aquarium<sup>146</sup>, which is run by the Packard Foundation<sup>147</sup>. It is very important to recall that Michael Sutton, who is the president of the Fish and Game Commission, is also a Board of Trustees member of the Monterey Bay Aquarium (see Section 6.4.1).

In addition, it is important to recall that the Secretary of Resources, Mike Chrisman, who was deeply involved with the Channel Island case, also played a major role in establishing the PPP (see Section 7.1; Harty and John 2006). In actual fact, the Schwarzenegger administration initially postponed the implementation of the MLPA due to the fiscal crisis (see Section 7.1; Mize, 2006). Therefore, it appears that the Secretary of Resource's political action played a critical role in the initiation of the MLPA implementation.

Indeed, as stated by a staff member who played a critical role in developing the MLPA Initiative process:

*Mike Chrisman, who was the secretary of Resources Agency was very supportive. He had been the president of the Fish and Game Commission when the Fish and Game Commission was considering the Channel Islands. Soon*

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<sup>145</sup> Interview with a staff member (C-P32) and a scientist (CC-P5)

<sup>146</sup> <http://www.montereybayaquarium.org/aa/trustees.aspx>

<sup>147</sup> David and Lucile Packard Foundation website  
Available from <http://www.packard.org/what-we-fund/foundation-commitments/monterey-bay-aquarium/>

*after Mike Chrisman had been appointed, I went over and visited with him and asked him, “So what are your priorities?” And he said, “Well, oceans are one of my top three priorities.” And that included fisheries, the MLPA and a couple of other things. So he was very much on board and he had a great interest in marine protected areas. He wanted to see them done right and he had become really a champion of ocean conservation<sup>148</sup>.*

It appears that it was Mike Chrisman who made possible the PPP among the Resources Agency, the DFG, and the RLFF (see Section 7.1; Harty and John 2006). Mike Chrisman’s personal interest in the ocean environment as well as his political will to successfully implement the MLPA has potentially had a very significant implication. Indeed, as stated by a number of scientists:

*All of the SAT members, all of the Regional Stakeholder Group representatives and the BRTF members were all nominated to the Resources Agency and the secretary of the Resources Agency received those nominations. Then he and his staff decided who would constitute each of those different groups<sup>149</sup>.*

This indicates that the Secretary of Resources, who has strong political will in support of MPAs, can appoint people in the key positions. Therefore, it could be argued that the MLPA implementation process was destined to be a top-down process from the very beginning. The significant implication of appointing personnel in the key positions will be explored throughout the chapter.

Furthermore, since Michael Mantell was the former Resources Agency Undersecretary, it could be contended that there may be a strong bond of sympathy between Michael Mantell, who ultimately represents the private part, and Mike Chrisman, who was the highly significant political figure, with

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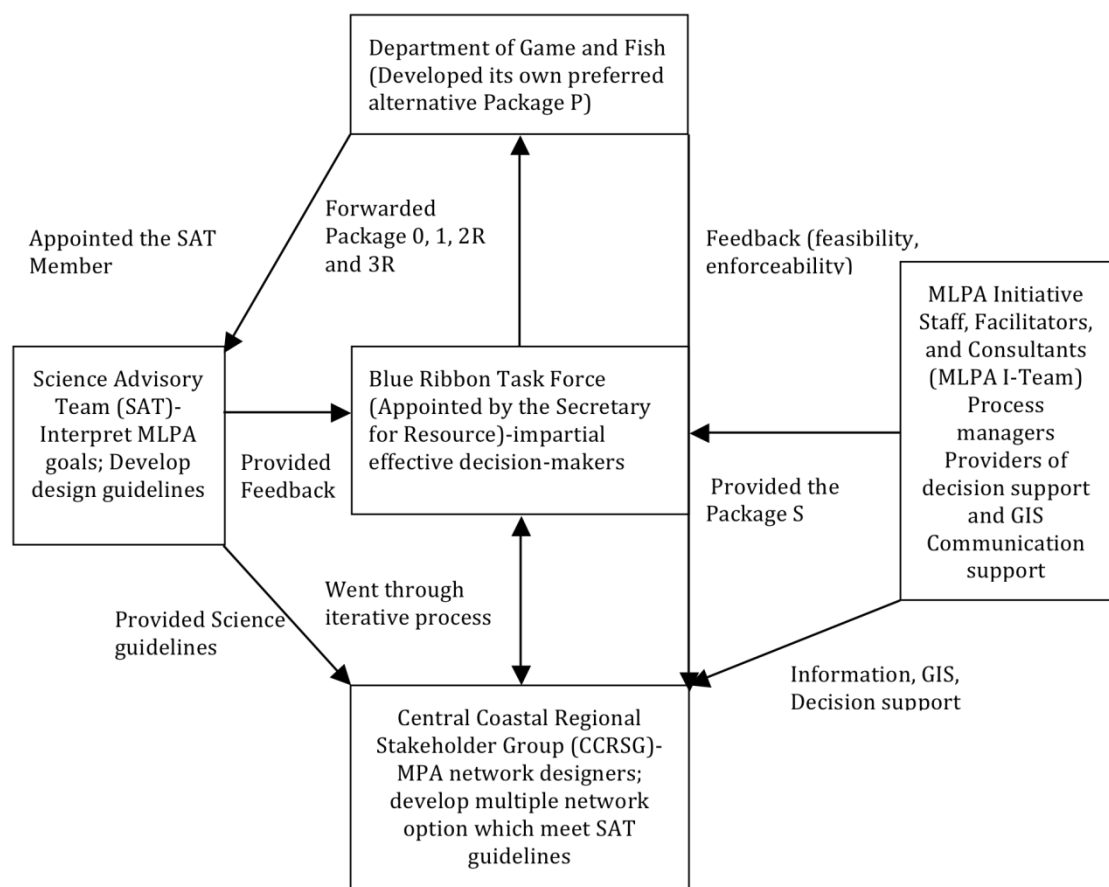
<sup>148</sup> Interview with a staff member (C-P32) verified by a scientist (CNCSN-P29), staff (CNCSN-P26; CNC-P97), a consultant (CNCSN-NP47)

<sup>149</sup> Interview with a scientist (CNCSN-P29)

regards how to implement the MLPA.

Such a strong bond of sympathy between Michael Mentall and Mike Chrisman has another significant implication, as it would be hard to deny that the RLFF, with the Packard Foundation representing one of its major funders, has very strong connections with the highest level of political figures.

Furthermore, since the RLG, which works for the RLFF, designed the structure of the MLPA Initiative process (see Figure 7.1), it can be argued that the key personnel in the MLPA Initiative process also have certain political connections with the RLFF; something which will be discussed in the subsequent sections.



**Figure 7.1 The CCSR MLPA Initiative process structure Based on Rabb 2006:16)**

At the same time, it is worth noting that the flow chart (see Figure 7.1) is

only applicable to the CCSR, as a few changes occurred in the subsequent study regions. For example, after the CCSR, the DFG and the I-team did not produce their own preferred alternatives (Fox et al. 2013b; Gleason et al. 2010). Nevertheless, the core components of the MLPA Initiative and their roles remained almost identical throughout the entire implementation process (Fox et al. 2013b).

### 7.3.1 *The Blue Ribbon Task Force (BRTF)*

It appears that the BRTF carried out several important roles, which contributed significantly to the success of the MLPA Initiative process. Furthermore, the BRTF was particularly considered as a critical and innovative component of the MLPA Initiative process (Harty and John 2006; Kirlin et al. 2013). At the same time, it is important to recognise that the MLPA does not direct to establish the BRTF. Indeed, the creation of the BRTF was the result of the MOU. Subsequently, eight private citizens who were experienced in the public policy arena were appointed as the BRTF for the CCSR MLPA Initiative process (Harty and John 2006). The numbers of the BRTF members were slightly varied across different regions (Kirlin et al. 2013) although the BRTF occupied similar roles throughout the MLPA Initiative process.

Firstly, the BRTF was granted the authority to appoint the two core components of the MLPA Initiative process. *The Chair of BRTF appointed the executive director of the I-team*<sup>150</sup> since *the BRTF had the authority to hire staff using the private funding*<sup>151</sup>. The I-team can be considered as the engine of the MLPA Initiative process (Rabb, 2006). Furthermore, the BRTF share the authority with the DFG when it comes to the appointment of the RSG members (Fox et al. 2012b; Kirlin et al. 2012; Rabb 2006). Based on this, it could be considered that the BRTF, which consisted of private citizens, shared responsibility with the Director of the DFG, who was a government officer.

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<sup>150</sup> Interview with a staff member (C-P46) verified a scientist (CNCSN-P29) with the BRTF Charter available at [http://www.dfg.ca.gov/mlpa/btrf\\_phase1.asp#charter](http://www.dfg.ca.gov/mlpa/btrf_phase1.asp#charter)

<sup>151</sup> Interview with a staff member (CNCSN-P26)

Secondly, the BRTF figured out political issues which were not anticipated but arose during the implementation process through its interpretation of the MLPA (Saarman et al. 2013)<sup>152</sup>. Indeed, it could be argued that the way in which the MLPA is interpreted has significant implications. For instance, it is important to recall that the MLPA clearly states *the best readily available science be used in the redesign process* (the MLPA; see Section 3.4.3). However, it is also important to recognise that there are very different opinions regarding what constitutes the best readily available science, even among the scientific community (see Section 3.4.3; Jones 2001, 2007). Furthermore, scientific knowledge relating to marine ecology is limited due to several challenges presented by the marine environment (Jones 2001). Therefore, it is possible that the best readily available science may not be able to provide definite answers (McClanahan 1999; Roberts 2000; Mascia 2000).

Nevertheless, active participation of scientists in the environmental policy debates is increasingly promoted in order to provide their expert views, especially when decision stakes and uncertainty are high (Lubchenco 1998; Ravetz 1999; Myers 1999; Suzuki 2003). On the other hand, it is important to recognise that the fishermen are very likely to object to the MPAs if scientists are promoting the MPAs as a main policy option. Indeed, this would be particularly so in cases where the fishermen suspect that the motivation of marine reserves is more focussed on conservation than on fisheries management (Jones 2006). In other words, it is likely to cause more polarisation and strong objections from stakeholders when scientists engage in policy debates by adopting the position of advocates.

Furthermore, it is very important to recall that the MLPA clearly stated that the implementation should not be limited to “*Socioeconomic and environmental impacts of various alternatives*” (see Section 3.4.3; the MLPA Fish and Game Code Section 2855). Indeed, as stated by a member of staff:

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<sup>152</sup> Interview with a staff member (C-P24) verified by a staff member (CNCSN-P87)

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*The MLPA doesn't require consideration of socioeconomic impacts, doesn't require collecting information on those, and doesn't require socioeconomic analysis to be a factor in making decisions*<sup>153</sup>.

However, social factors are often considered vital in determining the success or failure of the MPAs (Kelleher and Recchia 1998; McClanahan 1999; Pollnac et al. 2001; Christie 2004). As discussed previously (see Section 3.5.2), it appears that the DFG tried to implement the MLPA based on direct interpretation of the MLPA, such as usages of the best readily available science for achieving biodiversity conservation objectives without much consideration for the socioeconomic impact (see Section 3.4.3). Indeed, it could be argued that the Initial Draft Concepts (see Figure 6.2 (a) and Figure 6.3 (a)) for the MLPA 1, which were developed by scientists before consulting stakeholders, represented evidence of the direct interpretation of the MLPA by the DFG (see Section 3.5.2). Unfortunately, such direct interpretation of the MLPA by the DFG raised serious opposition from the stakeholders and became one of the significant contributing factors to the failure of MLPA 1 (see Section 3.5.2).

It appears that the RLG, which designed the structure of the MLPA Initiative process<sup>154</sup> (Harty and Rabb 2008; Rabb 2006), acknowledged that the best readily available science often fails to provide definite answers to the numerous scientific, economic, and cultural questions (McClanahan 1999; Roberts 2000; Mascia 2000)<sup>155</sup>. As a result, the BRTF was charged with providing policy guidance throughout the MLPA Initiative process *to balance socioeconomic impact while meeting the SAT's evaluation to comply with goals of the act*<sup>156</sup> based on its interpretation of the MLPA (Kirlin et al. 2013).

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<sup>153</sup> Interview with a staff member (C-P46)

<sup>154</sup> Interview with a staff member (C-P32)

<sup>155</sup> The BRTF Charter. Available at [http://www.dfg.ca.gov/mlpa/brtf\\_phase1.asp#charter](http://www.dfg.ca.gov/mlpa/brtf_phase1.asp#charter)

<sup>156</sup> Interview with a environmental stakeholder (CNC-P55) verified by scientists (C-P5; CNC-SN-P23; CNC-SN-P29), staff (NCSN-P30; CNC-SN-P87) and a recreational fisherman (C-P16)

Indeed, it appears that the BRTF's ability to resolve the policy disputes through its interpretation of the MLPA has proven important. For instance, even though the MLPA directs the state to re-evaluate and redesign California's system of MPAs (see Section 3.4.3), it does not specifically state to increase or to create more MPAs. Consequently, it may have been inevitable that the stakeholders use that point as a basis from which to oppose the creation of new MPAs. However, as stated by a member of staff:

*One of the things the BRTF did was to make it clear that it was not possible to meet the goals of the act without creating new MPAs. It was a done deal. People had to accept things and move on*<sup>157</sup>.

Furthermore, the BRTF made it clear to the stakeholders that *the process has MPA networks as an outcome and has a deadline*<sup>158</sup> (Fox et al. 2013b).

Therefore, it is possible to contend that the BRTF moved the stakeholder process forward through its interpretation of the MLPA. Indeed, as stated by a member of staff:

*If some of the policy issues had been allowed to ferment, they would have stopped the planning process or at least delayed the process enough that we would have never have met the deadlines*<sup>159</sup>.

Subsequently, it could be argued that the BRTF exercised relatively strong top-down steering, which was necessary in order to meet the deadline set by the MOU (see Section 7.2). Such relatively strong top-down BRTF steering also reconfirms that the MLPA Initiative process was in effect closer to the top-down process than bottom-process despite the widely publicised claim (see

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<sup>157</sup> Interview with a staff member (CNC-P97) verified by a staff member (C-P24) and a scientist (C-P5)

<sup>158</sup> Interview with a staff member (C-P32) verified by staff (C-P24; CNCN-P26; C-P120), a recreational fisherman (C-P16) and a scientists (C-P5; CNCN-P23)

<sup>159</sup> Interview with a staff member (CNCN-P26)



Chapter 6). On the other hand, it could be argued that by allowing the BRTF to interpret the MLPA, the BRTF was not only able to separate the policy issues, which can arise from economic and cultural questions, from the scientific discourse, but was also able to move the stakeholder process forward (Saarman et al. 2013)<sup>160</sup>.

It appears that the BRTF's ability to interpret the MLPA had another profound implication due to another task carried out by the BRTF. As mentioned previously, the stakeholders were not meant to reach a consensus (see Section 6.1). However, as a member of staff pointed out:

*If the stakeholders forwarded all their proposals directly to the Fish and Game Commission, they wouldn't have enough time to actually make and inform decisions*<sup>161</sup>.

*Therefore, another core responsibility was to select a preferred alternative and forward that to the Fish and Game Commission*<sup>162</sup> (Kirlin et al. 2013).

As a result, the BRTF was in charge of reviewing the alternative proposals, which were developed by the stakeholders, before making their final recommendation. Indeed, it was heavily emphasised that the Fish and Game Commission is the ultimate decision maker and they did not simply approve the BRTF's recommendation (see Section 6.4). However, it could be argued that the BRTF's recommendation was weighted heavily for the Fish and Game Commission process (see Section 6.3 and 6.4).

More critically, the BRTF not only reviewed the proposals to make recommendations to the Fish and Game Commission. For instance, the iterative process revealed that the BRTF directed the stakeholder planning process by

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<sup>160</sup> Interview with a staff member (C-P24) verified by a staff member (CNCSN-P87)

<sup>161</sup> Interview with a staff member (C-P24)

<sup>162</sup> Interview with a staff member (CNCSN-P87) verified by staff (C-P24; C-P32; SN-P107), and an environmental stakeholder (CNC-P55)

exercising relatively strong top-down forces based on its interpretation of the MLPA (see Section 6.3.2). It is fairly apparent that the BRTF interpreted the primary objective of the MLPA because the BRTF repeatedly directed the stakeholders to meet the science guidelines, which were developed to achieve the biodiversity conservation objectives of the MLPA (see Section 6.3.2).

Furthermore, the BRTF applied a series of unilateral modifications to the stakeholders' proposals throughout the iterative process (see Section 6.3.2; See Table 6.3 and Figure 6.4). Such BRTF activity can be justified as simply carrying out its role as the policy body which oversees the planning process based on its interpretation of the MLPA (Fox et al. 2013b; Gleason et al. 2013; Kirlin et al. 2013; Saarman et al. 2013). However, this was one of the main reasons behind the stakeholders feeling disfranchised with proposals which were supposedly developed by the stakeholders (see Section 6.3.2).

At this point, it is very important to recognise that *they* [the BRTF] *don't have any authority*<sup>163</sup> to make the final decision (Kirlin et al. 2013). According to one staff member, who was deeply involved in designing the MLPA Initiative process structure, the BRTF was supposedly '*the council of wise*<sup>164</sup>', which oversees the planning process, while bringing state-wide perspectives into the stakeholder process (see Section 6.1 and 6.3). Nevertheless, based on the BRTF's activity and the significance of its recommendations, it could be argued that the BRTF played a central role in orchestrating the work of the Initiative and in determining its outcome.

Indeed, it appears that the BRTF were widely considered as *de facto* decision makers<sup>165</sup> not only by the many stakeholders but also by staff of the MLPA

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<sup>163</sup> Interview with a staff member (C-P46) verified by staff (CC-P24; NCSN-P30; C-P32; CNCSN-P87; SN-P107), a consultant (CNCSN-NP47), a commercial fisherman (C-P39), recreational fishermen (NC-P57; C-P75; C-NP118), non-consumptive users (C-P48), scientists (CNCSN-P119; NCS-1024)

<sup>164</sup> Interview with a staff member (C-P32)

<sup>165</sup> Interview with commercial fishermen (C-P39; NC-P56; C-NP62; C-NP88; C-NP111), commercial fishermen also owns recreational fishing shop (C-P58; C-NP90), recreational

Initiative. It appears that such disjunction between the ostensible and *de facto* role of the BRTF raised several important issues and created serious perception problems (see Section 6.3.2).

It is important to recall that the BRTF was comprised of private citizens who served the MLPA Initiative process as volunteers and it did not have formal authority (Harty and John 2006; Kirlin et al. 2013). However, as has been demonstrated, the BRTF not only carried out the authoritative roles but were also considered as *de facto* decision makers. Subsequently, it was critically important to establish certain legitimacy so that the BRTF could carry out its required roles (Kirlin et al. 2013). Moreover prevalent stakeholders' scepticism towards the BRTF (see Section 6.3.2) re-emphasised the importance of establishing the legitimacy of the BRTF.

It was argued that the BRTF was able to establish the legitimacy through two main factors. Firstly, it was contended that the BRTF was comprised of people who *have a lot of experience in public policy*<sup>166</sup> (Harty and John 2006). Indeed, it appears that their experience in the public policy was considered as a vital quality to direct the highly conflicted process, since one of the main tasks was to provide policy guidance for the stakeholder process.

Furthermore, it was claimed that the BRTF gained respect and established its legitimacy throughout the process because they were highly credible people who were being good mediators (Kirlin et al. 2013; Sayce et al. 2013), as confirmed by a member of staff:

*Members of BRTF were all highly credible, intelligent folks who had been involved in complex policy making in a variety of venues. From public perspectives, they had to prove themselves that they were there to listen and*

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fishermen (C-P16; NC-P57; C-P75; C-NP118), ocean related business owner (C-NP102), scientists (C-NP15; CNCSN-P119; NCS-P1024), staff (CNC-P97; SN-P107; C-P120), and non-consumptive user (C-P48)

<sup>166</sup> Interview with a staff member (C-P97) verified by a staff member (C-P32)

*they were there to wisely use those private funds to gather the information that was necessary to help the stakeholders make some tough choices. It's like the old saying actions speak louder than words. There were decisions that the BRTF made which weren't popular but they really took charge and performed in a very public and transparent way*<sup>167</sup>.

Such a statement from an MLPA Initiative staff member coincides with the literature's claim regarding the way in which the BRTF gained its legitimacy (Kirlin et al. 2013; Sayce et al. 2013).

Secondly, it was claimed that the BRTF was able to establish its legitimacy because the members of the BRTF were not viewed as partisan on the issue of MPA (Harty and John 2006; Fox et al. 2013a)<sup>168</sup> as stated by a scientist:

*They [the BRTF] didn't have any vested stake or stance*<sup>169</sup>.

The fact that the members of BRTF were non-partisan on the issue of MPA could be seen as the critical precondition considering the prevalent suspicions among stakeholders towards the PPP (Fox et al. 2013a). However, it appears that certain members of the BRTF could not be considered as non-partisan on the issue of MPA, as pointed out by a member of staff:

*None of the BRTF members were experts in marine affairs, but it turns out a couple of them have some experiences and knowledge. That was a problem with BRTF that they were defined by categories of representation and that was a huge disaster. If they represent certain interest they behave that way but they are there to implement the act. When it came down to vote, one person actually said she is a strong conservationist and will only accept the strongest*

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<sup>167</sup> Interview with a staff member (CNCSN-P26) verified by staff (NCSN-P30), and a recreational fisherman (C-P16)

<sup>168</sup> Interview a scientist (CNCSN-P29), a staff (C-P32; C-P46), a consultant (CNCSN-P47)

<sup>169</sup> Interview with a scientist (CNCSN-P23) verified by staff (C-P24; CNCSN-P26; C-P32; NCSN-P30), consultant (CNCSN-NP47) and environmental stakeholders (CNC-55; NC-P108)

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*conservation proposal. That is why there was a split vote [in the CCSR]<sup>170</sup>.*

Indeed, it appears that certain members of the BRTF can be perceived as representing environmental organisations' interests. For instance, Douglas Wheeler is the formal executive director of the Sierra Club (Harty and John 2006) which is a renowned environmental organisation. Furthermore, Meg Caldwell, who remained as a member of BRTF throughout the entire MLPA Initiative process (DFG website<sup>171</sup>), is on the Board of Trustees of the Monterey Bay Aquarium which is owned by the Packard Foundation<sup>172</sup>. In addition, Meg Caldwell is the executive director of a centre which received a \$ 25 million grant from the Packard Foundation (LA Times, January 10, 2008). Therefore, it could be considered that she had a close connection, or at least a strong bond of sympathy, with the Packard Foundation, which is one of the major funders for the RLFF.

With this said however, there is nothing inherently wrong with the Secretary of Resources Agency's decision to appoint certain members of the BRTF, since he had the sole discretion to appoint the members of the BRTF, under the MOU (Harty and John 2006; Kirlin et al. 2013). Besides this, and mentioned earlier, the members of BRTF were regarded as highly credible people who *have a lot of experience in public policy*<sup>173</sup> (Harty and John 2006).

On the other hand, and again mentioned earlier, the Secretary of Resources Agency had strong political will to implement the MLPA (see Section 7.3). Therefore, it could be argued that the selection of the BRTF members would

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<sup>170</sup> Interview with a staff member (C-P46) verified by staff (C-P32; CNC-P97; SN-P107), commercial fisherman (C-P39), recreational fisherman (C-P75) ocean related business owner (C-NP102)

<sup>171</sup> Member Biographies (available at DFG Website)  
 Central Coast: [http://www.dfg.ca.gov/marine/mpa/btrf\\_bios\\_phase1.asp](http://www.dfg.ca.gov/marine/mpa/btrf_bios_phase1.asp)  
 North Central Coast: [http://www.dfg.ca.gov/marine/mpa/btrf\\_bios.asp](http://www.dfg.ca.gov/marine/mpa/btrf_bios.asp)  
 South Coast: [http://www.dfg.ca.gov/marine/mpa/btrf\\_bios\\_sc.asp](http://www.dfg.ca.gov/marine/mpa/btrf_bios_sc.asp)  
 North Coast: [http://www.dfg.ca.gov/marine/mpa/btrf\\_bios\\_nc.asp](http://www.dfg.ca.gov/marine/mpa/btrf_bios_nc.asp)

<sup>172</sup> <http://www.montereybayaquarium.org/aa/trustees.aspx>

<sup>173</sup> Interview with a staff member (C-P97) verified by a staff member (C-P32)

have reflected the Secretary's interests and strong political will to implement the MLPA, as clearly acknowledged by a member of staff:

*The BRTF was appointed by the person who had a political will to implement MLPA, so they were considered as one of the indicators that this was going to happen<sup>174</sup>.*

This clearly signifies and reconfirms that the MLPA Initiative process was destined to connote relatively strong top-down force (see Chapter 6). At the same time, such strategic appointment clearly demonstrates that the BRTF was closer to *de facto* decision makers than the 'council of wise'.

More interestingly, the appointment of the BRTF member bears remarkable resemblance to the appointment of the Fish and Game Commission. The Governor appointed the commissioner, who is the vice president of the Monterey Bay Aquarium (see Section 6.4.1), while the Secretary of Resource Agency, who has sole discretion to appoint the BRTF, appointed the member who is on the Board of Trustees of the Monterey Bay Aquarium. Therefore, the appointment of the BRTF can be considered as a clear example of expressing political will, which is vital for the successful designation of MPA (Jones et al. 2011).

Nevertheless, it has very serious implications that at least two out of five members of the BRTF can be perceived as having a close connection with environmental organisations. Firstly, it compromises the non-partisan aspect of the BRTF, which was also acknowledged as one of the most important qualities to establish necessary legitimacy.

Secondly, and perhaps more critically, as demonstrated, the appointment of Michael Sutton, who is the vice president of the Monterey Bay Aquarium, as

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<sup>174</sup> Interview with environmental stakeholder (C-P31)

a Fish and Game Commissioner was viewed as a very political move and caused serious perspective problems (see Section 6.4.1). Therefore, one could well say that the appointment of BRTF received a similar reception from the stakeholders, as indicated by a recreational fisherman:

*The BRTF was nothing but a front for what Sacramento wanted, which was largely dictated by what the environmental community wanted. Besides there was a well-established connection between the environmental group and BRTF members so it's clear conflict of interest*<sup>175</sup>.

Crucially, it is important to recall that Michael Mentall, who is also on the Board of Trustees at the Monterey Bay Aquarium (see Section 7.3) and occupied a critical role for the PPP, works for the RLG which structured the MLPA Initiative process. Based on this, it is possible that there were at least very strong bonds of sympathy amongst the architects of the MLPA Initiative, the operator of the MLPA Initiative, and the decision maker behind the MLPA implementation process.

In light of this, it could be further argued that there is very strong circumstantial evidence to suggest that certain members of BRTF maintained a very close political connection with the RLFF and the renowned environmental organisation. This has serious implications because many stakeholders were sceptical about the RLFF, which was perceived as an environmentally oriented private foundation by many stakeholders, because they felt the RLFF funded the MLPA Initiative process to fulfil their agenda<sup>176</sup>.

Subsequently, it could be contended that it did not help to improve

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<sup>175</sup> Interview with a recreational fisherman (NC-P57) verified by commercial fisherman (C-P42), commercial fisherman also owns recreational fishing shop (C-P58), a recreational fisherman (C-NP116), ocean related business owner (C-NP35; C-NP102), and a scientist (C-P5)

<sup>176</sup> Interview with a commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP70; C-NP82; C-P86; C-NP88), commercial fishermen also owns recreational fishing shop (C-P58; C-NP74; C-NP90), a CPFV skipper (C-NP34), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116), scientists (C-P5; NCS-P1024), a staff (CNC-P97), ocean related business owners (C-NP35; C-NP95; C-NP102) and non-consumptive users (C-P48; C-NP72)

stakeholders' suspicion of the BRTF because certain BRTF members were perceived as having a close connection with the Packard Foundation, which was one of the major funders of the RLFF.

Indeed, one particular stakeholder stated that:

*There were a couple of folks on that that were very conservation-oriented...Having what seems like a very environmental-oriented BRTF member made me feel this is already a done deal. It is absolutely unfair<sup>177</sup>.*

Unfortunately, such a connection between the BRTF and the RLFF had yet another more profound impact on the stakeholders' perspectives towards the MLPA Initiative process, since the BRTF was widely perceived as the *de facto* decision maker. It appears that many stakeholders were convinced that the BRTF drove the process to fulfil the RLFF's agenda as stated by a commercial fisherman:

*The BRTF are all paid hitmen for the environmentalist and they are totally biased on commercial and sport fishing side of it<sup>178</sup>.*

However, the BRTF was not paid by the RLFF as confirmed by a member of staff:

*In the public eye, the BRTF might seem to be susceptible to the RLFF, but they are not paid and they have no reason to collaborate with RLFF<sup>179</sup>.*

Indeed, as previously mentioned, the members of the BRTF worked as

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<sup>177</sup> Interview with a recreational fisherman (C-P75) verified by commercial fishermen (C-P39; C-NP111) commercial fisherman also owns recreational fishing shop (C-P58) recreational fisherman (NC-P57) ocean related business owner (C-NP35; C-NP102)

<sup>178</sup> Interview with a commercial fisherman (C-P39) verified by commercial fishermen (C-NP42; NC-P56; C-NP62; C-NP111), commercial fisherman also owns recreational fishing shop (C-P58; C-NP90), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116) ocean related business owner (C-NP35; C-NP95; C-NP102), a non-consumptive user (C-P48)

<sup>179</sup> Interview with a staff member (C-P24)



volunteers (Harty and John, 2006; Kirlin et al. 2013). Nevertheless, on the flipside, it clearly indicates that even the staff members acknowledged that there could be a perception problem because of the close connection between the BRTF and the RLFF.

Therefore, it could be argued that even though it was only a coincidence that there were political connections between funders and key members of the process, this compromised the legitimacy of the process, despite extensive efforts to make the process transparent (see Section 6.1; Fox et al. 2012a; Gleason et al. 2010, 2012; Sayce et al. 2012; Kirlin et al. 2012; Saarman et al. 2012). Furthermore, it appears that a number of stakeholders felt that the BRTF overtook the process while disregarding the stakeholders' opinions and ultimately steered the process to the predetermined outcome (see Section 6.3). In other words, it could be argued that the BRTF was one of the major contributing factors behind many stakeholders' feelings that their participation in the stakeholder process was not meaningful (see Section 6.2). In addition, most of the literature which analyses the MLPA implementation process identified the BRTF as one of the key factors for the success of the MLPA (Fox et al. 2013a and c; Gleason et al. 2010, 2013; Harty and John 2006; Kirlin et al. 2013; Saarman et al. 2013). Indeed, it appears that the distrust of the BRTF is one of the reasons for the continuous litigation<sup>180</sup>.

### 7.3.2 *The MLPA Initiative Team (I-Team)*

What the MOU allowed was supply of the adequate resources in terms of both funds and manpower to the MLPA Initiative. As a result of the MOU, unlike the previous attempts to implement the MLPA, the MLPA Initiative was equipped with the I-team through the PPP (see Section 7.3).

The I-team was comprised of administrators, consultants, facilitators, and

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<sup>180</sup> [http://keepamericafishing.salsalabs.com/o/6394/content\\_item/mlpa-litigation](http://keepamericafishing.salsalabs.com/o/6394/content_item/mlpa-litigation)

modellers (Harty and John 2006; Rabb 2006), who were very dedicated to the MLPA Initiative process. One staff member described the I-team's work ethic by saying that:

*We didn't just work from 9 to 5 and we didn't get the holidays. We worked whatever hours are necessary to meet the deadlines. That is a big difference. State government agencies don't work that way. The Initiative operates more like a consulting firm<sup>181</sup>.*

There can be hardly any dispute that *the I-team was a key factor to get the process moving forward*<sup>182</sup> through their dedication and unparalleled work ethic. Furthermore, according to Rabb's report, the I-team carried out a wide range of functions to support the stakeholder and the BRTF process by providing overall project management, analytic support, document development and communications management, and facilitation (Rabb 2006). Indeed, the I-team was considered as the engine of the MLPA Initiative process as stated by a scientist:

*The I-team essentially did all the legwork to bring the entire stakeholder process together. The primary role was to facilitate the stakeholder engagement and liaise with SAT and BRTF. The I-team was the communication hub. They also built tools and generated technology that would facilitate stakeholder engagement*<sup>183</sup>.

It was claimed that the I-team applied several strategies in order to effectively manage the stakeholder process, and thus to produce MPA proposals which reflected the cross-sectoral interests while also satisfying the objectives of the MLPA (Fox et al. 2013b; Sayce et al. 2013). Subsequently, the I-team used

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<sup>181</sup> Interview with a staff member (CNCSN-P26)

<sup>182</sup> Interview with a staff member (NCSN-P30) verified by staff (CNCSN-P26; C-P46; CNC-P97; SN-P107), scientists (C-P5; CNCSN-P23; CNCSN-P29), environmental stakeholder (C-P31), and a recreational fisherman (C-P16)

<sup>183</sup> Interview with a scientist (CNCSN-P119)

and developed a web-based Geographic Information System (GIS) as one of the strategies to satisfy both conditions (Caldwell et al. 2007). Ultimately, the I-team developed a revolutionary web-based GIS called the MarineMap (see Section 7.1; MPA News, 2009; Merrifield et al. 2013). However, it is very important to recognise that the revolutionary MarineMap was only introduced for the South Coast Study Region MLPA Initiative process (Merrifield et al. 2013).

Actually, a different GIS, known as Doris, was used for the CCSR MLPA Initiative process (Gleason et al. 2010; Merrifield et al. 2013). However, it appears that Doris was not very effective, as stated by a scientist:

*The Doris, which was meant to be used as a tool for stakeholders to design MPA in the Central Coast case, wasn't really helpful. It wasn't an elegant application and crashed all the time so very few people used it. Essentially, it was a failure. But the idea, which was to avoid the all of the back and forth barriers between the scientists and the stakeholder in the process, was there. I know the people in the Central Coast resented the tools we gave them whereas people in the South Coast reported the MarineMap as the most important and useful tool they had<sup>184</sup>.*

Such a statement coincides with a stakeholder's statement regarding the Doris GIS.

*We had a computer programmer as a recreational fishermen representative and he was the only one who could do the online mapping successfully<sup>185</sup>.*

However, it is argued that the way in which the participatory process is managed has more significant implications regarding the outcome of the process than the tools which are used (Reed 2008). Indeed, facilitation can be

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<sup>184</sup> Interview with a scientist (CNCSN-P119)

<sup>185</sup> Interview with a recreational fisherman (C-P75)

considered as one of the most important functions brought by the I-team during the successful MLPA Initiative process (Fox et al. 2013b). For instance, the DFG was not able to secure sufficient resources to effectively implement the MLPA since the legislature did not specifically allocate the funds to implement MLPA (see Section 3.4.3). Consequently, the DFG was not able to secure further assistance, particularly from the experts who could professionally facilitate and design the public meetings (Harty and John 2006). However, it is argued that the highly skilled facilitation is one of the essential factors in successful stakeholder participation, especially under the circumstances where conflicts are likely to occur (Reed 2008).

It seems that the DFG also recognised that highly skilled facilitation was necessary, as a lack of professional facilitation escalated, even further, opposition from stakeholders during the MLPA 1 (Weible 2008). Indeed, a member of staff identified that:

*The biggest mistake in the first MLPA process was using agency facilitation where government agency provides a facilitator<sup>186</sup>.*

Based on the lessons learnt from MLPA 1, the DFG took the approach to include the stakeholders in the process for MLPA 2 (see Section 3.5.3). Furthermore, the DFG hired private facilitators to engage the public and increased internal staff dedicated to the MLPA (Harty and John 2006). However, the DFG was still forced to rely on its resources based on the state budget. Unfortunately, the state of California suffered a serious budget crisis in 2003 (DeMaio et al. 2003). Therefore, it appears that the DFG could not secure sufficient funding to carry out the implementation of the MLPA, which was the main reason for the failure of MLPA 2 (DFG 2008; see Section 3.5.3).

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<sup>186</sup> Interview with a staff member (CNC-P97)

In light of this, it could be argued that the facilitators in the I-team had particularly significant implications for the stakeholder process. Indeed, it was claimed that the stakeholders produced the proposals which reflect the cross-sectoral interests while incorporating the best readily available science through the MLPA Initiative process (see Section 6.2: Fox et al. 2013b; Gleason et al. 2013; Sayce et al. 2013). It appears that the I-team played a key role in accomplishing this through the highly skilled facilitation such as the specifically designed meeting format to accommodate the group dynamics (Fox et al. 2013b). For instance, as stated by a staff member:

*We very deliberately encouraged an emphasis on cross interest decision-making. We designed the process to encourage more interchange between the different interests within the stakeholder groups... In meetings, we have stakeholders seated in a U-shape where all the primaries were at the main table... We assigned seating to make sure the different interests were mixed up<sup>187</sup>.*

It was argued that the I-team managed the stakeholders' meeting through a very detailed meeting format, thus meaning that the stakeholders could share information, explore creative ideas, and create MPA proposals which reflect cross-interests (Fox et al. 20123). However, ironically, it appears that such a detailed coordination of managing the stakeholder process was perceived as an effort to neutralise stakeholders' input, as stated by a commercial fisherman:

*The facilitators arranged the seating at the meeting and they never put me right next to a fisherman. So I couldn't relay or talk to them like other environmentalists did. It was all set up a certain way<sup>188</sup>.*

Another commercial fisherman also said:

*The MLPA I-team were really good at moving the conversation to*

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<sup>187</sup> Interview with a staff member (CNCSN-P87) verified by staff (NCSN-P30)

<sup>188</sup> Interview with a commercial fisherman (C-P39) verified by commercial fisherman (NC-P56)

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*predetermined conclusions. The way they led the questions and even the seating arrangements, everything was set up to move everybody to predetermined conclusions*<sup>189</sup>.

At the same time, it is important to recall that MOU had a clear deadline (see Section 7.2). In addition, the BRTF made sure that the stakeholders knew the MLPA Initiative stakeholder process had a clear deadline (see Section 7.3.1), while the I-team took the main responsibility to meet the deadline.

As previously discussed, keeping the deadline was acknowledged as a key factor which moved the stakeholder process forward (see Section 7.3.1; Carnevale et al. 1993). The fact that the I-team managed the MLPA Initiative according to the strict timeline had a significant influence on the stakeholders' attitude, as stated by a scientist:

*Facilitators stuck to their deadlines. They did not allow the people to grind the process to halt and stall the process. Facilitators were very effective. They moved the process forward and they got better at that... They [the fishermen] knew this train is going and they were either on it or that's it*<sup>190</sup>.

In light of this, it is possible to contend that the I-team, much like the BRTF, steered the stakeholder process using a certain top-down force, including tailored meeting formats and strictly applied time-lines. Consequently, it appears that the stakeholders perceived the facilitation of the I-team as another top-down element which drove the process towards the predetermined outcome.

However, it is arguably unfair to accuse the facilitators of driving the stakeholder process to a pre-determined outcome. Indeed, it was argued that

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<sup>189</sup> Interview with a commercial fisherman also owns the recreational fishing shop (C-P58) verified by commercial fisherman (C-P42), a non-consumptive user (C-P48)

<sup>190</sup> Interview with a scientist (C-P5) verified by staff (C-P24; CNCSN-P26; NCSN-P30; C-P32; C-P46; CNCSN-P87; CNC-P97; SN-P107; C-P120), environmental stakeholders (C-P31; CNC-P55; NC-P108), recreational fisherman (C-P16) and scientists (CNCSN-P23; CNCSN-P29)

the effective facilitation, particularly for the highly conflicted processes, involves several techniques to handle dominating or offensive individuals (Reed 2008). Subsequently seating arrangement should be considered as one of the techniques used to effectively manage the stakeholder process. There are those who argued that it was necessary to figure out a way in which to accommodate certain stakeholders' personalities within the MLPA Initiative stakeholder process<sup>191</sup>. Furthermore, and as demonstrated earlier, a strictly applied deadline is a very important factor in moving the process forward (see Section 7.2).

On the other hand, it could be said that the MLPA Initiative stakeholder process involved several top-down elements such as deadlines and highly skilled facilitation, and that the MLPA Initiative process was thus closer to a top-down process than a bottom-up process (see Chapter 6).

However, there is nothing inherently wrong with involving certain top-down elements in the designation of the MPA process. Indeed, it was recognised as one of the most important requirements for successful designation of the MPA (see Section 6.5; Jones and Burgess 2005; Jones et al. 2011). Indeed, it appears that the stakeholders' scepticism towards the I-team was not solely based on how the I-team managed the stakeholder process. It is very important to recognise that the I-team was working under a contract which was compensated by the funds from the RLFF (Harty and John 2006). Unfortunately, the stakeholders were very sceptical about the true agenda of the RLFF (see Section 7.1).

At this point, it is vital to remember that according to the MLPA, the DFG was the lead agency in the legislation for developing the master plan and the MPA proposals (see Section 6.3.1; Fox et al. 2013b). In other words, and as stated by a member of staff:

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<sup>191</sup> Interview with staff (NCSN-P30; SN-P107)

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*The I-team's role was to fill the gaps where the DFG didn't have the resources to run a good process<sup>192</sup>.*

However, as mentioned earlier, the I-team carried out all the legwork. Subsequently, it could be argued that, in effect, the I-team led the process, as stated by a member of staff:

*The I-team worked with DFG. DFG is still technically the lead agency, but we have a staff of contractors that did the bulk of the work. So the Initiative staff played more of an upfront role<sup>193</sup>.*

Another staff member also stated that:

*Now it seems the MLPA Initiative group is in charge<sup>194</sup>.*

Indeed, the I-team, which supposedly assists the DFG, could eventually be substituted by the DFG and lead the MLPA Initiative process. Subsequently, there is the perception that the I-team, which was paid by the RLFF, replaced the DFG and can be considered as the fundamental cause of stakeholders' scepticism, as confirmed by an actual stakeholder:

*The executive director of the process and the staff that were managing the process were not really DFG. They were picked and paid for by RLFF, which is Packard. That fund has got an agenda... It's no secret. How impartial is that? That didn't seem right...I don't want to call them the puppet masters- but [they were] always in the background to guide the process... I think they had a fair amount of influence on the process<sup>195</sup>.*

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<sup>192</sup> Interview with a staff member (C-P24) verified by a staff member (C-P32), environmental stakeholder (CNC-P55)

<sup>193</sup> Interview with a staff member (CNCSN-P26) verified by consultant (CNCSN-P47), scientist (CNCSN-P23; CNCSN-P119) and a staff (C-P32)

<sup>194</sup> Interview with a staff member (C-P120)

<sup>195</sup> Interview with recreational fisherman (C-P75) verified by commercial fishermen (C-P39; C-P42; NC-P56), recreational fishermen (NC-P57), non-consumptive user (C-P48)



It was argued that the facilitator has to be perceived as impartial in order to carry out successful facilitation (Reed 2008). However, it appears the stakeholders perceived the I-team as the advocates of MPAs or as pro-environmentalists<sup>196</sup>, much like the BRTF (see Section 7.3.1).

Such stakeholder scepticism might be unreasonable, since it was heavily emphasised that the RLFF, which funded the process, *has no influence over the outcome of the process*<sup>197</sup> not only throughout the process but also during the evaluation of the process (Carr et al. 2010; Gleason et al. 2013; Saarman et al. 2013; Fox et al. 2013a).

However, it was *the Chair of BRTF who appointed the executive director of the I-team*<sup>198</sup> (see Section 7.3.1). Therefore, it is far from unfeasible that there would be a bond of sympathy between the Chair of the BRTF and the executive director of the I-team. Meanwhile, the chair of the BRTF was appointed by the Secretary of Resources Agency, who worked very closely with Mike Mantell from the RLG (see Section 7.3). Consequently, although such stakeholders' accusations might be unreasonable, it could be argued that the political will from the highest level (the Secretary of Resources Agency) was reflected, to a certain extent, all the way to the ground level (the I-team).

### 7.3.3 Department of Fish and Game (DFG)

Unfortunately, the DFG led two unsuccessful previous attempts to implement the MLPA prior to the MLPA Initiative process (see Section 3.5.2, 3.5.3, and 5.1). However, it is also important to remember that the DFG was not allocated sufficient resources to implement the MLPA, since the legislature did

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<sup>196</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56), recreational fishermen (NC-P57; C-P75), non-consumptive user (C-P48)

<sup>197</sup> Interview with a staff member (NCSN-P30) verified by staff (C-P24; CNCSN-P26; C-P32; C-P46; CNCSN-P87; SN-P107; C-P120), scientists (C-NP15; CNCSN-P23; CNCSN-P29), environmental stakeholder (C-P31; CNC-P55; NC-P108), and recreational fishermen (C-P16; C-NP118)

<sup>198</sup> Interview with a staff (C-P46) verified a scientist (CNCSN-P29) with the BRTF Charter available at [http://www.dfg.ca.gov/mlpa/btrtf\\_phase1.asp#charter](http://www.dfg.ca.gov/mlpa/btrtf_phase1.asp#charter)

not specifically allocate the funds to implement MLPA (see Section 3.4.3). Furthermore, as was mentioned earlier, the State of California suffered a serious fiscal problem in 2003 (see Section 7.1), which was a major contributing factor to the failure of MLPA 2 (see Section 3.5.3). Subsequently, it could be argued that it may be unfair to solely blame the DFG for the failure of two previous attempts to implement the MLPA since the DFG was not granted sufficient resources.

It appears that many stakeholders, including both advocates of MPAs and proponents of resource exploitation, acknowledged that the DFG was in a very difficult position in terms of successfully implementing the MLPA because the DFG was underfunded and understaffed, as confirmed by one particular scientist:

*The DFG is underfunded yet they have unfunded mandate. They have insufficient people and insufficient money. So institutionally they have a problem, because there are not enough people working behind the scenes and staying motivated to keep their eyes on the ball. A lot of them left DFG and there's no institutional memory... Now with fiscal problems, they don't even have enough money to do anything<sup>199</sup>.*

Subsequently, it seems that the PPP was absolutely necessary since the State is not able to provide necessary funding due to the fact that it suffered from a continuous budget crisis from 2007 through 2012 (The New York Times. May 14, 2012). Indeed, this was one of the fundamental arguments to justify the PPP, confirmed by an environmental stakeholder:

*I think the process wouldn't have moved forward without private funding. That's the name of the game in the states. There are many things that the state*

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<sup>199</sup> Interview with a scientist (C-NP15) verified by commercial fisherman also owns recreational fishing shop (C-P58), recreational fisherman (C-P16; C-NP116), ocean related business owner (C-NP35), a staff (C-P24; C-P32), a non-consumptive user (C-P48), and environmental stakeholder (C-P31)

*government can't afford because the state of California has been in the budget crisis. A number of laws and initiatives have been passed but there are very little discretions about how some funds can be spent. There's very little ability to get more money for things despite their importance. So developing this Public Private Partnership is really critical<sup>200</sup>.*

Meanwhile, it is interesting that the interviewees, who believed the PPP was a positive and critical factor in the success of the MLPA Initiative process, were mainly the non-departmental staff (i.e. external contractors of the I-team) or the environmentally oriented stakeholders. However, as was discussed earlier (see Section 7.1), it is also important to recognise that there are many sceptical views from the stakeholders towards the usage of private money to fund a public process. Subsequently, it could be considered as a clear example that there remain very polarised perspectives towards PPP.

As mentioned above, the State of California was under pressure as a result of prolonged fiscal problems, which in turn reduced the DFG's capacity. Subsequently, it is somewhat understandable that there were many doubts regarding the DFG's capability to implement the MLPA. More interestingly, it appears there were general doubts regarding whether, even if the DFG secured sufficient resources, the DFG would be able to implement the MLPA successfully, as confirmed by a member of staff:

*There was distrust that DFG would not be able to do it the third time even if they have the resources and staff, because DFG had previously tried to implement the MLPA twice and was unsuccessful. There wasn't a lot of faith in the broader political context that they could pull it off at the third time. Private foundations are not going to hand their money over to the DFG without any*

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<sup>200</sup> Interview with an environmental stakeholder (NC-P108) verified by consultant (CNCSN-NP47), environmental stakeholders (C-P16; CNC-P55), staff (C-P24; NCSN-P30; SN-P107), scientist (C-NP15; CNCSN-P29; CNCSN-P119), and a recreational fisherman (C-P16)

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*assurance since they failed twice before<sup>201</sup>.*

Such doubt seemed to be based on two main assumptions. The first was that the state, which was represented by the DFG, did not have institutional knowledge to carry out successful stakeholder participation, as pointed out by a staff member:

*There was a matter of kind of the culture of the agency. It wasn't particularly interested in a very interactive process with stakeholders. It liked the formal process. The DFG liked being in charge, it also meant that they tend to think of themselves as the experts and want to do everything. So the normal regulatory process is very adversarial and it's largely the DFG presenting the proposal and then stakeholders on all sides reacting to that proposal. As a result, in Fish and Game Commission meetings, people tend to be very adversarial so there's no real forum for solving problems... There were very practical matters in a process that involves stakeholders a lot. You go from meeting-to-meeting and there will be needs or questions or studies that stakeholders identified that you really need to have conducted before the next meeting. Well, it's impossible to do that kind of research quickly through the state bureaucracy<sup>202</sup>.*

Indeed, as discussed in the previous section (see Section 7.3.2), it may be the case that the DFG did not have the institutional knowledge or capacity to carry out the process as it involved many stakeholders. For example, the highly skilled facilitation skills were clearly non-existent within the DFG<sup>203</sup> (see Section 7.3.2), which was one of the significant contributing factors to the failure of MLPA 1. However, it is also important to recognise that highly skilled facilitation did not necessarily prevent *adversarial reactions* from stakeholders (see Chapter 6). Indeed, it could be said that the MLPA

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<sup>201</sup> Interview with a staff (CNCNSN-P26) verified by staff (CNCNSN-P87), consultant (CNCNS-P47), a recreational fisherman (C-P16) and an environmental stakeholder (C-NP25)

<sup>202</sup> Interview with a staff (C-P32) verified by staff (CNCNSN-P26)

<sup>203</sup> Interview with a staff (C-P97)

implementation process, including the MLPA Initiative process, was a highly polarised process. More importantly, it appears that many stakeholders, including those who were not necessarily against the MPA (i.e. non-consumptive users), felt that their opinions were largely ignored (see Chapter 6).

The other assumption was that the DFG did not actually have political will to implement the law because the DFG's duty as an agency involves providing access to the resources rather than protecting them, as confirmed by a staff member:

*The DFG largely views its main constituents as being fishermen and hunters. They really don't view conservationists as being their constituents. So they feel this is an imposition that it puts them at odds with some principal constituents so there are a lot of reasons that they would not like the MLPA<sup>204</sup>.*

Indeed, it appears that the primary task of the DFG is closer to sustainable resource management than conservation, as pointed out by a staff member:

*In the case of DFG, the agency exists to support fishing. Their mission is to sustain resources for their use and enjoyment, so it's not pure protection. So DFG has to balance commercial, recreational fishing as well as wildlife viewing<sup>205</sup>.*

Nevertheless, one could say that it is unfair to assume that the DFG did not have the political will to implement the MLPA only because its duty involves protecting resources while simultaneously providing access to the resources. Furthermore, the DFG did attempt to implement the MLPA twice, despite only having limited resources available. As mentioned above, it could be argued

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<sup>204</sup> Interview with a consultant (C-P32) verified by staff (C-P46) and an environmental stakeholder (C-P31)

<sup>205</sup> Interview with a staff (CNC-P97) verified by ocean related business owner (C-NP35), recreational fisherman (NC-P57)

that a major contributing factor to DFG's unsuccessful attempt to implement the MLPA was a lack of resources rather than a lack of the agency's commitment to MPAs.

Although the DFG was suffering from lack of capacity due to the fiscal problems, the DFG was still supposedly in charge of the designating MPAs under the MLPA (see Section 7.3.2; Fox et al. 2013b). Indeed, it appears that the first MOU, which is only applicable to the CCSR MLPA Initiative process, guaranteed that DFG would independently review or amend the BRTF's recommendations (see Section 6.3.2). Subsequently, but only for the CCSR MLPA Initiative process, the DFG produced its own preferred alternative (Package P). Package P was the result of minor modification to BRTF's preferred alternative (Package 3R) based on stakeholder consultation (see Table 6.3).

Meanwhile, it is important to recognise that the DFG would be in charge of managing the MPAs once the implementation of the MLPA is completed (Caldwell et al. 2007). Therefore, such modification might have been necessary so that the DFG's perspectives could be reflected in the proposals, as confirmed by a member of staff:

*It's the DFG that ends up holding the bag at the end. So the DFG has to implement and enforce the regulations. Without fairly direct control over what those regulations are, DFG can end up with things that are more difficult to enforce or less acceptable to the agency<sup>206</sup>.*

Therefore, it is somewhat understandable why the DFG came up with its own proposal (the Package P). Unfortunately, even though the DFG carried out its duty, this activity was heavily criticised as undermining the stakeholder process (see Section 6.3.2).

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<sup>206</sup> Interview with a staff (CNC-P97)

At this point, it is necessary to recall that the MLPA Initiative process evolved as it moved through subsequent study regions (see Section 5.1). As a response to such heavy criticism, the DFG was prohibited from producing its own proposals in the subsequent study regions (Fox et al. 2013b; Gleason et al. 2010; 2013; Harty and Rabb 2008).

Indeed, while most of the core components of the MLPA Initiative process structure remained relatively intact (see Section 6.1), it was the DFG which underwent significant changes regarding its role in the MLPA Initiative. However, it appears that the radical change of the DFG's role in the subsequent MLPA Initiative process was perceived as a significant roll back to the frontiers of DFG<sup>207</sup>. Since DFG's intervention supposedly resulted in much criticism (see Section 6.3.2), the new DFG role should have received a very positive reception. However, very ironically, this was not the case, as pointed out by a scientist:

*The DFG's representation got weaker and that created a bit of a perception problem*<sup>208</sup>.

The irony of the stakeholders' perspectives on the role of the DFG could provide the crucial clue in understanding the root cause of the prevalent stakeholder scepticism towards the MLPA implementation process.

In order to understand the root cause of “*bit of a perception problem*”, it is first necessary to understand how the DFG's role was revised. As discussed earlier, the first MOU only guaranteed to fund the process until the end of 2006, which is for the CCSR. The second MOU, which reaffirmed the funding through 2011, was signed after the successful implementation of the MLPA at

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<sup>207</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP82; C-NP111), commercial fisherman also owns recreational fishing shop (C-NP90) recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP95; C-NP102), scientist (C-P5; CNCSN-P119; NCS-P1024), staff (CNC-P97; C-P120), environmental stakeholder (C-P31), non-consumptive user (C-P48)

<sup>208</sup> Interview with a scientist (CNCSN-P119)

the CCSR (see Section 4.4). Such arrangement of the MOU is understandable because the private funding needed to have certain assurances that the process was going to be successful since it was providing a significant amount of funding (see Section 5.4; 7.2).

More critically, it appears that the second MOU not only reaffirmed the funding, but also responded to the criticism that DFG undermined the stakeholder process by producing its own proposal at CCSR, because it ‘specifically eliminated its [the DFG’s] role in developing or modifying proposals’ (Fox et al., 2013b: 30).

While the second MOU eliminated the DFG’s role in developing or modifying proposals, it gave authority to the BRTF to ‘*guide the development of alternative MPA proposals, modify proposals presented to the Task Force by the Regional Stakeholder Group as the Task Force deems appropriate and craft alternative MPA proposals for presentation to the Fish and Game Commission*’ (Amendment and Extension of Memorandum of Understanding 3.2 (b))<sup>209</sup>. As a result, for the NCSR, which is the next study region, the BRTF created the Integrated Preferred Alternative proposal (Harty and Rabb 2008). Interestingly, the way in which the Integrated Preferred Alternative for the NCSR was produced was very similar to the DFG’s preferred alternative for the CCSR, because the Integrated Preferred Alternative was based on modification of the stakeholders’ proposals (Harty and Rabb 2008). Therefore, it could be argued that the second MOU transferred the DFG’s authority to the BRTF which was comprised of private citizens and did not have any formal authority (see Section 7.3.1).

Furthermore, under the second MOU, the DFG participated in the stakeholder process as staff of the I-team (Fox et al. 2013b). However, as one scientist said:

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<sup>209</sup> Available from [http://www.dfg.ca.gov/marine/pdfs/agenda\\_100608a3.pdf](http://www.dfg.ca.gov/marine/pdfs/agenda_100608a3.pdf)



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*The DFG was the weakest player in the Initiative staff<sup>210</sup>.*

This indicates that the I-team, which was mainly comprised of external contractors who were paid by the RLFF, eventually substituted the DFG and led the MLPA Initiative process (see Section 7.3.2). At this point, it is worth recalling that many stakeholders felt that the BRTF equally, if not more, undermined the stakeholder process through a series of unilateral modifications (see Section 6.3.2; 6.5). Crucially, many stakeholders were very sceptical about the BRTF because of its close connection with the RLFF (see Section 7.3.1). Furthermore, the I-team was perceived as carrying out the RLFF's deed (see Section 7.3.2).

Ultimately, after the second MOU, the DFG provided feasibility guidelines for enforcement, management and monitoring, instead of developing its own preferred alternative (Gleason et al. 2010; Fox et al. 2013b). Therefore, it can be argued that the DFG took a more advisory role than the agency in charge of implementing MLPA, as confirmed by a member of staff:

*The DFG stepped back quite a bit and became more of an advisor and did not have that authority or leadership role. DFG became another stakeholder in the subsequent region<sup>211</sup>.*

However, it appears that the DFG's feasibility guidelines had significantly fewer implications than the science guidelines (see Section 6.3.1) as stated by a member of staff:

*The DFG also provided the regional stakeholder groups with feasibility guidelines, but stakeholders were not able to meet all the guidelines in many cases because the DFG guidelines often came into conflict with the scientific*

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<sup>210</sup> Interview with a scientist (CNCSN-P119)

<sup>211</sup> Interview with a staff (CNC-P97) verified by commercial fisherman (NC-P56), recreational fisherman (NC-P57), staff (NCSN-P30; C-P120)

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*guidelines*<sup>212</sup>.

Therefore, it could be argued that the second MOU re-established the DFG as another stakeholder in the MLPA Initiative process by transferring the DFG's authority to the BRTF, whilst simultaneously transferring the DFG's executive ability to the I-team. At the same time, many stakeholders perceived the DFG as very susceptible to the political pressure:

*The DFG is a tough place to work and it politically gets beat up all the time*<sup>213</sup>.

Indeed, there was a very specific incident which demonstrates the DFG's political susceptibility. Many stakeholders identified John Ugoretz, who was a DFG staff member, as the key person when it came only to representing authority but also the capacity of the DFG, as stated by a scientist:

*John Ugoretz knew the regulations backward and forward and he was very articulate... Aside from John, there weren't whole lot of people on the staff that were very effective at their jobs*<sup>214</sup>.

However, John Ugoretz was dismissed from the DFG during the NCSR MLPA Initiative process. His dismissal is a clear example of DFG's political susceptibility, as pointed out by an environmental stakeholder:

*I thought he played a really key role more than anybody else. He was appointed by Fish and Game Commissioner, which means he could likely let go at any point of time if he didn't make somebody happy. So he was under*

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<sup>212</sup> Interview with a staff (CNCSN-P87)

<sup>213</sup> Interview with a staff (C-P24) verified by commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP82), commercial fisherman also owns recreational fishing shop (C-NP90), recreational fishermen (C-NP21; NC-P57), staff (C-P24; CNCSN-P26; C-P46; C-P97), scientists (C-P5; CNCSN-P23), environmental stakeholder (C-P31), non-consumptive user (C-P48)

<sup>214</sup> Interview with a scientist (CNCSN-P119) verified by commercial fishermen (NC-P56) recreational fishermen (NC-P57) scientist (C-P5) environmental stakeholder (C-P31) staff (CNC-P97) non-consumptive user (C-P48)

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*political pressure as there are a lot of politics in the Fish and Game Commission<sup>215</sup>.*

More significantly, this incident meshed with the reduction of the DFG's role as pointed out by a recreational fisherman, who participated in the NCSR MLPA Initiative process:

*I don't have any ill feelings towards Susan Ashcraft, who came in as the replacement, but she didn't understand the basic rules. As a result, DFG's influence got significantly weakened<sup>216</sup>.*

Indeed, it could be argued that the DFG's power as the leading agency to implement the MLPA had been diminishing through the devolution of its authority and executive ability from the very first study region, CCSR MLPA Initiative. For instance, it was the chair of the BRTF who appointed the executive director of the I-team, not the DFG. Furthermore, the DFG shared its authority to appoint RSG members (see Section 7.3.1). In addition, it was the I-team which actually managed the MLPA Initiative process (see Section 7.3.2).

Nevertheless, it could be argued that the DFG maintained its role at least for the CCSR MLPA Initiative process since the DFG produced Package P. However, the DFG's role was marginalised as another stakeholder in the subsequent study region. Such marginalisation of the DFG was symbolised by the dismissal of the highly respected and effective DFG staff member. Crucially, such a dramatic change of the DFG's role was the result of the second MOU. Indeed, a staff member clearly indicated that there was strong political influence regarding the DFG's role from the RLFF.

*Outside funders felt that Fish and Game was overstepping its role, even though*

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<sup>215</sup> Interview with a environmental stakeholder (C-P31)

<sup>216</sup> Interview with a recreational fisherman (NC-P57) verified by a scientist (C-P5)

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*that's what the original MOU stated would happen. The RLFF wanted DFG's role decreased after the North Central... RLFF had connections all the way up to the governor's office, which were in many cases higher than DFG's own political connections. So there was a lot of pressure up through the Secretary or Resources, which is over the DFG. They made it very clear and a lot of pressure came to DFG. So DFG pushed back somewhat against that, but when the second MOU was signed, the DFG had been cut back quite dramatically<sup>217</sup>.*

This could indeed represent one of the major reasons for the “*bit of a perception problem*” as it seems that the DFG, which is politically susceptible, was demoted, just like another stakeholder, by the RLFF. This clearly indicates that there were very close political connections between the RLFF and this significant political figure (i.e. the secretary of resource agency). More importantly, it strongly suggests that such a close political connection indeed had certain influence on how the MLPA Initiative process was operated.

#### *7.3.4 Scientific Advisory Team (SAT)*

As discussed earlier (see Section 3.5.2 and 7.3.1), the active participation of the scientists by producing Initial Draft Concepts resulted in serious opposition from the stakeholders. This was one of the main reasons for the failure of the MLPA 1 (see Section 3.5.2). The MLPA Initiative process learned from previous attempts to implement the MLPA (see Section 5.1), and thus it may not be a surprise to observe the change in scientists' roles.

One of the first changes related to the size of the Master Plan Team. The Master Plan Team, which included scientists who designed Initial Draft Concepts. The team was expanded for the MLPA Initiative process through the addition of more scientists who were experts in marine ecology, fisheries science, MPAs, economics, and the social sciences (Master Plan Science

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<sup>217</sup> Interview with a staff (CCNC-P97)

Advisory Team Charter)<sup>218</sup>. Following this, the Master Plan Team, which ultimately had 18 members, was renamed the Science Advisory Team (SAT) (Harty and John 2006). Those changes of size and name can be considered as a necessary cosmetic surgery for the Master Plan Team as the name might have had a lasting negative impression on stakeholders from the previous attempts to implement the MLPA.

However, it was not only the exterior of the Master Plan Science Advisory Team (known as the SAT) which changed. Since the MLPA Initiative process decided to separate the policy issues from the scientific discourses, the BRTF took charge of making decisions for the policy issues (see Section 6.2.1). Subsequently, it was inevitable that the role of SAT changed significantly from previous attempts to implement the MLPA. The most important change was that, *unlike the first attempt, they weren't allowed to draw any maps*<sup>219</sup>.

Instead, the SAT was charged with three main tasks, as identified by a scientist:

*There were three fundamental roles of the Science Advisory Team. One was to generate the design guidelines. The second was to convey the rationale or the basis for those guidelines to the regional stakeholder groups and the BRTF so they had some understanding of why the SAT generated those guidelines and how they were generated. The third role was to evaluate the proposals that were generated by the stakeholder groups and the BRTF to determine and convey how well they met the science guidelines*<sup>220</sup> (California Marine Life Protection Act Initiative Science Advisory Team Charter, October 25, 2004; Kirlin et al. 2013).

Based on this, it could be argued that the SAT role was limited to providing

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<sup>218</sup> SAT Charter available at [http://www.dfg.ca.gov/mlpa/mpsat\\_phase1.asp](http://www.dfg.ca.gov/mlpa/mpsat_phase1.asp)

<sup>219</sup> Interview with a staff (C-P46) verified by a staff member (C-P120)

scientific guidelines, supporting the stakeholders and the BRTF, and providing evaluations to the BRTF. Subsequently, it appears that, on the surface, SAT's role was significantly curtailed compared to the two previous attempts to implement the MLPA since the SAT cannot make a direct proposal nor make direct recommendations.

However, as previously demonstrated, it could be argued that the SAT maintained significant leverage on the outcome of the process through the science guidelines and the evaluation of stakeholders' proposals (see Section 6.3). Unfortunately, many stakeholders felt that the science guidelines constrained their ability to place the MPAs (see Section 6.3.1).

However, more significantly, the interpretation of the MLPA, which provided the foundation for the science guidelines, contributed to stakeholder scepticism regarding both the SAT and the science guidelines. For instance, the MLPA specifically directed to use the best readily available science (see Section 3.4.3). However, the definition of the best readily available science can vary depending on the primary objectives of the MPA, with the scientific basis of MPAs for fisheries objectives differing from those of MPAs for biodiversity conservation objectives (Jones, 2007). Furthermore, it is very important to acknowledge that there are limitations when it comes to scientific knowledge pertaining to marine ecology due to the attributes of the marine environment (Jones, 2001).

Nevertheless, it was argued that the cooperation between the marine ecologists and fisheries scientists is required because it can help to bridge the gap of knowledge and ultimately improve ecosystem management (Worm et al. 2009). Indeed, it appears that such cooperation is even more critical for the MLPA implementation process, since there is a certain vagueness to the MLPA, with certain objectives potentially being interpreted as fisheries management aspects (see Section 3.4.3; Hilborn 2012; Weible 2008). More critically, the MLPA only regulates legal fishing such as commercial and recreational (see Section

3.4.3).

All of these factors contributed to stakeholders' perspectives that the MLPA is, in effect, a fisheries management act<sup>221</sup> (see Section 6.3.1). Subsequently, it appears that the stakeholders strongly felt that the fisheries science had to be incorporated into the science guidelines<sup>222</sup>. As a response, the California Fisheries Coalition commissioned a separate peer review for the science guidelines (Hilborn et al. 2006). The peer review argued that the scientific guidelines did not meet the requirement of the MLPA which stated that the MPAs and fisheries management must be “complementary components” of effort (Hilborn et al. 2006). The fishing interests presented the California Fisheries Coalition commissioned peer review to the Fish and Game Commission. Although the Fish and Game Commission did not acknowledge the fisheries scientists' criticism, it can be considered as one of the examples which highlights the sceptical views of the stakeholders<sup>223</sup>.

The Fish and Game Commission rejected the California Fisheries Coalition commissioned peer review because the MLPA, or to be more precise the interpretation of the MLPA, was used to justify the usage of marine ecology for developing science guidelines, as stated by a scientist:

*The basis for some of these science guidelines and some of the arguments for discussion about the guidelines comes from that very issue of the relative importance or purpose of the network of MPAs for the purpose of conservation versus the purpose of fisheries management. Those two purposes historically have led to different design criteria and based on the wording of the goals of the MLP. The SAT recognised that the act was about the conservation, not*

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<sup>221</sup> Interview with commercial fishermen (C-P42; NC-P56; C-NP62), commercial fisherman also owns recreational fishing shop (C-P58), recreational fishermen (C-P16; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP102), scientists (C-NP85; NCS-P1024)

<sup>222</sup> Interview with commercial fishermen (C-P42; NC-P56; C-NP62), commercial fisherman also owns recreational fishing shop (C-P58), recreational fishermen (NC-P57; C-P75; C-NP116), non-consumptive user (C-P48)

<sup>223</sup> Interview with commercial fishermen (C-P42), commercial fisherman also owns recreational fishing shop (C-P58; C-NP90), and staff (C-P46)

*about managing fisheries in the sense of the purpose of the MPAs. The primary purpose especially was not to try to manage fisheries in the future. We were explicitly told by the planners that those fisheries implications of the network were secondary to the conservation goals of the act. That is extremely important for two reasons. One is if we were told it was to be designed for fisheries management, we probably would have come up with very different guidelines. It's that distinction people don't make that often leads to criticism or contention with respect of the guidelines and the product that is generated*<sup>224</sup>.

This suggests that the 'planners' [the RLG] of the MLPA process already interpreted the law and made it clear from the beginning that *the MLPA is not a fishery statute*<sup>225</sup>. Subsequently, it was argued that the scientists did not have to consider fisheries benefits for developing science guidelines.

In other words, and as stated by a scientist:

*The MLPA provided provide the protection from the fisheries scientists' arguments*<sup>226</sup>.

It appears that it was not only the MLPA which provided protection from the fisheries scientists' argument. As was discussed earlier, the BRTF was in charge of dealing with policy issues which arose during the stakeholder process based on its interpretation of the MLPA (see Section 7.3.1). Critically, the BRTF also made it clear that the objectives of the MLPA focussed on biodiversity conservation and made sure that the stakeholders met the science guidelines to the greatest possible extent (see Section 7.3.1). Therefore, it could be argued that the fisheries scientists' argument had been systematically

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<sup>224</sup> Interview with a scientist (CNCSN-P29) verified by scientist (CNCSN-P23) and consultant (CNCSN-NP47)

<sup>225</sup> Interview with a consultant (CNCSN-P47) verified by scientists (C-P5; CNCSN-P23; CNCSN-P29), staff (NCSN-P30; C-P46; CNCNS-P87; CNC-P97; C-120), environmental stakeholder (C-P31; CNC-P55; NC-P108)

<sup>226</sup> Interview with a scientist (CNCSN-P23) verified by a scientist (C-P5; CNCSN-P29), a environmental stakeholder (C-P31) and consultant (CNCSN-NP47)



neutralised not only at the very beginning of the process but also throughout the implementation process. This also indicates that the usage of science was justified and supported by top-down elements, such as interpretation of the MLPA by the planners and the BRTF, as well as the Commission's decision to reject the California Fisheries Coalition commissioned peer review. Based on this, it could be argued that the MLPA Initiative process connoted relatively strong top-down forces focussed on biodiversity conservation objectives from the very beginning.

Although the top-down political forces justified the usage of marine ecology for developing science guidelines, those forces did not specifically define how to achieve the six objectives of the MLPA. Subsequently, it was the scientists who had to interpret the objectives of the MLPA (Hilborn 2012), as stated by a scientist;

*The network design was developed out of consideration of the six goals of the MLPA, four or five of which really had to do with science. One of the goals was to establish a system of MPAs up and down the state of California that would be developed as a “network”. Interestingly, the term “network” or the concept of “network”, which was mentioned in the goal statement of the MLPA, was not clearly defined by the act. So the planners of the MLPA process asked the science team how we would interpret that concept of network<sup>227</sup>.*

In light of this, one could well contend that the scientists not only maintained significant leverage (see Section 6.3.1) but also, in effect, had a profound impact on the outcome of the process. For instance, among the four categories of guidelines, the MPA size and spacing guideline appeared to have very significant implications because it was the key guideline used to ‘connect’ the MPAs based on the larval dispersal theory (Gleason et al. 2010; Saarman et al. 2013). It appears that those categories of science guidelines were developed

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<sup>227</sup> Interview with a scientist (CNCSN-P29)

based on the scientists' interpretation, as pointed out by one scientist:

*At that time in the scientific literature, there was an evolving concept of a collection of MPAs that were networked together, i.e. connected together, in part by larval dispersal. And so we said that the scientific perspective of a network includes that connectivity of larval dispersal from one protected area to another and that was a very popular theme in the ecological or scientific literature at the time. So we did help to define that concept. Then we generated recommendations for the spacing between MPAs based on distances of larval dispersal*<sup>228</sup>.

However, it appears that different species have different larval dispersal ranges. For instance, most algal species have dispersal ranges of less than 1km, most invertebrates have a dispersal range of less than 100km and most fish species have a dispersal range of 10-200km (Saarman et al. 2013). According to Saarmann (Sarrman et al. 2013):

*'MPAs in this region that contain similar habits and marine communities placed within 50-100km (31-62mile) of one another are likely to be connected by larval dispersal and contribute to the replenishment of fished population between MPAs'* (Saarman et al., 2013: 51).

Based on this, it could be argued that the core scientists of SAT developed the science guidelines not only based on their interpretation of the MLPA but also on a hypothesis that MPAs which are placed within 50-100km would be connected by the larval dispersal. Indeed, many stakeholders, including even some scientists, pointed out that there was an initial lack of scientific data to support the effectiveness of the larvae transportation theory <sup>229</sup> (Saarman et al.

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<sup>228</sup> Interview with a scientist (CNCS-P29)

<sup>229</sup> Interview with a scientist (C-P5; CNCSN-P119; NCS-P1024), commercial fishermen (C-NP62; C-NP82; C-P86; C-NP88), CPFV skipper (C-NP34), commercial fisherman also owns recreational fishing shop (C-NP74), recreational fisherman (NC-P57; C-NP116), ocean related business owner (C-NP95; C-NP102), and non-consumptive users (C-NP11; C-P48; C-NP72)

2013; Hilborn 2013). Subsequently, it may not be a surprise that the science guidelines were under constant scrutiny due to the scientific uncertainties, as pointed out by a scientist:

*The science guidelines are basically very arbitrary. For example, spacing guideline is totally unfounded<sup>230</sup>.*

Nevertheless, it does not mean in any way that the SAT did not adopt the best readily available science. Furthermore, it must not be overlooked that the scientific guidelines were externally peer reviewed in order to establish the scientific credentials (Carr et al. 2010). The Oregon Sea Grant and California Sea Grant carried out peer reviews for the Master Plan Framework Guidance and SAT Analyses of stakeholder packages respectively. The Oregon Sea Grant concluded that the SAT met the “*best available scientific information*” (Auster et al. 2006).

Furthermore, and perhaps more importantly, it was argued that the scientific uncertainties should not be a delaying factor for designating MPAs (Jones, 2007). Indeed, it seems that the SAT was not going to get stuck with endless scientific discourse regarding scientific uncertainty (Saarman et al. 2013). It could be argued that more cooperation between the marine ecologists and fisheries scientists for developing the science guidelines could have eased such disputes among the fisheries scientists, marine ecologists, and even stakeholders (Worm et al. 2009). On the other hand, such an attempt to incorporate both marine ecology and fisheries science, could have significantly delayed the implementation process.

Furthermore, there is nothing inherently wrong with exclusively using marine ecology as the principle science and to define the objective of MPA as biodiversity conservation, which does not necessarily require fisheries science

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<sup>230</sup> Interview with a scientists (NCS-1024) verified by non-consumptive user (C-P48), a commercial fisherman (C-P39; C-P42; NC-P56; C-NP88), recreational fisherman (C-NP116)

or benefits (Ballantine 2002; Halpern et al. 2004; Jones 2007; Nores et al. 2003). Nevertheless, it is clear that consumptive users, particularly fishermen, would likely oppose MPAs which are established mainly for biodiversity conservation (see Section 7.3.1; Jones, 2006). Therefore, it may have been inevitable to encounter stakeholder opposition, particularly towards the science since scientific uncertainty is unavoidable (Jones, 2001).

In order to protect scientific integrity while boosting scientific credibility, unlike MLPA 1 and 2, the scientists in the SAT did not directly engage with the policy issues which could be raised during the MLPA Initiative process. Indeed, one of the reasons for installing the BRTF was to separate policy issues from the scientific discourse (see Section 7.3.1). Subsequently, it was argued that, by doing so, the scientists could be perceived as neutral and objective, which in turn increased the scientific credibility (Fox et al. 2013c; Gleason et al. 2010; Saarman et al. 2013).

However, it is important to recognise that it was the scientists who ultimately had to interpret the objectives of MLPA. Ironically, as a consequence, it could be argued that the scientists were involved with very fundamental policy issues which had a profound impact on the outcome of the MLPA implementation process. Indeed, it appears that stakeholders raised questions about the scientists' interpretation of the MLPA, as stated by a stakeholder:

*The scientific guidelines were based on certain people's interpretation of the law. One of the terms they used was the connectivity, which means MPAs only can be so far apart, but the law didn't say anything about that. I think there was huge stretch between what the law actually said and what they decided it meant. They really stretched the law to get where they wanted to go<sup>231</sup>.*

At the same time, it appears that the interpretation of the MLPA and

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<sup>231</sup> Interview with a commercial fisherman who also owns recreational fishing shop (C-P58), ocean related business owner (C-NP102)

subsequent development of the science guidelines was carried out exclusively by a small number of marine ecologists from the SAT, as confirmed by a scientist:

*The scientific guidelines were strictly developed by SAT and they were developed by a very small number of people on SAT, who study marine reserves<sup>232</sup>.*

This indicates that it was a small number of marine ecologists who interpreted the objectives of the MLPA and developed the science guidelines based on their interpretation. Perhaps more critically, their interpretation had a profound impact on the MPA configuration, as another scientist also said:

*There were five or six scientists who were responsible for writing the scientific guidelines. The guidelines were criteria for where MPA should be located, how big they should be, what shape they should be, and what habitats they should be in<sup>233</sup>.*

This reveals another important aspect of the SAT. As mentioned earlier, there were 18 scientists in the SAT for the CCSR. It can be argued that among these 18 scientists, only a handful of those who developed the science guidelines had significant influence on the outcome of the MLPA implementation. Subsequently, it appears that the stakeholders perceived the SAT as the advocates of MPAs, as confirmed by a stakeholder:

*The SAT was made up of mainly ecosystem scientists who are advocates of ecosystem-based management and MPAs<sup>234</sup>.*

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<sup>232</sup> Interview with a scientist (C-P5) verified by scientist (C-NP15; CNCSN-P23; CNCSN-P119; NCS-P1024), staff (C-P24), non-consumptive user (C-P48), commercial fishermen (C-NP62; C-NP66), and recreational fishermen (NC-P57; C-P75; C-NP116)

<sup>233</sup> Interview with a scientist (CNCSN-P23) verified by staff (C-P24), a scientist (CNCSN-P29)

<sup>234</sup> Interview with a non-consumptive user (C-P48) verified by scientists (NCS-1024), commercial fishermen (C-NP62; C-NP66), and recreational fishermen (NC-P57; C-P75; C-NP116)

It could be counter-argued that this was not the case since the MLPA Initiative responded to stakeholders' criticism and the California Fisheries Coalition commissioned peer review. Indeed, fisheries oriented scientists joined the SAT from the next study region (North Central Coast Study Region) (Harty and Raab 2008). Therefore, it could be argued that the SAT tried to reflect the fishing interests by incorporating fisheries scientists. However, the fact that science guidelines were developed by core members of SAT did not change. It appears that the fisheries scientists who participated in the MLPA Initiative as members of SAT did not have any influence on the development of the scientific guidelines (Hilborn 2012). Subsequently, there remained a relatively strong feeling that fisheries perspectives were marginalised<sup>235</sup>.

It appears that many stakeholders believed that it was not a coincidence that the fisheries scientists were marginalised while a small number of marine ecologists maintained profound leverage on the outcome of the MLPA. They suspected that such a power dynamic between two different disciplines of science was established because of the source of funding, as stated by one scientist:

*The selection of a core member of SAT was not random selection. They are the marine ecologists who have been funded to work on MPAs by pro-MPA foundations. So you basically have a group of MPA advocates, not in any sense independent scientists but people who have a long record of advocating MPA for policy instrument driving science process. If you had different SAT, you would have a totally different outcome*<sup>236</sup>.

Unfortunately, this led to a situation whereby many stakeholders did not perceive the scientists as neutral but instead as driven by a certain agenda,

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<sup>235</sup> Interview with commercial fisherman (NC-P56), recreational fisherman (NC-P57), and a scientist (NCS-P1024)

<sup>236</sup> Interview with a scientist (NCS-P1024) verified by commercial fishermen (C-P39; C-P42; C-NP62; C-NP82), recreational fishermen (NC-P57; C-P75), commercial fisherman also owns recreational fishing shop (C-NP90), and an ocean related business owner (C-NP95)

with one particular stakeholder stating:

*The science is totally driven by protectionists and ecosystem scientists. So there's very strong bias to come up with comprehensive sets of MPAs. I am not a scientist so I am not qualified to talk about their performances in terms of science but it seems to me a lot of their work is agenda driven*<sup>237</sup>.

Subsequently, many stakeholders perceived the science guidelines as reflecting MPA advocates' agenda. Indeed, it appears that the Packard Foundation does provide various research grants through the Monterey Bay Aquarium Research Institute, Partnership for Interdisciplinary Studies of Coastal Oceans, or Communication Partnership for Science and the Sea<sup>238</sup>, which promote MPA.

However, it would be an unfair accusation to say that the scientists worked towards carrying out a certain agenda, as stated by a scientist:

*When the MLPA process is done in another year, we all move on to something else. And I don't think any scientists, engaged in the process would have allowed their contributions or their input to be influenced by any interaction with those foundations. I can say that very directly, because I have a huge funding program from those very foundations, largely to do marine science that contributes and informs these kinds of policies. Again, that funding from those foundations is, in part, reliant on my perceived credibility. There is no reason for them to fund someone who isn't perceived as highly credible. So in the long run, the credibility is more important than the funding to both the scientists and their funders. More importantly, regardless of where your funding comes from, your credibility with your peers is more valuable to most scientists than any*

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<sup>237</sup> Interview with a non-consumptive user (C-P48) verified by commercial fishermen (C-P42; NC-P56; C-NP62; C-NP66; C-NP88), commercial fisherman also owns recreational fishing shop (C-P58; C-NP90), recreational fishermen (C-NP21; NC-P57; C-P75; C-NP116), ocean related business owners (C-NP35; C-NP102)

<sup>238</sup> Available from David-Lucile Packard Foundation Website <http://www.packard.org/what-we-fund/conservation-and-science/science/>

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*funding opportunity*<sup>239</sup>.

At this point, it is important to recall that the SAT underwent significant changes in its appearance by increasing its size and by changing its name to SAT from the Master Plan Team. More importantly, the SAT role was restricted to support the stakeholder process by providing science guidelines and to support the BRTF by evaluating stakeholders' proposals. Subsequently, on the surface, it could be argued that the SAT's role was heavily curtailed compared to the two previous attempts to implement the MLPA, since SAT scientists were prohibited from drawing lines, from making recommendations, and from engaging in any of the non-science issues. It was argued that, by doing so, the scientists could be perceived as neutral and objective, which in turn increases the scientific credibility (Fox et al. 2013c; Gleason et al. 2010; Saarman et al. 2013).

However, as has been demonstrated, a small number of marine ecologists from the SAT not only interpreted the MLPA but also developed the science guidelines, which had significant leverage on the outcome of the process. Furthermore, even if it was argued that the fisheries benefit was not required in the MLPA, it could have been necessary to cooperate with the fisheries science in order to compensate for the scientific uncertainty (Worm et al. 2009). Nevertheless, it could be argued that the fisheries management aspects were systematically marginalised even within the SAT. In addition, it appears that the Packard Foundation, which is one of the major funders of the RLFF, funds many of their core marine ecologists' work. As a result, many stakeholders perceived the SAT as advocates of the MPAs. Indeed, this could be one of the reasons contributing to stakeholder scepticism regarding the SAT and the science guidelines.

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<sup>239</sup> Interview with a scientist (CNCSN-P29)



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### 7.3.5 Regional Stakeholder Group (RSG)

Recently, stakeholder participation has been widely incorporated into the environmental policy decision-making process as it is recognised as an important mechanism in increasing the legitimacy and the quality of decisions (Abelson et al. 2003; Beierle 2002; Daley 2007; Dietz and Stern 2008; Pomeroy and Douvère 2008; Reed 2008; Stringer et al. 2007; Fox et al. 2013a).

Stakeholder participation for MPA designation is particularly important for at least two reasons. Firstly, and as discussed earlier (see Section 7.3.4), the scientific understanding of the marine ecosystem is also limited due to the characteristics of the marine environment (Jones 2001). Local knowledge, which can be provided through stakeholder participation, can be used to fill the gap where there is scientific uncertainty, thus in turn increasing the quality of decisions (Jones 2001; Dietz and Stern 2008). Secondly, it is important to recognise that a low level of compliance due to a lack of recognition of local knowledge can significantly undermine the objectives of the MPAs (Jones 2006; Kritzer 2004; Roberts and Hawkins 2000). However, enforcing MPAs can be very challenging due to the attributes of the marine environment (Davis et al. 2004). Stakeholder participation can improve the legitimacy of the process (Dietz and Stern 2008), which in turn improves the compliance level and ultimately decreases the requirement of enforcement (Jones 2006).

Therefore, it is not a surprise that the MLPA directs to use “*assistance of stakeholders and members of the public*” (see Section 3.4.3; the MLPA). Unfortunately, and as mentioned earlier (see Section 3.5.2, 3.5.3, and 5.1), it appears that the implementation of the MLPA prior to the MLPA Initiative (MLPA 1 and 2) did not manage to fully incorporate the “*assistance of stakeholders and members of the public*”. Consequently, there was strong opposition from the stakeholders and such strong opposition was one of the main reasons for the failure of MLPA 1 (see Section 3.5.2). Therefore, the

MLPA Initiative actively adopted a stakeholder participation approach (see Section 6.3). Indeed, the MOU specifically directed the establishment of a stakeholder group (Rabb 2006).

In order to implement the participation process, the first step would be convening the stakeholders. It is argued that stakeholders are self-evident and self-constructed (Mitchell et al. 1997). Indeed, it appears that the MLPA Initiative process embraced the concept of convening the stakeholders, as stated by a staff member deeply involved with the structuring the process:

*It was stakeholders themselves who nominated people for other regional stakeholders to be on board so it wasn't just the agency plucking people out*<sup>240</sup>.

However, since California has the highest population in the US (see Section 3.2), it is not realistically possible to include every stakeholder. Therefore, it would be necessary to identify the relevant stakeholders who are going to be affected by the policy decision (Reed 2008; Reed et al. 2009). Indeed, the MOU specifically stated the criteria for the stakeholder selection and defined the overall role of the stakeholder group (DFG 2008). Subsequently, the I-team carried out an initial screening process by conducting confidential interviews with RSG nominees to identify the stakeholders who met the MOU criteria (Fox et al. 2013b).

According to Rabb's report (Rabb 2006), the I-team identified relevant stakeholders based on two dominant criteria. The first was the overall balance of the group and the other was local knowledge (Rabb, 2006). The I-team established the RSG, which was comprised of the primary and the alternate representatives in order to effectively manage the stakeholder process (Rabb 2006; Fox et al. 2013b). According to Rabb's report (Rabb 2006), *'the alternate representatives were selected by the MLPA I-Team with assistance*

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<sup>240</sup> Interview with a staff (C-P32)

*from the BRTF and the DFG, rather than by the primary representatives themselves'* (Rabb, 2006: 18). Although both the primary and the alternate representatives could develop the MPA proposals, it was the primary representatives who had more significant influence on the process through the straw votes, which were used to measure the stakeholder support for different MPA proposals (Fox et al. 2013b). However, the alternate representatives could exchange their opinions with their primary representatives prior to any votes. Moreover, in the absence of the primary representatives, the alternate representatives took the primary representative's seat and voted (Fox et al. 2013b).

Under the MOU, the Director of the DFG and the Chair of the BRTF have the discretion to appoint the RSG members. Subsequently, once the I-team identified the relevant stakeholders, the Director and the Chair made the final decision to appoint the RSG members (Fox et al. 2013b; Kirlin et al. 2013; Rabb 2006). Ultimately, the RSG was comprised of 32 primary members and 24 alternates for the CCSR MLPA Initiative process (Rabb 2006).

The few studies to have analysed the MLPA Initiative process identified two broad categories of stakeholders; the first is the consumptive user group who were considered as opponents of the MPA while the other is the non-consumptive user group who were considered as the proponents of the MPA (Rabb 2006; Fox et al. 2013b). As demonstrated in the Channel Island MPA designation process, the stakeholder process, which involves proponents and opponents of the MPA, could result in a deadlock (see Section 5.1). However, it is important to recall that the MLPA Initiative process was not meant to produce a proposal based on the consensus, as stated by a member of staff:

*The stakeholders were not expected to reach consensus rather they would identify the range of alternatives*<sup>241</sup> (see Section 6.1).

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<sup>241</sup> Interview with a staff (C-P46) verified by a staff member (C-P32), consultant (CNCSN-NP47) an environmental stakeholder (C-P31), and a scientist (C-NP15)

As a result, the stakeholders naturally formed different groups to produce a range of MPA proposals for the CCSR MLPA Initiative process. Ultimately, three self-selected work groups, namely consumptive, non-consumptive, and ‘the splinter group’ were formed for the CCSR (Fox et al. 2013b; see Section 6.3 and Table 6.3). At this point, it is worth recalling that ‘the splinter group’ was only formed during the second round of the iterative process for the CCSR MLPA Initiative (see Section 6.3 and Table 6.3). It appears that six stakeholders, who formed ‘the splinter group’, wanted to cover Package 1, which was developed by the consumptive group, and Package 2, which was developed by the non-consumptive group (Rabb 2006). Ultimately, the ‘splinter’ group developed Package 3 (see Table 6.4)

It can be argued that the CCSR MLPA implementation managed to produce a network of MPAs which reflect the cross-sectoral interests (see Section 6.3), since Package 3, which became Package 3R after a series of modifications (see Section 6.3; Table 6.3), became the backbone of the outcome of the CCSR MLPA implementation process.

However, it appears that the negotiations between the non-consumptive and consumptive users have been difficult for the CCSR MLPA Initiative process because they would not share the same value regarding the MLPA (Fox et al. 2013b). This could explain why there were only 6 stakeholders out of 32 primary and 24 alternative representatives, in the ‘splinter group’. Furthermore, it appears that a few stakeholders participating in the process tried to stall the negotiations (Fox et al. 2013b), as stated by one scientist:

*The stakeholders weren’t screened for their ability to work towards a common goal*<sup>242</sup>.

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<sup>242</sup> Interview with a scientist (CNCSN-119) verified by staff (CNCSN-P26; CNCSN-P87), a scientist (CNCSN-P29), an environmental stakeholder (NC-P108) and a non-consumptive stakeholder (C-P48)

As has been demonstrated, their attempts to stall the process were not successful due to relatively strong top-down forces, such as deadlines, the BRTF, and highly skilled facilitations (see Section 7.2; 7.3.1; 7.3.2). However, it could be argued that such top-down forces did not solve the fundamental problem. Subsequently, it may well be more effective to select the stakeholders who are willing to engage in the process<sup>243</sup>. Since the MLPA Initiative process evolved as it moved through the subsequent study regions, it might not be a surprise to witness the improvement in stakeholder selection. Indeed, one member of staff stated that:

*[The I-team] instituted a new recruitment criterion that had to do with collaborative ability and used that as a screening criterion for people who were there to just fight for one specific outcome<sup>244</sup>.*

Thus, in the subsequent study regions, the facilitation team interviewed most of the nominees. If the team felt that individuals were not willing to try to find solutions which worked for everybody, then the I-team recommended that they not be appointed<sup>245</sup>. The selection process improved in later regions and made a significant difference to the MLPA Initiative process in the subsequent study regions<sup>246</sup>.

Interestingly, such an account disputes, head-on, the widely publicised claim that the MLPA Initiative process was a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010, 2012; Kirlin et al. 2013; Sayce et al. 2013; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012) head-on. Indeed, one of the fundamental requirements for the bottom-up process is that the stakeholders are community based self-organised local actors (Hayes 2004; Hayes and Ostrom 2005; Ostrom and Nagendra 2006; Ostrom

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<sup>243</sup> Interview with a staff (NCSN-P30; CNC-P97)

<sup>244</sup> Interview with a staff (CNCSN-P87) verified by a staff member (CNCSN-P26; C-P32; CNC-P97)

<sup>245</sup> Interview with a staff (CNCSN-P87)

<sup>246</sup> Interview with a staff (CNCSN-P87; CNC-97)

1990, 1998, 1999). Subsequently, the screening process to identify stakeholders who were willing to negotiate and willing to constructively engage the process suggests that the MLPA Initiative process was not a bottom-up process. Nevertheless, perhaps more importantly, such a screening process ultimately improved the stakeholder process in the subsequent study regions. Indeed, this strongly supports the notion that certain top-down elements are absolutely necessary (Jones and Burgess 2005; Jones et al. 2011).

#### **7.4 Concluding remark**

As mentioned earlier, the MLPA Initiative process was widely publicised as one of the most successful cases of a science-based stakeholder-driven process (Fox et al. 2013b; Gleason et al. 2010, 2013; Kirlin et al. 2013; Libernecht 2008; Scholz et al. 2004; Sayce et al. 2013; Stevenson et al. 2012). Such a claim gives the impression that the MLPA Initiative process was a bottom-up process.

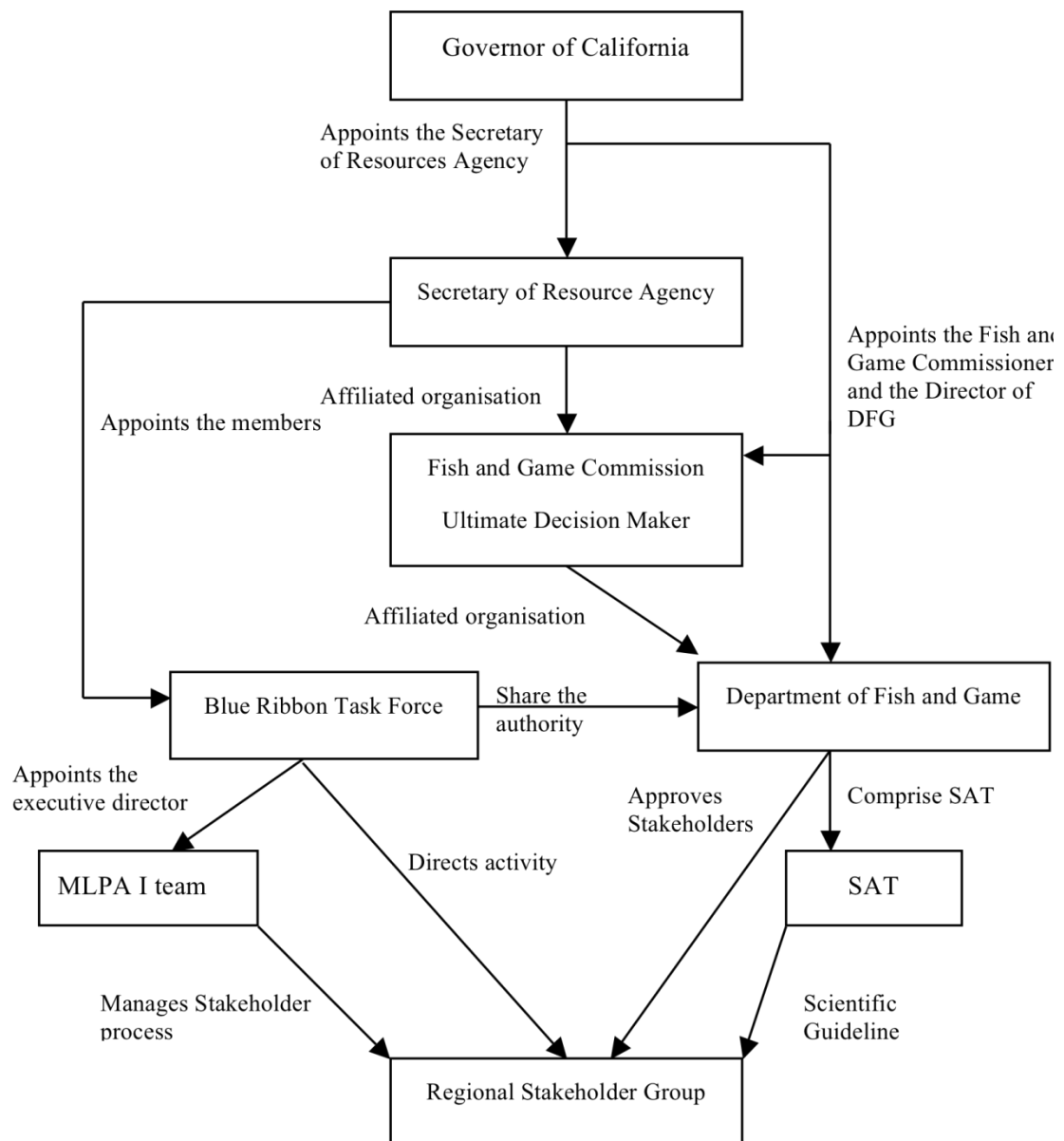
Furthermore, the MLPA Initiative process flow chart for the CCSR (see Figure 7.1) seems to concur with this claim. For instance, and as demonstrated, the upwards pointing arrows in the flow chart give the impression that the process was a bottom-up process (see Figure 7.1). However, it is important to recognise that the directions of arrows merely represent the orders of the process by connecting different components of the process. They do not reveal the interactions amongst different components. Therefore, even though the arrows in the flow chart point upwards (see Figure 7.1), it does not necessarily mean that the process was bottom-up.

On the other hand, it is clear that the stakeholders came up with proposals for the network of MPAs for the MLPA Initiative process. However, in order to truly understand who maintained the ability to steer the process, it is necessary to understand the power dynamics of the MLPA Initiative process structure. It appears that core components such as BRTF, SAT, DFG, and the I-team

retained significant leverage to the outcome of the process. More importantly, it can be argued that those core components exercised significant top-down force to steer the process.

It may perhaps come as no surprise that those core components possessed certain top-down elements since it can be argued that the political will from the highest level was reflected throughout the MLPA Initiative structure. For instance, it is important to recall that the Secretary of Resource Agency Mike Chrisman, who strongly supported the implementation of the MLPA, (see Section 5.1) had sole discretion to appoint the Chair of the BRTF (see Section 7.3.1). Therefore, one could contend that a bond of sympathy may well have existed between them. This carries an important meaning because the BRTF not only steered the stakeholder process, but also had significant influence on the outcome of the MLPA Initiative process (see Section 6.3; 7.3.1).

Furthermore, the Chair of BRTF appointed the Executive Director of the I-team (see Section 7.3.1). Subsequently, it could be argued that the Chair of BRTF likely appointed a person who would share his belief as the Executive Director of the I-team, which carried out all the legwork in the MLPA Initiative process (see Section 7.3.2). Therefore, it could be argued that the Secretary's strong political will to implement the MLPA was reflected in the BRTF, which directed the stakeholder process, and in the I-team, which managed the stakeholder process.



**Figure 7.2 Reconstruction of the MLPA Initiative process structure**

Based on the analysis of the core components of the MLPA Initiative, the reconstruction of the MLPA Initiative structure (see Figure 7.2) has a very different appearance when compared to the MLPA Initiative process flow chart (see Figure 7.1). For instance, the reconstruction of the MLPA Initiative structure clearly demonstrates that the key personnel of the MLPA Initiative process were directly appointed by the governor or the Secretary of Resources Agency. Furthermore, even if the governor or the secretary did not directly appoint them (i.e. the Director of the I-team), the circumstantial evidence strongly suggests that there were strong bonds of sympathy between these key



personnel of the process. Subsequently, it can be argued that there was a chain of command or a hierarchy structure among the Secretary of Resources, the BRTF, and the I-team in the MLPA Initiative process.

The reconstruction of the MPA Initiative process structure (see Figure 7.2) also indicates that the MLPA Initiative structure was supported by a strong political will. Indeed, strong and continuous political will was identified as one of the key contributing factors to the success of the MLPA Initiative process (Fox et al. 2013a; Kirlin et al. 2013). This concurs with the argument that strong political will must be established early in the process and maintained throughout the duration of the development, establishment and implementation of the MPAs (Cicin-sain and Belfiore 2005; Jones et al. 2011). Furthermore, based on the way in which the MLPA Initiative structure was established, it could be argued that many top-down elements were already strategically installed throughout the MLPA Initiative process.

For instance, the BRTF made it clear that the stakeholder process would drive the outcome, which in turn had significant influence on stakeholders' attitude (see Section 7.3.1). Furthermore, the BRTF reviewed the stakeholders' proposals based on its interpretation of the MLPA and SAT's evaluation whilst also attempting to meet the science guidelines to the greatest extent possible (see Section 7.3.1). To do so, the BRTF often unilaterally directed the stakeholders to produce proposals which correlated with science guidelines (see Section 6.3.2). Critically, the BRTF recommended preferred alternatives which had significant weight in the final decision making process (see Section 7.3.1). Therefore, it could be argued that BRTF not only exercised strong top-down steering but also had significant influence on the outcome of the process.

Meanwhile, on the surface, it appears that the role of scientists was reduced significantly in the MLPA Initiative process compared with previous attempts to implement the MLPA, since the scientists could not make any direct recommendations (see Section 7.3.4). However, it is important to recall that the stakeholders had to use the science guidelines to develop the proposals

(see Section 6.3.1). Furthermore, since the BRTF tried to meet the science guidelines, it could be argued that the science guidelines had significant influence on the outcome of the MLPA Initiative process (see Section 6.3.1). Therefore, one could also contend that the science guidelines were strong top-down elements.

At this point, it is important to recall that it was a small number of core scientists within the SAT who developed the science guidelines (see Section 7.3.4). In addition, the BRTF modified the stakeholders' proposals based on the SAT's evaluation (see Section 7.3.3). Subsequently, it could be argued that the scientists, particularly the core scientists who developed the science guidelines, maintained significant leverage on the outcome of the process through the science guidelines.

Whilst the BRTF exercised strong steering to direct the stakeholder process, it was the I-team which actually managed the stakeholder process. Indeed, the I-team carried out important groundwork to successfully manage the stakeholder participation process (see Section 7.3.2). It could be argued that the highly skilled facilitation was one of the most important functions carried out by the I-team, since absence of professional facilitators was one of the main contributing factors to the failure of previous attempts to implement the MLPA (see Section 7.3.2). Importantly, the facilitators of the I-team strategically managed the stakeholder process by applying the strict deadlines and arranging seating arrangements for the stakeholders in order to move the stakeholder process forward (see Section 7.3.2). Subsequently, it seems that the highly skilled facilitation, which many feel is one of the most important requirement for successful stakeholder participation (Reed 2008), naturally involves certain top-down elements.

The I-team exercised another important top-down force as it carried out a screening process for convening the RSG (see Section 7.3.5). However, this was absolutely necessary considering the size and the population of California

(see Section 3.1). Indeed, it is an unrealistic expectation to carry out a stakeholder process based on self-organised local actors with minimum top-down elements. Therefore, it was necessary to identify the relevant stakeholders who were going to be affected by the implementation of the MLPA (Reed 2008; Reed et al. 2009). More importantly, it was absolutely critical to identify stakeholders who were willing to participate and negotiate rather than trying to stall or derail the process (see Section 7.3.5), in order to develop the MPA proposals which reflected cross-sectoral interest (Sayce et al. 2013).

Subsequently, it could be argued that the MLPA Initiative not only had an inherently top-down structure but was also managed through relatively strong top-down steering. More critically, one might say that key personnel of the structure exercised strong steering roles and had significant leverage over the outcome of the process.

It could be further argued that the MLPA Initiative, which is the first part of the MLPA implementation, may not have been destined to be a bottom-up process from the very beginning. First of all, it is important to recognise that the MLPA Initiative process has its foundation in the strong mandate of the MLPA, hence the name MLPA Initiative process. At the same time, it is also equally important to recall that the MLPA can only regulate legal fishing activities such as commercial or recreational fishing (see Section 3.4.3). Furthermore, there were certain ambiguities relating to the objectives of the MLPA, since some of these objectives could be interpreted as fisheries management focussed as well as biodiversity conservation focussed objectives (see Section 3.4.3 and 7.3.4). Subsequently, it appears that many stakeholders, including those who are not necessarily considered as proponents of resources exploitation, viewed the MLPA as a type of fisheries management act (see Section 3.4.3 and 7.3.4).

Despite the certain ambiguities of the MLPA, it is clear that the MLPA was

interpreted not as a fisheries management act but as a biodiversity conservation act (see Section 7.3.4). This was extremely vital as such interpretation provided a critical framework for the development of the science guidelines (Saarman et al. 2013) although also justified the focus on marine ecology rather than fisheries science (see Section 7.3.4). Indeed, as mentioned earlier, the science guidelines were exclusively developed by a small number of marine ecologists within the SAT (see Section 7.3.4). It was argued that the stakeholders' local knowledge, which could be considered as bottom-up in part, would be reflected during the MLPA Initiative process through stakeholder participation (see Section 6.3.1). However, it is important to recognise that the stakeholders had to develop the proposals based on the science guidelines (see Section 6.3.1). Furthermore, it appears that stakeholders were repeatedly directed to comply with the science guidelines by the BRTF (see section 6.3.2). Therefore, the MLPA, particularly the interpretation of the MLPA by the BRTF and SAT, could be considered as another clear example of the top-down elements of the MLPA Initiative process. Indeed, the strong legal mandate has been identified as one of the critical factors in the success of the MLPA Initiative process (Gleason et al. 2010, 2013; Fox et al. 2013a; Kirlin et al. 2013; Saarman et al. 2013).

Secondly, it is critically important to recognise that under the MLPA, the Fish and Game Commission is the ultimate decision maker. The purpose of the MLPA Initiative was to submit the recommendations to the Fish and Game Commission (see Section 6.4; Kirlin et al. 2013). This means, technically, that the Fish and Game Commission can disregard stakeholders' recommendations and produce its own proposal (see Section 6.4). Indeed, the Fish and Game Commission did produce its own proposals based on Packages 3R and P for the CCSR MLPA implementation process (see Section 6.4). Ultimately, if the Fish and Game Commission does not adopt the MPAs, the implementation of the MLPA would not be finalised. However, it appears that this was a very unlikely case because the commissioners were the political appointees of the governor, who strongly supported the implementation of the MLPA. Indeed,

the governor made a significant last minute political move to secure the sufficient votes in the Fish and Game Commission for the NCSR MLPA implementation (see Section 6.4.1). Once again, this is a clear example demonstrating the importance of strong political will for the successful implementation of MPA (Jones et al. 2011).

On the other hand, it is also important to recognise that if stakeholders believe their opinions were compromised by political manoeuvres at the higher levels, they are likely to feel the decisions have already been made or that they do not have the ability to influence the outcome. In other words, the structure of the MLPA Initiative process, which reflected strong political will, potentially compromised the empowerment of the stakeholders, which is one of the critical contributing factors to the meaningful participation (Reed 2008). In light of this, it may not be a surprise that many stakeholders felt their ability to influence the outcome of the process was restricted (see Section 6.5).

However, there can be hardly any dispute that the MLPA Initiative process incorporated a substantial level of stakeholder participation. Furthermore, even though the stakeholders' proposals were modified, it remains the case that the stakeholders' opinions were reflected (see Chapter 6). Besides this, it is crucial to recognise that a total bottom-up process does not guarantee the production of more effective MPAs as such an approach can compromise conservation objectives due to "*the risk of parochialism*" (Jones and Burgess 2005). For instance, it is important to recall that many of the existing MPAs before the MLPA Initiative process in California were designated through a bottom-up process (See Section 3.3, 3.4, and 6.3.1; Saarman et al. 2013). As a result, pre-existing MPAs which were designated by a bottom-up process in such an *ad hoc* manner simply meant that the fragmented management of the ocean and overall conservation objectives could not have been achieved (See Section 3.3, 3.4 and 6.3.1; McArdel, 1997; Fox et al. 2013a; Saarman et al. 2013). Therefore, the pre-existing MPAs in California prior to the implementation of the MLPA can be considered as a demonstration of failing to achieve

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biodiversity conservation objectives due to the bottom-up approach of stakeholder participation in the MPA designation process.

As such, there is nothing inherently wrong with using certain top-down elements. On the contrary, this could be considered one of the best examples of combining top-down and bottom-up. Subsequently, it is somewhat perplexing to encounter the prevalent stakeholder scepticism towards the MLPA implementation process. It appears that stakeholders' scepticism was largely based on their suspicion that environmentally-oriented powerful private philanthropic foundations, such as the Packard Foundation, which is one of the major funders of the RLFF, used the public process to achieve their agenda.

It appears that stakeholders' suspicions towards the RLFF are largely based on two factors. The first is the reduced role of the DFG, whilst the other is the close relationship between key personnel in the MLPA implementation process and the RLFF. Although those two aspects have been demonstrated through the MLPA Initiative process structure analysis (see Section 7.3), more detailed analysis will be follow in the next chapter in relation to the role of NGOs in the MLPA implementation process.

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## Chapter 8: Discussion and Analysis

### Overview

The California MLPA Implementation process was widely publicised as a very successful case of the science-based stakeholder-participation process for designating networks of MPAs to achieve biodiversity conservation objectives (Fox et al. 2013a; Gleason et al. 2013; Kirlin et al. 2013; Sayce et al. 2013; Gleason et al. 2010, 2013; Libornecht 2008; Scholz et al. 2004; Stevenson et al. 2012). As a result of the MLPA implementation process, the California ocean environment governance, which was suffering from the fragmented conservation objectives, was transformed (see Section 3.4 and Section 3.5).

The California MLPA Implementation process can be considered as an important case study, not only because it successfully designated a network of MPAs based on an unprecedented level of stakeholder participation but also because it was achieved through a successful PPP. Indeed, it appears that PPPs are increasingly recognised as an important tool for the successful designation of MPAs around the world (Hastings et al. 2012). Furthermore, it can also provide valuable information for other MPA designation processes. For instance, the UK Marine Conservation Zone designation process is designed based on the California case study (Lieberknecht 2008; Lieberknecht et al. 2013).

Subsequently, this thesis set out to explore and investigate the critical factors which contributed to the successful implementation of MLPA, by carrying out a realist institutional analysis from the ground up. This thesis also attempted to identify the increasing role of NGOs and its implications in protected area governance (see Chapter 2). The present thesis also attempted to contribute to the protected area governance theory by assessing the ‘right combination’ of approaches (Jones et al. 2011), between people, markets and the state.

Based on the fieldwork, there is strong evidence to suggest that many

stakeholders, including those who are not necessarily considered as proponents of resource exploitations, did not agree with the widely publicised claim that it was a successful case of a science-based stakeholder-driven process (see Chapter 5, 6 and 7). Indeed, it could be argued that unlike the widely publicised claim, the MLPA Initiative connotes several top-down approaches, such as selecting the implementation site (see Chapter 5), highly controlled participation process (see Chapter 6), and very strong political support from the highest level which was channelled through an implementation structure (see Chapter 7). Nevertheless, there is nothing inherently wrong with applying certain top-down elements, as it is not only critical to establish the MPAs but also to achieve biodiversity conservation objectives (Jones and Burgess 2005; Jones 2013). Based on this, it could be argued that the term ‘science-based’ is an oxymoron of ‘stakeholder-driven’ process.

It certainly gives the impression that this research argued against the factors which led to the success of the MLPA Initiative in terms of six ‘enabling conditions’, namely were strong legal mandate, political support and leadership, adequate funding, aggressive timeline with firm deadlines, engaging civil society, and effective and transparent process design (Fox et al. 2013a; see also Section 7.1). However, it is important to acknowledge that the California marine environment was degrading due to the failure of effective management (see Section 3.3). Subsequently, MLPA was introduced in order to improve ocean management in California. However, as was demonstrated, the attempt to implement MLPA failed twice. It was only possible to complete the implementation of MLPA through the MLPA Initiative process which was achieved through PPP. Therefore, it can be argued that the MLPA implementation process, including the MLPA Initiative process, was an ultimately ‘successful’ case in a slightly different sense from the widely publicised claim. Based on the fieldwork, four factors were identified as having led to the successful completion of the MLPA implementation process:

- 1) Strong Legal mandate



- 2) Strong Political Will
- 3) Stakeholder Participation
- 4) Public Private Partnership

At the same time, it can be argued that the PPP was also the most controversial factor, and one which gave rise to significant scepticism among the stakeholders towards the MLPA implementation process (see Chapter 6 and 7). Indeed, one could say that the prevalent stakeholder scepticism is based on the PPP (see Chapter 6 and 7), which in turn resulted in a number of litigations against the process (Fox et al. 2012a). Considering the fact that it was the PPP which enabled the MLPA Initiative to carry out a substantial level of participation process, it is somewhat ironic.

Nevertheless, stakeholders' concerns should not be overlooked or dismissed, nor should they be treated as unfounded accusations from '*sore losers*'. Indeed, there are some worrying signs in relation to the PPP, such as very close personal and political connections between key personnel in the MLPA Initiative, who maintained significant leverage on the outcome of the process, and the RLFF, which provided the funds for the MLPA Initiative process (see Chapter 7). Indeed, it appears that NGOs played a significant role in the MLPA implementation process. For instance, NGOs such as the Natural Resource Defense Council (NRDC) played a key role in the legislative process and participation process in the MLPA Initiative. Indeed, the RLFF, which as a non-profit organisation can also be considered, to a certain extent, as an NGO, played a key role in funding the MLPA Initiative process. Therefore, the present chapter will revisit those key successful factors which contributed to the successful implementation of the MLPA while identifying the significant implication of NGOs' role in relation to said factors.

## 8.1 Strong Legal Mandate: the MLPA

The importance of a strong legal mandate is recognised as a critical factor for the successful designation of MPAs around the world (Jones et al. 2011). For the MLPA implementation process, it is very obvious that the MLPA, which provided a strong mandate, was one of the fundamental factors for the success of the MLPA Initiative process (Fox et al. 2013b). This is due to the fact that, as soon as the MLPA passed the legislature, the question was not about whether or not there should be a network of MPAs. Indeed, as specified by a consultant:

*The law says, establish a network of MPAs and you have to start with a statute<sup>247</sup>.*

There can be hardly any dispute that the MLPA was a visionary law which not only improved the California environment but also transformed the ocean governance in California, which was suffering from fragmented conservation objectives (see Section 3.4 and Section 3.5). This section will discuss the way in which this critical law was enacted, as well as its implications.

### 8.1.1 NGOs' role in the legislative process

As has been demonstrated, there are certain ambiguities in the MLPA (see Section 3.4.3). Furthermore, depending on where the emphasis is placed, it can also be considered, to a certain extent, as fisheries management law, as its mandate is confined to managing fishing activities, even though this is for biodiversity conservation purposes. In reality, the interpretation of the law caused serious polarisation between advocates of MPAs and stakeholders, including those who were not necessarily considered as the proponents of resource exploitation (see Chapter 7). However, the MLPA was ultimately

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<sup>247</sup> Interview with a consultant (CNCSN-NP47) verified by a staff member (C-P24), and a scientist (CNCSN-P29)

interpreted as a biodiversity conservation law because there is another law which specifically deals with fisheries management, known as MLMA (see Section. 3.4.2).

At the same time, it is worth remembering that according to Weible (2008), a small group of stakeholders, who were described as “entrepreneurs”, pushed the MLPA through the California legislature (Weible 2008; also see Section 3.4.2). Based on the fieldwork, it can be confirmed that at least one of the “entrepreneurs” was working at the NRDC and these “entrepreneurs” were working closely with NRDC in drafting the law<sup>248</sup>.

However, it may not be a surprise that the NRDC, which is considered as *one of the nation’s most powerful environmental groups* (NY Times, December 4, 2008), would use its resources to push the law through the legislative process using ballot measures (see Section 3.4.1). Perhaps more importantly, it appears that the Packard Foundation, which is one of the major funders for the RLFF (RLFF website)<sup>249</sup>, funded NRDC for the legislative process. Indeed, one staff member who had been involved in structuring the MLPA Initiative process stated that:

*NRDC may have had funding from the Packard Foundation to work in this area because the Packard Foundation had been interested in MPAs in California, particularly since around 1990. So NRDC really spearheaded the development of MLPA<sup>250</sup>.*

Indeed, the Packard Foundation provided grants of over \$ 2.2 million to the NRDC from 1988 to 2005<sup>251</sup>. Considering the fact that one of the most

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<sup>248</sup> Interview with a commercial fisherman who also owns a recreational fishing shop (C-NP90) verified by a staff member (SN-P107), a consultant (CNCSN-NP47), non-consumptive users (C-P48; NC-P108), and a recreational fisherman (C-NP116)

<sup>249</sup> RLFF website. available from: [http://www.resourceslegacyfund.org/pages/p\\_SCO.html](http://www.resourceslegacyfund.org/pages/p_SCO.html)

<sup>250</sup> Interview with a consultant (C-P32)

<sup>251</sup> <http://activistcash.com/foundation.cfm/did/80>

powerful NGOs in the US was working very closely with the Packard Foundation, which is ranked as the 8<sup>th</sup> largest foundation in the US<sup>252</sup> and working towards establishing MPAs in California, it is more surprising that a successful implementation of the MLPA was not seen sooner.

On the other hand, it is important to acknowledge that the fishing groups, which would be most directly affected by the MLPA, were not fully aware of the implication of the MLPA, nor were they even aware of the MLPA when the bill was going through the legislative process (see Section 3.4.2); this is despite the claim that the fishing community was aware and even participated in drafting the bill<sup>253</sup> (see Section 3.4.2). It appears that this is the problem with the law which was created by legislatively sponsored ballot measures. Indeed, such law is often very divisive and controversial (see Section 3.4.1 and 3.4.2; CFC 2006). This could provide an explanation for such strong opposition from the local community, particularly the fishing community, when the DFG initially tried to implement the MLPA prior to the MLPA initiative process (see Section 3.5).

Perhaps more importantly, it is worth recalling that according to Weible (2008) *‘entrepreneurs believed they could change marine policy in the State of California through the legislative process’* (Weible, 2008: 354; see Section 3.4.2). Therefore, it could be argued that the NRDC and the Packard Foundation, which are very powerful NGOs in the US, wanted to influence the policy, as stated by a member of staff:

*In the generation of the act, NGOs had a very big influence on how the act was written, NRDC in particular. So I think that one would deduce from that, this is an act that was written more on the lines of NGO interests than for fishing interests for sure<sup>i</sup>.*

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<sup>252</sup> Based on the Foundation Centre data. Available from: <http://foundationcenter.org/findfunders/topfunders/top100assets.html>

<sup>253</sup> Interview with a environmental stakeholder (NC-P108)

According to Haufler (2009), there are largely two types of NGOs. The first is an ‘operational NGO’ which usually works directly with government and often operates under contract with public agencies (Haufler 2009). The other is an ‘advocacy NGO’. This type of NGO wants to influence policy but usually does not engage in the implementation process (Haufler 2009). Based on Haufler’s category, it appears that both the NRDC and Packard Foundation can be considered as both operational and advocacy NGOs. Indeed, Haufler’s description of operational and advocacy NGOs fits well with this:

*‘They [Operational NGOs] may also work on capacity-building within a country. These operational NGOs work directly with governments and IGOs, and often operate under contract to public agencies’* (Haufler, 2009:130).

*‘They [Advocacy NGOs] are the modern agenda-setters, as they identify pressing public concerns and publicize them...They generally try to establish a more arms-length relationship with states and International NGOs (IGOs) than other non-profit organisations that contract for services. Advocacy NGOs represent a wide range of political interests and values, from extremely radical leftist organisations to those on the far right...’* (Haufler, 2009:131).

The implications of NRDC and Packard Foundation involvement for the MLPA implementation will be discussed in the subsequent sections.

### *8.1.2 Implication of the environmental NGO drafting the law*

There are significant implications linked with the fact that the NRDC was heavily involved in drafting the MLPA while the Packard Foundation was funding the NRDC to draft the law. In this case, it could be argued that environmentalists’ agenda was reflected in the MLPA and subsequent interpretation, as pointed out by a member of staff:

*The law also easily could have been interpreted that we would clean up the*

*existing MPAs and see if we need to designate new ones. That was our interpretation but we are told it was not their interpretation. Their interpretation was that the law mandated a system of new comprehensive MPAs meeting the guidelines of SAT. They used the term biodiversity conservation and interpreted the way they want to get a new system of MPAs<sup>254</sup>.*

A scientist also said that:

*The MLPA is about biodiversity conservation and people who wrote the law already thought about that. They created a law that doesn't require fisheries benefits in order to achieve biodiversity conservation<sup>255</sup>.*

Indeed, as has been demonstrated (see Chapter 5 and 7), it appears that this is a core argument which advocates the use of MPAs throughout the MLPA Initiative process. Furthermore, it is important to recognise that the MLPA not only stipulated specific objectives and requirements for MPA but also directed them on how to implement the law, as confirmed by a member of staff:

*The MLPA provided a legal structure to develop this process within. For instance there was a role that was spelled out for what was called the master plan science team in the law. It meant that the policy-makers have already decided that science was going to play a key role in determining that the overall structure of the process. There was enough specificity to provide structure, at the same time it was flexible enough so that there are a variety of ways of implement it<sup>256</sup> (Fox et al. 2013a).*

In light of this, it could be argued that the interpretation of the MLPA not only had a significant impact on how the MLPA Initiative was operated but also on the outcome of the process. For instance, it is important to recall that

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<sup>254</sup> Interview with a non-consumptive stakeholder (C-P48)

<sup>255</sup> Interview with a scientist (C-P5)

<sup>256</sup> Interview with a consultant (C-P32) verified by staff (NCSN-P30, C-P46)

the science guidelines were developed by a handful of core scientists in the SAT (see Section 7.3.4). Perhaps more significantly, those scientists developed the science guidelines based on marine ecology theory, such as larvae transport theory. Subsequently, it can be argued that interpreting the MLPA as a biodiversity conservation law not only protected those scientists from the fisheries scientists' counter arguments but also provided foundations for developing science guidelines (see Section 7.3.4).

This has very significant implications. For instance, as mentioned earlier, there are certain attributes of the marine environment which have posed an extra challenge for the MPA governance and one of the critical challenges is scientific uncertainty (see Section 2.7). Although cooperation between the marine ecologists and fisheries scientists is emphasised (Worm et al. 2009), there have been fierce debates as to what the primary objective of the MPAs should be, even amongst the scientist community (Jones 2007). Some argue that the primary objective of MPAs should be biodiversity conservation, while others argue that MPAs should be used as one of the tools for the fisheries management (see Section 7.3.4). Jones (2007) pointed out that the scientific uncertainty and subsequent disputes between scientists can fuel confusion amongst the public and decision-makers, and may contribute to the maintenance of the status quo (Jones, 2007). However, by clearly defining the objectives of MLPA as biodiversity conservation, it was not only the scientists but also the staff members of the MLPA Initiative who could escape from seemingly endless debates regarding what the primary objectives of MPAs should be.

Since the MLPA implementation process was based on the strong mandate of the MLPA, it can be suggested that, unlike the widely publicised claim, the stakeholder process was relatively constrained and controlled by the top-down elements (see Chapter 6). For instance, the stakeholders not only had to develop the proposals based on the science guidelines but were also repeatedly directed to meet the science guidelines by the BRTF (see Section 6.3). More

detailed stakeholder process analysis will be carried out in the subsequent sections. Meanwhile, it could be argued that the science guidelines and staff members' interpretation of the MLPA as biodiversity conservation law had a significant influence on the outcome of the process (see Section 7.3.4). Indeed, it appears that this is the main reason why the CCSR MLPA Initiative stakeholder process produced bigger and more MPAs, which were located in very similar positions to Initial Draft Concepts (see Figure 6.2 (a), (b) and Figure 6.3 (a), (b)).

At the same time, and somewhat understandably, this was one of the factors which raised suspicion amongst stakeholders that the MLPA Initiative process had a predetermined outcome (see Section 6.2). However, it should not be assumed that the MLPA Initiative process had a predetermined outcome only because they had to use the science guidelines and were directed to meet the science guidelines (see Section 6.3). Furthermore, there is nothing inherently wrong with applying certain top-down elements to achieve strategic societal objectives.

Indeed, it is acknowledged that certain top-down elements are essential not only when it comes to achieving biodiversity conservation objectives but also to successfully implementing the MPA (Jones and Burgess 2005; Jones et al. 2011; Jones 2013). The critical question relates to how the top-down element was applied. Indeed, if it is too strong a top-down approach, it can be perceived as an imposition (Jones and Burgess 2005; also see Section 2.5.4). At this point, it is very important to recognise that the MLPA was drafted by the most powerful NGOs in the US, as they believed that they could change the marine policy in California. In addition, it could be argued that since the NRDC, which was also supported by the Packard Foundation, drafted the MLPA, the MLPA is bound to reflect their agenda. However, most of the stakeholders, and particularly the fishermen who would be directly affected by the MLPA, were not fully aware of the legislative process. Perhaps most critically, it was the MPA advocates' interpretation of the MLPA which was



applied for the implementation process. This is arguably the reason why there have been very polarised perspectives towards the MLPA process and outcomes (see Chapters 5, 6 and 7).

## **8.2 Participation process: Issues with meaningful participation**

Innes and Booher (2004) identified five purposes for the participation process. Firstly, the public's preferences can be reflected in the final decision-making. Secondly, the quality of decision can be improved by incorporating local knowledge. Thirdly, an open participation process can promote fairness and justice. Fourthly, participation can help to achieve the democratic legitimacy for the public decision. Lastly, the law, particularly in the US, often requires participation in the public decision making process (Inners and Booher 2004). At the same time, it can be argued that these five purposes can be categorised into two broad terms. The first is to improve the quality of decisions by incorporating local knowledge and the public's preference. The other is to achieve legitimacy by promoting fairness and justice and by meeting the requirement of the law.

These are the main reasons why stakeholder participation is widely incorporated into environmental policy decision-making processes as it can increase the legitimacy and quality of decisions (Beierle 2002; Daley 2007; Dietz and Stern 2008; Pomeroy and Douvere 2008; Reed 2008; Stringer et al. 2007; Fox et al. 2013a). On the other hand, it is also important to recognise that there are a few studies which cite potential problems with stakeholder participation in environmental policy-making processes (Bora and Hausendorf 2006; Abels 2007; Reed 2008). Particularly, stakeholder participation in MPA designation can undermine biodiversity conservation objectives due to local resource exploitation objectives (McClanahan, 2004; Saunders et al. 2008; Walters, 2004).

Nevertheless, public participation can increase the legitimacy of policy

decisions (Abelson et al. 2003; Daley 2007). The legitimacy of the decision is particularly important in terms of the environmental policy, since the decision to improve the environmental condition often requires changes in human behaviour (Dietz and Stern 2008). This is particularly true for MPA governance as there are many scholars who argue that a major factor in determining the success or failure of MPAs is social factors rather than biological or physical variables (Kelleher and Recchia 1998; McClanahan 1999; Pollnac et al. 2001; Christie 2004). For example, an MPA may be considered as successful due to increases in fish populations, species diversity and habitat improvements. But at the same time, a lack of broad participation in the management could lead to overall failure of the MPA (Mascia 2004). This is because, as pointed out by Jones (2001), MPAs are usually subjected to minimal human disturbance through regulations (Jones 2001). In order to ensure minimal human disturbance, effective enforcement must be carried out because inadequate enforcement can ultimately result in a low level of compliance, which in turn undermines the objectives of MPAs (Jones 2006; Kritzer 2004; Roberts and Hawkins 2000). At the same time, it is important to recognise that it is very difficult to carry out effective enforcement for MPAs (Davis et al. 2004). One way in which to increase the compliance level is by involving stakeholders in the decision making process as they will likely accept the final decision if said decision is made in such a way (Jones 2006). Therefore, acquiring legitimacy for the MPA designation process through stakeholder participation can be particularly important in order to achieve the successful management of human activities.

Interestingly, at least for the CCSR MLPA Implementation process, the effect of participation has been quite the opposite. For instance, the substantial level of stakeholder participation ended with the production of more and bigger MPAs than the Initial Draft Concepts, which were designed by the scientists (see Figure 6.2 (a), (b) and Figure 6.3 (a), (b)). Furthermore, and perhaps more seriously, it would be hard to claim that participation in the MLPA Initiative process delivered legitimacy. Indeed, there are not only several

litigations against the process (Fox et al. 2013a) but also prevalent scepticism among stakeholders towards the process (Chapter 5, 6 and 7). This could be considered as certain stakeholders' attempts to derail the MLPA Initiative process. On the other hand, the fieldwork suggests, many stakeholders were very sceptical about the participation process (see Chapter 6). It appears that their scepticism was mainly based on the source of the funding and its potential undue influence, which will be discussed in the subsequent section (also see Chapter 7).

### *8.2.1 'Right balance' between top-down and bottom-up?*

As has been mentioned several times, one of the key selling points of the MLPA Implementation process, particularly the MLPA Initiative process, was that it was a science-based stakeholder-driven process (Fox et al. 2013a; Gleason et al. 2010, 2013; Kirilin et al. 2013; Sayce et al. 2013; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012).

This gives the impression that the MLPA Initiative process was a bottom-up approach, which has been strongly promoted by the CPR governance theory scholars who emphasise community based self-governance by self-organised local actors with minimum top-down intervention (Hayes 2004; Hayes and Ostrom 2005; Ostrom and Nagendra 2006; Ostrom 1990, 1998, 1999; see Section 2.5.2). However, the fieldwork suggests that this was not the case. It could be argued that the MLPA Initiative stakeholder process was very constrained and controlled by several top-down forces.

Firstly, it could be argued that the location of each MLPA Initiative process was carefully selected based on the socio-economic considerations. For instance, it is possible to argue that it was not a coincidence that CCSR was selected as the first 'pilot' study region. It was selected because the CCSR has relatively less socioeconomic impact whilst the fishing community in that region has relatively less political clout than other study regions (see Chapter

5).

Secondly, from the very beginning of the process, the stakeholders were reminded that the MLPA Initiative process had a very firm deadline and would definitely have an outcome, regardless of whether or not the stakeholders decided to participate (see Section 7.2). It appears that this was one of the critical factors which promoted stakeholder participation (see Section 7.2). It was staff members in the MLPA Initiative who constantly reminded the stakeholders that the MLPA Initiative process would move forward whether they were participating or not.

Furthermore, and as mentioned earlier, the staff for the core components of MLPA Initiative, such as BRTF, SAT, and MLPA-I team, repeatedly emphasised that the act was not about fisheries management but about biodiversity conservation throughout the process. In other words, since the MLPA was interpreted as a biodiversity conservation law. The members of staff who steered the MLPA Initiative, such as BRTF, SAT, and MLPA-I team, could always come back to the legislation whenever stakeholders questioned the effectiveness of the MPAs in terms of fisheries management arguments <sup>257</sup>. Therefore, it could be argued that the staff used the interpretation of the MLPA to neutralise the counter arguments mainly from proponents of resource exploitation (see Section 7.3).

Unfortunately, this had certain negative consequences as well. Most seriously, many stakeholders perceived the staff of core components, such as BRTF, SAT, and I-team, as advocates of MPAs (see Chapter 7). Indeed, Weible (2005) also found that staff, including researchers, state and federal government officials often took up positions as advocates (Weible 2005). However, it is unfair to accuse the staff of being advocates of MPAs because

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<sup>257</sup> Interview with staff (NCSN-P30; C-P46; CNCSN-P87; C-P120), scientists (C-P5; CNCSN-P23)

their objective is to implement the MLPA. In other words, it is the staff's destiny to be perceived as the advocates of MPAs as they are implementing the MLPA. However, for the MLPA Initiative process case, the fundamental cause of stakeholders' scepticism towards the staff is slightly different. It can be argued that the fundamental cause of stakeholders' scepticism towards the staff was due to the close connection, both politically and personally, between them and the RLFF, which will be discussed in the subsequent section.

Thirdly, and probably most significantly, there cannot be any dispute that the MLPA Initiative stakeholder process involved a substantial number of stakeholders and it was the stakeholders who developed the proposals. However, it is equally important to recognise that the MLPA Initiative stakeholder process was relatively constrained and controlled by usage of the science guidelines and iterative process (see Section 6.3).

For instance, the stakeholders had to develop their proposals based on the science guidelines (see Section 6.3). However, as mentioned above, the MLPA was interpreted as a biodiversity conservation law. Subsequently, the science guidelines were developed to achieve biodiversity conservation objectives (see Section 7.3.4). More critically, the science guidelines were developed by a very small number of core scientists who are experts in marine ecology (see Section 7.3.4). In addition, the I-team managed every stakeholder participation process for developing proposals through highly skilled facilitation, which inherently connotes certain top-down control (see Section 7.3.2).

Once the stakeholders produced the proposal based on the science guidelines, they had to go through iterative rounds. It was the BRTF that managed and directed the iterative process (see Section 6.3 and 7.3.1). The BRTF exercised relatively strong top-down force to steer the stakeholder process throughout the iterative process, in order to meet the science guidelines to the greatest extent possible (see Section 6.3 and 7.3.1). For instance, the BRTF not only unilaterally directed the I-team to produce Package S but also directed it to

merge Package 3, which was produced by a ‘splinter group’ of stakeholders, and S to create Package 3 R. Furthermore, the BRTF carried out another unilateral modification to Package 2, which was produced by the environmentally-oriented stakeholder group to create Package 2R (see Section 6.3; Table 6.3). In addition, although it was only for the CCSR MLPA Initiative, the DFG also developed its own preferred alternative Package P, after the BRTF made its recommendation. Even though Package P was a minor modification based on Package 3R, it was heavily criticised as undermining stakeholders’ efforts (see Section 6.3).

At this point, it is worth noting that many stakeholders, including those who are not proponents of resource exploitation, were more sceptical towards the BRTF than the DFG, which supposedly significantly undermined the stakeholders’ efforts. Indeed, it appears that many stakeholders perceived the BRTF as a heavy-handed arbitrator, which drove the process to a predetermined outcome (see Section 6.3; 7.3.1). On the other hand, it appears that many advocates who participated in the process, heavily criticised the DFG for undermining the stakeholder participation process (Gleason et al. 2010, Fox et al. 2013b, Kirlin et al. 2013). The subtle yet significant differences between those two perspectives will be analysed in the subsequent section.

Meanwhile, as mentioned above, one of the purposes of stakeholder participation is to increase the quality of the decision made (see Section 8.2). It has been claimed that the science guidelines provided experts’ knowledge while the local knowledge came through stakeholder participation (see Section 6.5). However, the fieldwork suggests that many stakeholders felt that the stakeholder participation process was a top-down imposition. More seriously, they felt that their local knowledge was not only ignored but also used against them (see Section 6.3). Subsequently, it appears that many stakeholders did not feel any strong associations with either Package 3R or Package P, which were used to develop the Commission’s preferred alternative; an alternative ultimately adopted as the MPA network for the CCSR (see Section 6.4).

In conclusion, it can be argued that the MLPA Initiative process was not a stakeholder-driven process. Indeed, based on fieldwork, many stakeholders expressed their antipathy towards the most publicised claim that the MLPA Initiative process was a science-based stakeholder-driven case (see Section 6.2). However, as has been mentioned several times, there is nothing inherently wrong with applying certain top-down elements. Indeed, this is often required to achieve biodiversity conservation objectives or strategic objectives on a large scale (Jones and Burgess 2005; Jones 2013; also see Section 2.5.2). At the same time, it is important to recall that one of the main reasons for the failure of ocean management in the California ocean prior to the MLPA implementation was that MPAs were designated through a bottom-up process (See Section 3.3; 3.4; 7.4, McArdel 1997; Fox et al. 2013a; Saarman et al. 2013).

The more important questions relate to how those top-down elements were applied and how to still achieve meaningful stakeholder participation. Possible answers to these questions will be explored throughout the subsequent sections.

#### *8.2.2. Dilemma for meaningful participation process: Strong Political Will*

As was identified, strong political will was one of the key factors to have contributed to the successful implementation of the MLPA (see Section 6.4; 7.3; 7.4 and Figure 7.2). However, the fieldwork also suggests that strong political will could compromise meaningful stakeholder participation. As has been demonstrated in the previous chapter, it is relatively obvious that the strong political will of Mike Chrisman, who was newly appointed as the Secretary of Resources by the Schwarzenegger administration, played a critical role in the successful implementation of the MLPA (see Section 7.3).

It appears that Mike Chrisman was not only very interested in ocean conservation but also experienced in ocean policy as he was deeply involved

in the Channel Island MPA designation process, which faced several challenges regarding public participation (see Section 3.5.1 and 7.3). Based on his experience in the Channel Island case and his personal interests in the ocean environment (see Section 7.3), Mike Chrisman worked with Michael Mantell, who is the former Resources Agency Undersecretary and now works for the RLG, to strike the MOU deal (see Section 7.3 and 8.3.2). As a result of MOU, the RLFF was able to fund the first part of the MLPA implementation process, namely the MLPA Initiative process (see Section 7.3).

Perhaps more critically, it can be argued that the Secretary's political will in supporting the implementation of MLPA was channelled through the MLPA Initiative process (see Figure 7.2). Subsequently, it could be argued that there was a chain of command based on bonds of sympathy between Secretary of Resources Agency and key personnel in the MLPA Initiative structure. For instance, the Secretary of Resources had sole discretion to appoint the Chair of BRTF, who not only convened the rest of BRTF but also appointed the executive director of the I-team (see Section 7.4 and Figure 7.2). Interestingly, those core components were heavily criticised for undermining stakeholders' ability to develop proposals (see Section 8.2.1).

At the same time, it is very important to recognise that the MLPA Initiative process is only half of the process. Indeed, it is the Fish and Game Commission which makes the final decision under the MLPA (see Section 3.4.3; 6.4). In other words, technically speaking, the Fish and Game Commission can disregard the stakeholders' recommendations and come up with its own proposals (see Section 6.4). Actually, the Fish and Game Commission created its own proposal for the CCSR MLPA Initiative process based on Packages 3R and P (see Section 6.4).

At this point, it is argued that one of the fundamental criteria for the meaningful participation is empowering stakeholders so that they can actually influence the outcome of the process (Reed 2008). However, as previously



demonstrated, many stakeholders did not feel that they influenced the outcome of the MLPA Implementation process, let alone the MLPA Initiative process, which was widely publicised as a science-based stakeholder-driven process (see Chapter 6 and 7). Indeed, it appears that many stakeholders did not feel a strong association with Packages 3R and P (see Section 8.2.1). Therefore, it is not a surprise that many stakeholders did not feel they influenced the outcome of the process and did not believe that it was a meaningful participation process (see Chapter 6 and 7). Unfortunately, it appears that the outcome of the CCSR MLPA Implementation process, which bears remarkable resemblance to the Initial Draft Concepts (see Figure 6.2 (a), (b) and Figure 6.3 (a), (b)), consolidated the stakeholder's conviction that there was already a predetermined outcome (see Chapter 6).

On the other hand, it may be necessary to revisit the argument that empowering stakeholders to actually influence the outcome of the process is a fundamental requirement for meaningful participation (Reed 2008). Ironically, empowering stakeholders to influence does not necessarily guarantee that stakeholders would produce better MPAs, as demonstrated through the problems of ocean environment governance in California prior to the MLPA implementation (See Section 3.3; 3.4; 7.4; McArdel, 1997; Fox et al. 2013a; Saarman et al. 2013). Therefore, with regards to the present California MLPA Implementation process it remains very difficult to find the 'right balance'. Perhaps the more critical factor is how the strong political will is executed and generated.

Although it is outside of the case study area, the NCCSR Fish and Game Commission process presented an interesting case study regarding these questions. It appears that the Fish and Game Commission process became even more highly politicised in the subsequent study regions (see Section 6.4.1). For instance, Don Benninghoven, who was a member of BRTF for the NCCSR, became the Fish and Game Commissioner just a few days before the final NCCSR Implementation process. Considering that the final vote count for the

NCCSR was 3-2 to approve the implementation of the MLPA, it could be argued that his appointment was based on highly political factors (see Section 6.4.1).

However, the governor has sole discretion to appoint the Fish and Game Commissioner, and thus it is only natural that the governor would appoint the Fish and Game Commissioner to disseminate his political will (see Section 6.4). Indeed, had the Commissioners not approved the proposals, the implementation process could be further delayed, which could, in turn, have resulted in derailment of the implementation process (Harty and Rabb 2008). In light of this, it could be argued that the strong political will of the governor played a critical role in the successful implementation of the MLPA. Furthermore, it appears that it also sent a clear signal to subsequent study regions that the MLPA would be implemented (see Section 6.4). Indeed, strong political will is recognised as one of the critical factors for successful designation of MPAs (Cicin-sain and Belfiore 2005; Jones et al. 2011). However, once again, enforcing such strong political will can also give the impression that the stakeholders cannot influence the outcome of the process.

In relation to how strong political will is generated, the appointment of Michael Sutton, who was appointed as the Fish and Game Commissioner immediately after the CCSR MLPA Implementation process, may provide some insights. At the same time, it is very important to acknowledge that this research is not suggesting nor accusing Michael Sutton of being corrupt.

With this said however, there are some worrying signs, since Michael Sutton is the vice-president of the Monterey Bay Aquarium, which is funded by the Packard Foundation. This organisation not only sponsored the NRDC for drafting the MLPA, but also funded the RLFF during its implementation of the MLPA (see Section 6.4; 8.1). Indeed, the close relationship between key personnel in the MLPA implementation process and the Packard Foundation has been one of the critical issues resulting in prevalent scepticism among

stakeholders (see chapter 6 and 7). The more significant implications of the PPP in relation to the Packard Foundation will be discussed in the subsequent section.

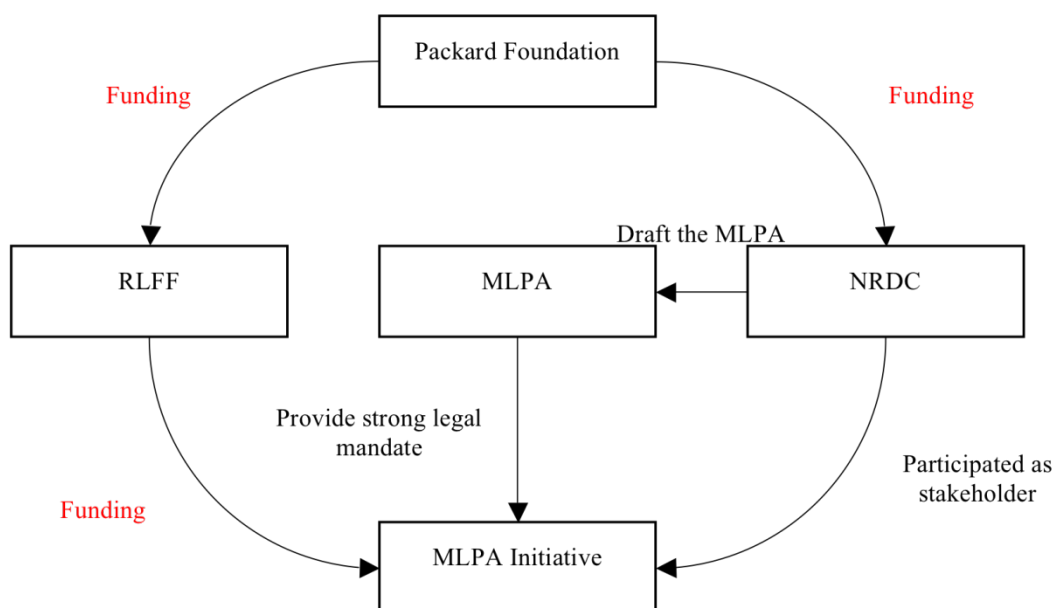
### *8.2.3. Dilemma for meaningful participation process: Imbalance of Power among stakeholders*

One of the reasons for such widespread acceptance of stakeholder participation in recent years is that it is increasingly considered as a tool with which to exercise democratic rights, particularly through environmental pressure groups such as NGOs (Reed 2008). Indeed, such a phenomenon might not be a surprise since one of the consequences of the decentralisation of governance in modern society is the rise of civil society (see Chapter 2). It is clear that in modern society, particularly in the US, “special interests” groups have significant influence on the elected officials by using their power, money, and access (Innes and Booher, 2004).

At this point, it is worth recalling that the NRDC, which was supported by the Packard Foundation, drafted the MLPA. Furthermore, the MLPA Initiative process, which was essentially the participation phase of the implementation process (see Section 6.2), was supported by the RLFF, among the main donors for which is the Packard Foundation (see Section 7.1). In addition, it is important to recall that it was the RLG, which works for the RLFF, that designed the MLPA Initiative process structure (see Section 7.3). Subsequently, if the members of the NRDC participated in the MLPA Initiative as stakeholders, it completes the cycle, as it is only logical for the member of the NRDC to support the implementation of the MLPA, which they drafted (see Figure 8.1). Although it did not happen in the CCSR, a member of the NRDC did participate as a stakeholder for the NCCSR<sup>258</sup> (Harty and Rabb 2008).

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<sup>258</sup> Interview with a staff (CNCSN-P87)



**Figure 8.1 Relationships between the Packard Founder, NRDC and RLFF**

Nevertheless, NRDC's participation in the NCCSR MLPA Initiative process should not be blamed, as because NGOs supposedly represent civil society to a certain extent (see Section 2.6.2) as acknowledged by a member of staff:

*In terms of stakeholders, I think NGOs are a valid stakeholder group as they represent the majority of society in terms of what the average person wants to see...I never felt like an active participant in this process wanted to shut the whole coast down...So they were willing to work<sup>259</sup>.*

On the other hand, it is also important that certain NGOs, particularly BINGOs, including the NRDC, would have much more power, as pointed out by a member of staff:

*In terms of their political power and their horsepower behind the scenes, it*

<sup>259</sup> Interview with a staff (CNC-P97) verified by staff (NCSN-P30; CNCNS-P87; C-P120)

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*starts to get a little unfair. I guess the key is to make sure their role is proportional to everybody else's role. It should be the same with the consumptive folks. You don't want them to overpower the process<sup>260</sup>.*

Although it may be possible to make the NGOs' role proportional to everyone else's role through facilitation, ultimately, it would be very difficult to achieve such an objective, not because some NGOs are powerful but because of the fundamental mechanisms of the stakeholder process.

Putting aside the differences in their agenda, the biggest difference between NGOs and stakeholders is, unlike most stakeholders, the fact that it is NGOs' job to participate in the stakeholder process. It is very important to recognise that although the MLPA Initiative paid for accommodation and food for those who participated in the process<sup>261</sup>, there is no obvious economic compensation for participating in the stakeholder process for the MLPA Initiative process. Indeed, it is important to recall that the only factor which promoted participation was the firm deadline as a result of the PPP (see Section. 7.2). In other words, it was the notion that the MLPA Initiative process has a certain outcome, even if stakeholders refuse to participate (see Section 7.2). Under the circumstances, the only obvious incentive for participation is the possibility that the stakeholders can influence the outcome of the process, as pointed out by a member of staff:

*Many stakeholders thought if they were not at the table, if they didn't participate someone else would be making the decisions for them<sup>262</sup>.*

Subsequently, from the very beginning, it was challenging for those who also have other daily jobs to participate in the stakeholder process:

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<sup>260</sup> Interview with a staff (NCSN-P30)

<sup>261</sup> Interview with recreational fishermen (NC-P57; CC-P75), staff (CNCNS-P87)

<sup>262</sup> Interview with a staff (CNCNS-P26) verified by staff (NCSN-P30, C-P32) recreational fisherman (NC-P57; C-P75), commercial fisherman (NC-P56)

*Time commitment and money is pretty big discourager for people to get involved. They pay for food and the hotel, which was good. But for the commercial fishermen, they're taking time off from work unless you got somebody to run your boat. If you're driving up to a meeting for two days, you're missing two days of fishing and that's hard to do. That was a big impediment for them<sup>263</sup>.*

However, this is not the only problem, as simply attending the meeting does not mean that the stakeholders participated in the process. Indeed, it appears that the MLPA Initiative process was not a simple exercise of drawing lines on a map. As mentioned earlier, the stakeholders had to develop the proposals based on the science guidelines. Inevitably, it requires certain dedication to develop proposals, as a recreational fisherman pointed out:

*Most people just turned up but they didn't drive the process. To really drive the process it was a full-time job for a year and a half throughout the entire process doing this at night after work... It is also important to recognise that these folks [NGOs] do this for a living; their salaries were paid to be at the meetings. This was their job. I'd work my eight and ten hours, take two days of vacation to go attend them and then work six hours every night. So just in terms of fairness, it was extraordinarily unbalanced<sup>264</sup>.*

Therefore, it is somewhat inevitable that there would be certain inequity in the power balance among the stakeholders. Furthermore, it is important to recall that the MLPA Initiative stakeholder process was not meant to reach a consensus (see Section 6.1). Based on this, it is only logical to assume that stakeholders' opinions are not likely to be valued highly in the stakeholders' discussion since they do not likely have time to fully commit to the MLPA

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<sup>263</sup> Interview with recreational fisherman (CC-P75) verified by commercial fisherman (CC-P39; CC-P42; CC-NP66), commercial fisherman also owns recreational fishing shop (CC-P58), ocean related business owner (CC-NP35; CC-NP95), non-consumptive user (CC-P48; CC-NP72) Staff (CCNCSN-P87), scientist (CCNCSN-P29)

<sup>264</sup> Interview with a recreational fisherman (NC-P57)

Initiative process. This could well explain why many stakeholders felt their opinions were largely ignored (see Section 6.5).

Whilst this is not an attempt to justify the lack of stakeholders' commitment, it should not be overlooked that there are stakeholders who must make an extra effort while others are paid to participate in the process. This results in an interesting but potentially fundamental question regarding meaningful participation. Indeed, Irvin and Stansbury (2004) identified that stakeholders whose livelihoods are strongly affected by the decision or those who can afford to participate will dominate the stakeholder process (Irvin and Stansbury 2004).

However, the MLPA Initiative process has a slightly different narrative. It is clear that stakeholders whose livelihoods are strongly affected by the MLPA did participate in the process. On the other hand, NGOs can afford to participate, although it may not be the sole reason for participation. It could be argued that they wanted to make sure their agenda was reflected in the outcome of the process, since it was the NRDC that drafted the MLPA. This has a very subtle yet significant difference as stakeholders, who are bound to lose their fishing ground, could not really drive the process effectively while their opponents had time, money and knowledge. At the same time, one might contend that usage of science guidelines and iterative process during the MLPA Initiative process systematically neutralised, to a certain extent, stakeholders' ability to incorporate local knowledge (see Section 6.3).

Therefore, it appears that there are similarities with BINGOs' work in the LEDCs as they were often criticised for imposing their values while undermining local community values to certain extent (see Section 2.6.2), as stated by one particular stakeholder:

*I was told by environmental community that there was no way that they would ever agree with fishermen. They would never agree with a proposal that*

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*fishermen support even if it was the most appropriate proposal, because politically, there's no advantage for them to do that*<sup>265</sup>.

### **8.3 Public Private Partnership: NGOs funding of the process and its implications**

As has been demonstrated throughout, the PPP was a key factor which contributed to the successful implementation of the process. At the same time, it was also the most controversial factor. For instance, the MLPA implementation process, particularly the MLPA Initiative process, was widely publicised as one of the best cases for the successful designation of a network of MPAs through a science-based stakeholder-driven process. More importantly, the PPP is recognised as the key factor which enabled such a process (see Chapter 6 and 7).

On the other hand, as has been demonstrated throughout the previous chapter, there is prevalent scepticism towards the MLPA Initiative process, particularly concerning the PPP. Therefore, it is worth taking a close look at the two factors which raised significant suspicion among the stakeholders towards the PPP. It appears that stakeholders' scepticism towards PPP was largely based on two factors. The first is the close personal and political connection between key personnel in the MLPA implementation process and the RLFF. The other is the reduced role of the DFG.

However, before, analysing the two factors, it may be necessary to go back to the very beginning of the MLPA implementation process in order to clearly understand both sides of the argument.

#### *8.3.1 The MLPA: the unfunded legislation*

When the legislature passed the MLPA in 1999, the legislature did not

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<sup>265</sup> Interview with a recreational fisherman (NC-P57) verified by recreational fisherman (C-NP116)



allocate any funding specifically for the implementation of the MLPA (see Section 3.5.3). Consequently, it appears that the previous attempts to implement the MLPA suffered from lack of resources. For example, the importance of securing sufficient funding was highlighted during the second attempt to implement the MLPA (MLPA 2), as lack of funding was one of the main reasons for the failure of the MLPA 2 process (see Section 3.5.3). Therefore, it was essential to secure a sufficient number of resources in order to successfully implement the MLPA. However, unfortunately, the state of California suffered a fiscal crisis in 2003 (DeMaio et al. 2003; see Section 7.1). Consequently, it could be argued that the DFG would not have been able to secure sufficient funding to operate, let alone to implement the MLPA, which does not have allocated funding. Indeed, both proponents of the MPAs and proponents of resource exploitation indicate that *the DFG had a number of shortcomings*<sup>266</sup>, as *the DFG has insufficient people and insufficient money*<sup>267</sup> (see Section 7.3.3).

Considering the fact that the State of California suffered from a budget crisis, it may have been inevitable that funding had to be acquired through the PPP. Besides, when governor Gray Davis signed the MLPA, he encouraged the proponents of MPAs and the DFG to seek assistance from private resources to help the implementation of the bill (see Section 3.5.3). Therefore, it was likely the case that the MLPA would be funded through a PPP from the very beginning.

### 8.3.2 Resource Legacy Fund Foundation (RLFF)

As has been demonstrated, the MLPA Initiative process is the result of a PPP amongst DFG, the Resource Agency, and the RLFF (see Section 7.1). The

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<sup>266</sup> Interview with a staff (C-P32)

<sup>267</sup> Interview with a scientist (C-NP 15) verified by a commercial fisherman also owns recreational fishing shop (C-P58), recreational fishermen (C-NP116; C-P16), non-consumptive stakeholders (C-P48), ocean related business owner (C-NP35), environmentally oriented stakeholder (C-P31), a scientist (CNCSN-P119), staff (C-P24; CNCSN-P26; SN-P107)

DFG is the agency which is supposedly in charge of implementing the MLPA. The Resource Agency is the superior institution which oversees and coordinates the activities and administration (see Section 3.2 and Figure 3.2). Thus, what is the role of the RLFF and why are so many stakeholders sceptical towards the RLFF? According to a staff member, who has been deeply involved in designing the MLPA Initiative process structure, *the RLFF pools funding from a number of other foundations and helps those foundations achieve their goals by pooling the funding*<sup>268</sup>.

Indeed, the Annenberg Foundation, Keith Campbell Foundation for the environment, Gordon and Betty Moor Foundation, David and Lucile Packard Foundation, and Marisla Foundation provided funds through the RLFF for the MLPA Initiative program<sup>90</sup>. At the same time, it may be important to recognise that four out of five foundations, with the exception of the Annenberg foundation, are environmentally-oriented foundations. In addition, according to the Resources Legacy Fund's website<sup>269</sup>:

*Resources Legacy Fund helps philanthropic institutions and individuals become catalysts for conserving and restoring natural landscapes, protecting and enhancing marine systems, maintaining the integrity of wild lands and rivers, and strengthening supportive policies and organisations.*

Based on those factors, it could be considered that the RLFF is a collection of environmentally-oriented philanthropic foundations. It appears that among those different foundations, the Packard Foundation carries the most significance for defining the identity of the RLFF. One of the main reasons is that it seems many stakeholders immediately associate the Packard Foundation with the RLFF, with one recreational fisherman stating;

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<sup>268</sup> Interview with a staff (C-P32)

<sup>269</sup> <http://www.resourceslegacyfund.org/>

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*RLFF is basically an arm of the Packard Foundation, the Monterey Bay Aquarium and that whole group to fund the process*<sup>270</sup>.

Although the RLFF is comprised of several other foundations, stakeholders' association with RLFF and the Packard Foundation might not be totally wrong, as stated by a member of staff:

*It began as a kind of an offspring of the Packard Foundation*<sup>271</sup>.

It appears that the Packard Foundation is very enthusiastic about protecting the ocean environment in California. For instance, as mentioned earlier, the Packard Foundation sponsored the NRDC for drafting the MLPA (see Section 8.1). Moreover, the Packard foundation already provided \$50,000 in 2000 to support the Master Plan Team scientists in their first attempt to implement the MLPA (see Section 3.5.2). Furthermore, the RLFF has carried out the California Coastal Marine Initiative on behalf of the Packard Foundation since 2003, which is *about the same time there was an interest in the state government in implementing MLPA*<sup>272</sup>. Indeed, the implementation of the MLPA was one of the objectives of the California Coastal Marine Initiative (David and Lucile Packard Foundation, 2008). Based on those factors, it could be argued that the Packard Foundation played a critical role in the MLPA implementation from the very beginning.

Simultaneously, it is also important to recognise that another objective of the California Coastal Marine Initiative was the reform of ocean governance which was based on the reports from US Commission on Ocean Policy and Pew Oceans Commission. In order to achieve that objective, like the MLPA, the

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<sup>270</sup> Interview with recreational fisherman (C-P75) verified by commercial fisherman (C-P39; NC-P56; C-P42; C-NP68; C-P86), commercial fisherman also owns recreational fishing shop (C-NP90), recreational fisherman (C-NP21; NC-P57), ocean related business owner (C-NP102) and non-consumptive user (C-P48)

<sup>271</sup> Interview with a staff member (C-P32)

<sup>272</sup> Interview with a staff (C-P32)

NGOs worked very effectively to pass the California Ocean Protection Act through the California legislature in 2004 (David and Lucile Packard Foundation, 2008). One of the most significant implications of the California Ocean Protection Act is that it revitalises the MLMA, as it contains many values from the MLMA (Mize 2006).

This is very interesting considering the fact that the MLMA and the MLPA were originally one bill AB2402. The AB2404 had to be split into two as Governor Pete Wilson vetoed the bill (see Section 3.5.2). More importantly, the bill AB2404 was drafted mainly by the NRDC (see Section 3.5.2). As mentioned above, NRDC has been working very closely with the Packard Foundation. Therefore, it could be argued that the Packard Foundation finally achieved its vested interest to reform the ocean management in California through the California Coastal and Marine Initiative, which supported both MLPA and MLMA. In other words, it could be argued that the RLFF paved a passage to unify the split bill for the Packard Foundation, as the RLFF funded the MLPA implementation while also revitalising the MLMA through the California Coastal and Marine Initiative.

There is also another example which demonstrates the very intimate relationship between the RLFF and the Packard Foundation. As previously mentioned, it was the RLG which designed the MLPA Initiative structure (see Section 7.1). Furthermore, and perhaps more critically, Michael Mantell, who works for the RLG and played a critical role in the successful PPP, is on the Board of Trustees at the Monterey Bay Aquarium which is run by the Packard Foundation (see Section 7.1). Indeed, this may be a possible explanation for the immediate association between the RLFF and the Packard Foundation by many stakeholders.

Interestingly, an environmental stakeholder pointed out that *no environmental*

*NGOs are funders for the RLFF*<sup>273</sup>. However, the examples so far demonstrate that the RLFF, which is comprised of mostly environmentally-oriented philanthropic funds, tried to reform the environmental governance through the legislative process, such as the enactment of MLPA, and revitalisation of MLMA. Therefore, it can be considered as a clear example of environmental philanthropic funds, which can also be categorised as NGOs since they are non-profit organisations (see Section 2.6.2), influencing the environmental governance through the state legislation.

Furthermore, it can be argued that the Packard Foundation often disseminated its agenda through the RLFF. Therefore, it is somewhat understandable as to why many stakeholders immediately associate RLFF with the Packard Foundation and why there is prevalent scepticism towards the RLFF among many stakeholders.

### *8.3.3 RLFF: funded process but no influence on the outcome?*

It appears that a number of staff for the MLPA Initiative acknowledged that [RLFF] *was viewed suspiciously by many stakeholders*<sup>274</sup>. However, the usage of private funding is justified in two broad categories. Firstly, it was argued that the PPP enabled the stakeholders to participate in the MPA designation process on a substantial scale, thus meaning that the stakeholders had significant influence on the outcome of the process, as stated by a consultant:

*It was one of the most robust, well-funded, and well-resourced stakeholder processes...Stakeholders had a significant amount of influence in developing MPAs by bringing their local knowledge especially where there are intense user conflicts in certain areas*<sup>275</sup>.

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<sup>273</sup> Interview with a environmental stakeholder (NC-P108)

<sup>274</sup> Interview with a staff (CNCSN-P87) verified by a staff member (C-P24; SN-P107), recreational fisherman (C-P16), and scientists (C-NP15; CNCSN-P23; CNCSN-P29)

<sup>275</sup> Interview with a consultant (CNCSN-NP47) verified by staff (C-P24; CNCSN-P26; NCSN-P30; C-P32; CNCSN-P87; SN-P107), scientists (C-NP15; C-NP85; CNCSN-P119),

Indeed, many advocates of the MPAs pointed out that the *Public-Private Partnership was brilliant and it wouldn't have happened without the money*<sup>276</sup> because the *stakeholder participation process was extremely expensive and there was no way that the state had that kind of money to fund*<sup>277</sup>. Moreover, they argued that the PPP also allowed a significant investment in the stakeholder process. For example, the MarineMap tool was developed with private funding and it is very expensive to develop and operate (see Section 7.1), as pointed out by a consultant:

*The development and initial operation of it cost maybe a million dollars. So it was a very significant investment in making sure that stakeholders and scientists had tools for designing and evaluating marine-protected areas. That would have never happened in state government*<sup>278</sup>. Therefore, the advocates of MPAs claimed *that the money bought was meaningful for the stakeholder participation process*<sup>279</sup>.

Indeed, this coincides with the widely published description of the MLPA Initiative process (Fox et al. 2013b; Gleason et al. 2010, 2013; Kirlin et al. 2013; Libernecht 2008; Scholz et al. 2004; Sayce et al. 2013; Stevenson et al. 2012).

Secondly, the usage of private money to fund the process through PPP was justified because the RLFF *has no influence over the outcome of the process*<sup>280</sup>

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environmentally oriented stakeholders (C-P31; CNC-P55; NC-P108) and recreational fisherman (C-P16)

<sup>276</sup> Interview with a scientist (CNCSN-P119) verified by interview with environmentally oriented stakeholders (C-P16; C-P31; CNC-P55; NC-P108), staff (C-P24; CNCSN-P26; NCSN-P30; C-P32; CNC-P97; SN-P107), scientists (C-NP15; CNCSN-P29) and a consultant (CCNCSN-NP47).

<sup>277</sup> Interview with a staff (NCSN-P30) verified by a staff member (CNCSN-P26), environmentally oriented stakeholders (C-P55; NC-P108) and scientist (CNCSN-P29)

<sup>278</sup> Interview with a consultant (A-P32)

<sup>279</sup> Interview with an environmental stakeholder (CC-P55)

<sup>280</sup> Interview with a staff (NCSN-P30) verified by staff (C-P24; CNCSN-P26; C-P32; C-P46; CNCSN-P87; SN-P107; C-P120), scientists (C-NP15; CNCSN-P23; CNCSN-P29), environmental stakeholder (C-P31; CNC-P55; NC-P108), and recreational fishermen (C-P16)

(Carr et al. 2010; Gleason et al. 2013; Saarman et al. 2013; Fox et al. 2013a).

Indeed, a scientist said:

*There is a great effort to make sure that the funding source was decoupled from the implementation or the planning process, so that it could not influence the result of the process<sup>281</sup>.*

An example of such effort was the MOU, which gave the structure of the MLPA Initiative<sup>282</sup> by clearly defining the roles and responsibilities of each party in the PPP (Fox et al. 2013a), with a member of staff stating that:

*The RLFF are one of the signatories to a MOU and their role is just to provide funds, but not to review. So they don't have any say in the outcomes<sup>283</sup>.*

Indeed, it may not be possible for the RLFF to influence the outcome of the process, as an environmental stakeholder pointed out that:

*The MPAs were created by stakeholders in real time through the process<sup>284</sup>.*

Nevertheless, staff of the MLPA Initiative recognised that it was essential to establish the legitimacy of the process since the process was funded by a private foundation<sup>285</sup>. Subsequently, the MLPA initiative process adopted *absolute transparency*<sup>286</sup> in order to resolve stakeholders' scepticism towards the PPP (Fox et al. 2013a; Gleason et al. 2010, 2013; Sayce et al. 2013;

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<sup>281</sup> Interview with a scientist (CNCSN-P29) verified by environmental stakeholders (C-P55; NC-P108), and staff (CNCSN-P26; NCSN-P30)

<sup>282</sup> Interview with a staff (CNCSN-P26)

<sup>283</sup> Interview with a staff (C-P24) verified by staff (NCSN-P30; C-P32; C-P46; CNCSN-P87; SN-P107; C-P120), scientists (C-NP15; CNCSNP-P23; CNCSN-P29) recreational fishermen (C-P16) and environmental stakeholder (C-P31; CNC-P55; NC-P108)

<sup>284</sup> Interview with an environmental stakeholder (C-P55)

<sup>285</sup> Interview with staff (C-P46; CNC-P97; SN-P107)

<sup>286</sup> Interview with a staff (C-P46) verified by staff (C-P24; CNCSN-P26; CNC-P97; C-P120), scientists (C-P5; CNCSN-P29; CNCSN-119) and environmental stakeholders (C-P31; NC-P108)

Kirlin et al. 2013; Saarman et al. 2013). For example, every public meeting was broadcast through the webcasts and then archived following which they became readily accessible through the dedicated website<sup>287</sup>. Moreover, a very detailed description of the MLPA process is available from the DFG website. All of these activities were carried out to ensure the transparency of the process.

There can be hardly any dispute that the organisers and the staff of the MLPA Initiative process exerted an extraordinary amount of effort to ensure the legitimacy and the transparency of the process. Most critically, the PPP enabled a substantial level of stakeholder participation which also included many fishermen (see Section 6.2). Therefore, it could be unfair to accuse the MLPA Initiative of being an illegitimate process with a predetermined outcome. An interview with an environmental stakeholder represents understandable frustration among the advocates of MPAs towards other stakeholders, who make accusations or file a lawsuit.

*It is ironic that the same people, who are complaining about the private funding, are benefitting the most from it*<sup>288</sup>.

However, as has been demonstrated throughout the previous chapter (see Section 7.3 and 7.4), it also appears that there were very close connections, both personal and political between the key personnel in the MLPA Initiative process and the RLFF, more precisely the Packard Foundation. For instance, Michael Mantell from the RLG, Margaret Caldwell from BRTF, and Michael Sutton from the Fish and Game Commission are all on the Board of Trustees in the Monterey Bay Aquarium (see Section 6.4; 7.3 and 7.4) which is run by the Packard Foundation. Furthermore, it appears that core marine ecology scientists who developed science guidelines receive a lot of grant money for

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<sup>287</sup> <http://www.cal-span.org>

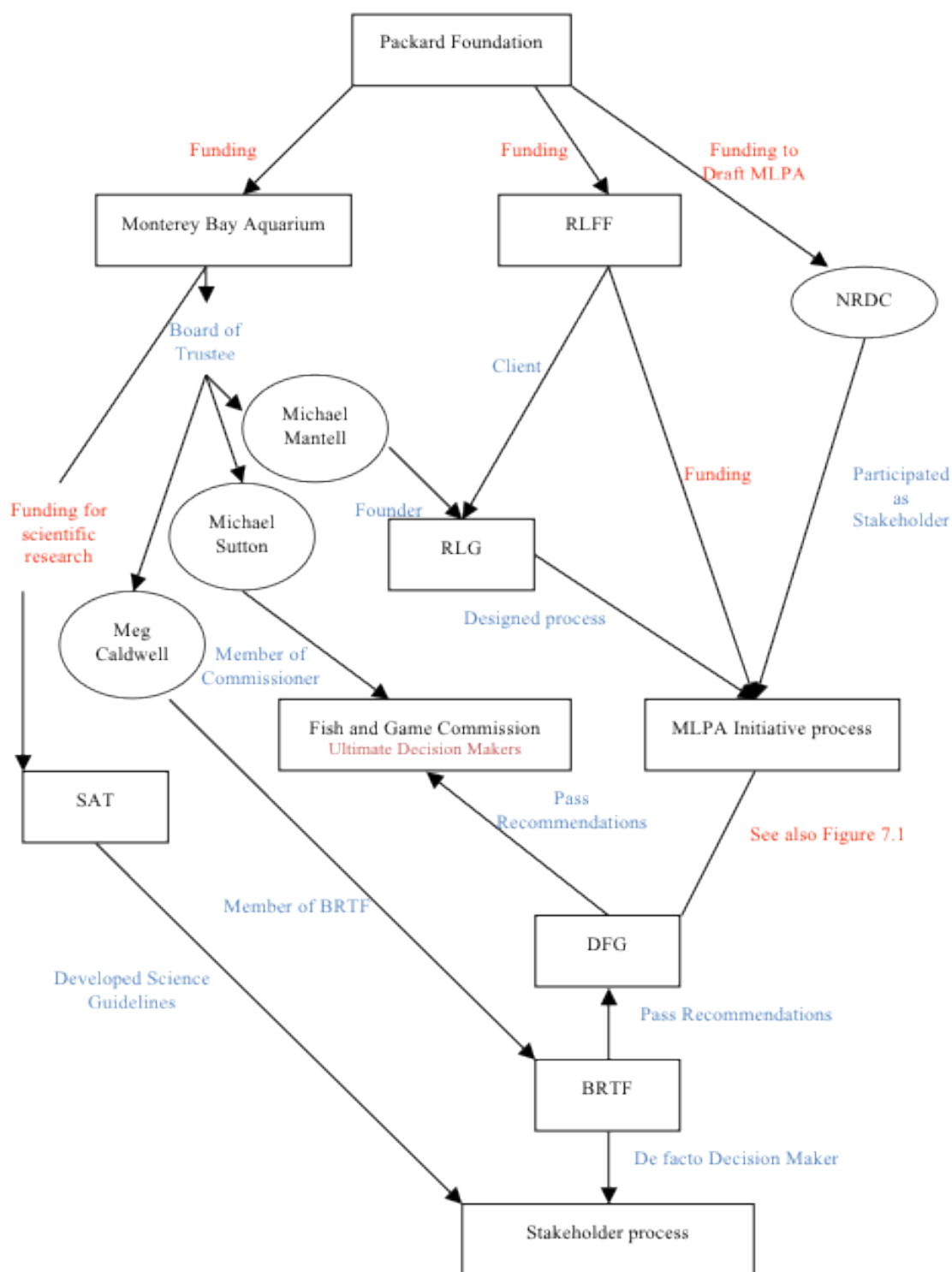
<sup>288</sup> Interview with a environmental stakeholder (CNC-P55)



their research through the Monterey Bay Aquarium Research Institute, the Partnership for Interdisciplinary Studies of Coastal Ocean, and Communication Partnership for Science and the Sea (see Section 7.3.4). Importantly, it is the Packard Foundation which donates grant money for them.<sup>289</sup>

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<sup>289</sup> The David and Lucile Packard Foundation Website  
Available from <http://www.packard.org/what-we-fund/conservation-and-science/science/>



**Figure 8.2 Relationship between key players in the MLPA implementation process and the Packard Foundation**

The figure (Figure 8.2) is an attempt to demonstrate the intimate relationship between the key personnel in the process and the Packard Foundation which was reflected in the MLPA Initiative. As the figure (8.2) demonstrates, it can

be argued that there were very close relationships between key personnel in the MLPA implementation process and the RLFF.

It could be argued that such a close relationship represents a conundrum of the PPP. As mentioned, one may well say that the science-based stakeholder-driven process would not have been feasible without the RLFF. Furthermore, it has been strongly emphasised that the RLFF did not have any influence on the outcome of the MLPA implementation process. However, it appears that there is some worrying circumstantial evidence suggesting that, in effect, the RLFF could have influenced the outcome of the MLPA implementation process through carefully engineered linkages with key personnel, who had significant leverage on the outcome of the process.

Based on this, it could be argued that the Packard Foundation may have influenced the outcome of the MLPA implementation process, although it was through the RLFF. Indeed, it appears that certain key personnel involved in the MLPA implementation process were either on the Board of Trustees or were vice president of the Monterey Bay Aquarium, which is run by the Packard Foundation. Unfortunately, it appears that such a close relationship between the key personnel of the process and the Packard Foundation had very serious implications.

Firstly, as staff pointed out above, many stakeholders felt that the MLPA Initiative process already had a predetermined outcome<sup>290</sup>. The remarkable resemblance between the outcome of the CCSR MLPA implementation and the Initial Draft Concepts just solidified their suspicion (see Section 6.2 and Figure 6.2 (a), (b) and 6.3 (a) and (b)). Secondly, many stakeholders did not believe it was a meaningful participation process. Many stakeholders felt that they

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<sup>290</sup> Interview with commercial fishermen (C-P39; C-P42; NC-P56; C-NP62; C-NP66; C-NP82; C-P86; C-NP111), a commercial fisherman also owns recreational fishing shop (C-P58; C-NP74; C-NP90), recreational fisherman (C-NP18; NC-P57; C-P75; C-NP116), ocean related business owner (C-NP35; C-NP95; C-NP102), and non-consumptive stakeholders (C-NP11; C-P48; C-NP72).

were in the participation process only because the MLPA required them to be (see Section 3.4.3 and 6.2). Furthermore, many stakeholders felt that their opinions and local knowledge were largely ignored and in some cases even used against them (see Section 6.3 and 8.2). Thirdly, and perhaps more seriously, many stakeholders did not think that the MLPA implementation process was legitimate, despite the substantial level of public participation, and extraordinary effort to make it a transparent process.

An interview with a commercial fisherman represents the general stakeholders' perspectives towards the PPP and connection between key personnel in the process and the Packard Foundation:

*A person has to be extraordinarily naïve to think that if I am funding for the project and hand picking out each and every member who is sitting around the table but I'm not going to get exactly the outcome that I want to see<sup>291</sup>.*

This is not suggesting in any way that the RLFF, or Packard Foundation had a predetermined outcome for the MLPA Initiative. More critically, it is certainly not accusing or suggesting that the staff members of the MLPA Initiative process, who dedicated their work and life to the successful implementation of the MLPA (see Section 7.3.2), were corrupt.

Nevertheless, it must not be overlooked that the structure of the MLPA implementation and the close personal relationship between the key personnel in the process with the Packard Foundation raises concerns, with one member of staff stating that:

*I honestly think the fear that people expressed regarding undue influence of RLFF on the process is well founded. I think they had some undue influence on the process. RLFF was not simply a bank that we could go to. Private*

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<sup>291</sup> Interview with a commercial fisherman (C-P42)

*foundations definitely had their own agenda. Although all of the sides agreed to make this act happen, I think RLFF wanted it to happen on their terms. So they really wanted to have some control. They did put a lot of pressure politically at high level on the process. RLFF had connections all the way up to the governor's office, which were in many cases higher than DFG's own political connections. So there was a lot of pressure up through the Secretary or Resources, which is over the DFG. I would say the final outcome was good regardless, but in terms of the state's rights and state's control over managing resources, the state really had to step back. So that's a fair accusation that people make. As a group, their goals are aligned with what my goals would be. But in the process, the individuals in charge of this process really wanted a hand in the process that shouldn't have been there. I think the process might have benefited from a little more hands off from the foundation<sup>292</sup>.*

However, such an accusation may not be fair. As mentioned earlier, the MOU ensured that the RLFF does not have any influence on the planning process or the outcome of the process. Indeed, a consultant stated that the MOU guaranteed that *the government maintains its role and that role is not undermined by the private funding*<sup>293</sup>.

Indeed, the DFG was supposedly leading the implementation process while presenting recommendations to the Fish and Game Commission under the MLPA (see Section 3.4.3 and 6.3). This makes sense, since it is the DFG which needs to manage the network of MPAs once the MLPA Implementation process is completed (see Section. 6.3). Actually, it appears that the DFG, which represents the government, maintained its role for the CCSR MLPA Initiative process by producing Package P (see Section 6.3).

At the same time, it is critically important to recognise that the initial MOU,

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<sup>292</sup> Interview with a staff (CNC-P97)

<sup>293</sup> Interview with a staff (C-P32)

which granted the DFG authority to produce its own preferred alternative, only guaranteed funding for the CCSR implementation (see Section 4.4 and 6.3.2). Subsequently, after the CCSR, the second MOU, which reaffirmed the PPP through 2011, was signed (see Section 4.4).

When the second MOU was signed, the DFG's role was dramatically reduced. It was argued that change of the DFG's role was in response to heavy criticism that the DFG's activity, which was producing Package P, was criticised as undermining stakeholders' efforts. However, in truth, many stakeholders felt that it was the BRTF which played a heavy arbitrator's role (see Section 6.3 and 7.3.1), i.e. it was the BRTF which took over the DFG's role for the subsequent study regions by producing Integrated Preferred Alternative for the NCCSR MLPA Initiative process (see Section 7.3.3). It was relatively apparent that the RLFF wanted the DFG's role decreased because it involved firing a very influential figure who represented DFG (7.3.3).

Unfortunately, this was the final nail in the coffin for the stakeholders. Many stakeholders believed that the private interests, which have a certain agenda, captured the state to push through their agenda into the public policy, as pointed out by an ocean related business owner:

*Public-Private Partnership is about buying the position to get what you want. I don't like the partnership, if the private part has any ability to do anything. RLFF gave money to DFG specifically to implement MLPA, so it is like somebody trying to buy something they want. The DFG doesn't have a way to fight them because if the DFG refuse to accept the money to implement the act, they would sue the DFG<sup>294</sup>.*

Indeed, many stakeholders, including certain members of staff, acknowledged

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<sup>294</sup> Interview with an ocean related business owner (C-NP102) verified by commercial fisherman (NC-P56; C-NP62; C-NP66; C-P86; C-NP111), recreational fishermen (C-NP21; NC-P57; C-P75), ocean related business owner (C-NP35), non-consumptive user (C-NP11; C-P48)

that the usage of private money to implement public policy damaged, at least to a certain degree, the legitimacy of the process. This was despite the fact that there were many efforts to make the process legitimate, with a member of staff stating that:

*The Public Private Partnership hurt the legitimacy of the process. However, unless the process uses true public funding I don't know how you can't hurt the legitimacy of the process*<sup>295</sup>.

#### 8.4 Concluding remark

It is clear that NGOs are the creators of the MLPA (see Section 8.1). For instance, it was the NRDC which drafted bill AB2404, which was split into bills AB 1241 and AB993. Those bills became the MLMA and MLPA respectively (see Section 3.4.2. and 8.1). At the same time, it is important to recall that the Packard Foundation, which has long been interested in conserving the ocean environment in California, sponsored the NRDC to draft the bill (see Section 8.1). The fact that NGOs played a significant role in creating MLPA has a very significant implication, as the MLPA, which provided a strong mandate, was one of the most critical factors for the successful implementation of the MLPA (Fox et al. 2013a; also see Section 7.1).

Nevertheless, it is no surprise that the NRDC was involved in drafting the MLPA since the BINGOs, particularly advocacy NGOs (Haufler 2009), often influence policy. At the same time, Haufler (2009) pointed out that the advocacy NGOs do not usually become involved in the implementation process (Haufler 2009). However, the NRDC was heavily involved in the

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<sup>295</sup> Interview with a staff (CNC-P97) verified by staff (C-P24) scientist (C-P5; CNC-SN-P29), commercial fisherman (NC-P56; C-NP62; C-NP66; C-P86; C-NP111), recreational fishermen (C-NP21; NC-P57; C-P75), ocean related business owner (C-NP35; C-NP102), non-consumptive user (C-NP11; C-P48)

implementation process as they participated as a stakeholder. Once again, there is nothing inherently wrong with NGOs participating in the stakeholder process as NGO participation is often considered as a democratic right (Reed 2008).

At this point, it is worth noting that there are no apparent economic incentives for participating in the stakeholder process, apart from covering expenses for hotel and food (see Section 8.2.3). This means that the stakeholders had to sacrifice their time and money to participate in the MLPA Initiative process. On the other hand, for most of the NGOs, it is their job to participate in the MLPA Initiative process (see Section 8.2.3). In addition, the stakeholder process for the MLPA Initiative was not just a participating exercise. The stakeholders had to develop their proposals based on science guidelines (see Section 6.3). This requires extra commitment from the stakeholders (see Section 8.2.3), thus meaning it was inevitable that there would be some imbalance in power among the stakeholders group.

At this point, it is worth noting that the MLPA Initiative process, which is the first half phase of the implementation process, is publicised as a very successful example of a science-based stakeholder-driven case. As the stakeholder participation process is widely recognised as a key mechanism in the successful designation of MPAs (Beierle 2002; Daley 2007; Dietz and Stern 2008; Pomeroy and Douvere 2008; Reed 2008; Stringer et al. 2007; Fox et al. 2013a), it is not a surprise that the MLPA Initiative process receives a great deal of attention. Indeed, as mentioned earlier, the Marine Conservation Zone designation process in the UK is designed based on the California MLPA Initiative process (Libernecht 2008; Libernecht et al. 2013). However, the research suggests that the MLPA Initiative process was much closer to a top-down process than a bottom-up process. A more serious problem is that, despite the widely publicised claim, many stakeholders felt that it was not meaningful participation (see Section 8.2).

It could be argued that the role of NGOs, particularly the Packard Foundation,



which can also be considered as an NGO since it is a non-profit organisation (Teegan et al. 2004), was the centre of the controversy. Indeed, this controversy resulted in prevalent stakeholder scepticism towards the MLPA implementation process.

However, it is important to note that the Packard Foundation was not directly involved in influencing policy nor did it directly fund the MLPA Initiative process. Its work is mostly done through the RLFF, which is a pool for several philanthropic foundations. On the other hand, it is worth recognising that the RLFF started off as an offspring of the Packard Foundation (see Section 8.3.2). More importantly, it was the RLFF that carried out deeds for the Packard Foundation to influence policy, such as the California Coastal Management Initiative (see Section 8.3.2). Indeed, it could be argued that it is the Packard Foundation's style, namely to influence policy indirectly, as it also sponsored the NRDC to draft the MLPA (see Section 8.3.1). Subsequently, one might say that the Packard Foundation is an advocacy NGO. It is clear that the Packard Foundation did not directly fund the MLPA Initiative process. However, it could further be argued that the Packard Foundation was deeply involved in the process by funding the RLFF, which ultimately funded the MLPA implementation process.

Unfortunately, this has some serious consequences. Firstly, whilst it may be just a coincidence, it would be hard to deny that the Packard Foundation did not have any relationship with the key personnel in the MLPA Initiative process (see Section 8.3.3 and Figure 8.3.3). Secondly, the Packard Foundation also supports many scientific studies through various institutions such as the Monterey Bay Aquarium Research Institute, the Partnership for Interdisciplinary Studies of Coastal Ocean, and Communication Partnership for Science and the Sea (see Section 7.3.4). Critically, core scientists of SAT, who developed science guidelines which had a significant influence on the outcome of the process, received much of their research funding through those institutions (see Section 7.3.4; see Figure 8.3.3). Unfortunately, such a close relationship

between those who had significant leverage on the outcome of the process and the Packard Foundation did hurt the legitimacy of the process to a certain extent, as many stakeholders felt that the private interest groups captured the state and used public policy to push through their agenda (see Section 8.3.3).

It can be argued that the heavy involvement of the Packard Foundation, which not only sponsored the NRDC to draft the MLPA but also funded the MLPA Initiative through the RLFF, was the main reason behind such prevalent scepticism among the stakeholders towards the MLPA Initiative. Indeed, this was despite the widely publicised claim that it was one of the most successful cases of a science-based stakeholder-driven process (Fox et al. 2012a; Gleason et al. 2012; Kirlin et al. 2012; Sayce et al. 2012; Gleason et al. 2010; Libernecht 2008; Scholz et al. 2004; Stevenson et al. 2012).

On the other hand, it can be argued that the MLPA implementation process was a ‘successful’ case, in the sense that it led to networks of MPAs which could achieve conservation objectives and thereby contribute to improving California’s ocean environment. It can be further argued that the key factors leading to the ‘successful’ completion of MLPA implementation are relatively strong top-down elements, such as a strong legal mandate and the political will to drive it. Indeed, it may even be possible to prioritise the relative importance amongst the four main key successful factors which have been identified throughout the thesis (see Section 8.1), based on the chronological order of the MLPA implementation process since 1999.

It was the enactment of a strong legal mandate, namely the MLPA, which provided the foundation in 1999. Although the MLPA implementation failed twice prior to the MLPA Initiative, networks of MPAs were ultimately designated in California because of the MLPA. Furthermore, it can be argued that the MLPA Initiative process demonstrates the importance of establishing a strong political will from the very beginning of the MPA designation process (Jones 2013). For instance, had there been a strong political will to implement

the MLPA, it would have been possible for the DFG to secure sufficient resources from the very beginning. If this had been the case, it could be argued that the DFG would have completed the implementation process during MLPA 1 or 2 (see Section 3.5.2 and 3.5.3). Indeed, it was the strong political will which made the PPP possible in the first place, and which subsequently secured sufficient resources for the MLPA implementation process.

Interestingly, one could go on to say that strong political will also promotes stakeholder participation. Indeed, the fieldwork carried out reveals that there were significant changes in stakeholders' perspectives when they fully acknowledge that the implementation process would proceed with or without them (see Section 7.2). With all of this in mind, it is possible to argue that PPP, which resulted in the MLPA Initiative, was in fact the least important factor. It may also be worth taking into consideration a statement from a member of staff:

*I think that the funding to implement this act is most well suited to a tax that is for all of California, because all California benefits regardless of whether they fish or swim or even just go in the ocean. Therefore, everyone has to pay for it<sup>296</sup>.*

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<sup>296</sup> Interview with a staff (CCNC-P97)

## Chapter 9: Conclusion

### 9.1 Public Private Partnership: a way forward?

As neoliberalism, both ‘roll back’ and ‘roll out’, have lasted over two decades, it could be argued that the neoliberal free market thinking and ideas pervade daily life. For instance, whether consciously or sub-consciously, we generally feel that the private sector is always more effective and efficient than the public sector.

Indeed, it appears that such neoliberal values, even if they seem to have become quite damaged through the global financial crisis (see Section 2.3.1), still strongly influence our thoughts. For instance, the global megahit the Marvel’s movie Iron man series, which made \$175 million in its opening weekend with its last series Iron man 3<sup>297</sup>, clearly disseminates the value of neoliberalism. For those who are not fans of movies or comics, it may be necessary to speak briefly about the movie. In essence, the storyline is simple. An entrepreneur, Tony Stark, who is also ‘the iron’ man, saves the world.

In Iron Man 2, Tony Stark is asked to speak at a congressional hearing because of the potential implications of his suit; a suit which allows him to become the Iron Man. Although it is a movie, Tony Stark’s words are very intriguing, as he stated that:

*I did you a favour: I have successfully privatised world peace*<sup>298</sup>.

What Tony Stark said at the congressional hearing, although just a movie script, clearly demonstrates that neoliberal values have been deeply embedded in the way we think. It justifies privatisation, even for world peace, because

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<sup>297</sup> <http://boxofficemojo.com/alltime/weekends/>

<sup>298</sup> Quote from Iron man 2. Available from <http://techland.time.com/2009/12/16/iron-man-2-trailer-i-have-successfully-privatised-world-peace/>

the state is incompetent.

Indeed, this became slightly more obvious in the following spin off movie, the Avengers, which was released in 2012. Interestingly, in this film, it could be argued that the relationship between the state and the private sector was also metaphorically described in the relationship between the two heroes: Captain America and the Iron Man. It could be argued that Captain America represents the state as his name obviously reveals it. Even more interesting are the short conversations between the two heroes.

When Captain America said, *big man in a suit of armour. Take that away and what are you?* Tony Stark replied *a genius, billionaire, playboy, and philanthropist*<sup>299</sup>.

Indeed, it appears that throughout the Iron Man series, the state was described as incompetent and always engaged in political battles rather than doing something good for the public. It could be argued that this is just a movie and every movie needs a good villain in order to place more emphasis on the main character. However, the power of the sub-conscious images which are disseminated through the movies should not be underestimated. For instance, as Dr. Peter Jones often states in his lectures, the NGOs, who are very powerful activists now, grew up watching the Disney movie Bambi. That had certain impacts on the way they see or even anthropomorphise nature. The Iron Man series can have a very similar effect with regards to positive views of neoliberalisation.

Thus, is it actually true that the private sector is much better than the public sector? Unfortunately, in real life, it is not quite the case. One of the prime examples can be demonstrated through the privatisation of London Heathrow Airport, which was privatised in 1987. According to Parker (1999):

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<sup>299</sup> Quote from the Avengers. Available from: <http://www.moviemistakes.com/name2075>

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*No evidence was found that performance improved because of privatization* (Parker, 1999: 143).

On the contrary, According to the Guardian (3 June, 2013), Heathrow airport has been branded as one of the biggest airport problems, because it is too expensive and overcrowded (The Guardian 3 June, 2013).

However, it could be argued that the idea that a genius, billionaire, and philanthropist can save the day is more powerful than we think and, in effect, it is also very much in practice.

At this point, it is important to recall how the MLPA implementation was initiated and carried out. As mentioned, it was a small group of entrepreneurs which realised that ocean management in California was in disarray and its ocean environment was degrading fast as a result. Based on their success in closing down an Abalone fishery, they realised that they could change the ocean policy and save the ocean environment in California. Subsequently, those entrepreneurs invented the iron suit, which was the MLPA, to save the environment.

Unfortunately, the DFG failed to successfully implement the MLPA twice. Furthermore, as the fiscal crisis deepened in California, it was not likely that the DFG would be able to successfully implement the MLPA. Thus, those entrepreneurs provided private funds to implement the MLPA through PPP. As a result of MLPA implementation, California now has not only the network of MPAs but also a transformation of its ocean management.

As the California MLPA implementation process is widely publicised as a very successful case of a science-based stakeholder-driven process through PPP, it is inevitable that its model is likely to be adapted by other countries. However, as this thesis demonstrated, it was not quite the happy ending that we see in the movies. At this point, it is important to recognise that the

MLPA Initiative adopted extraordinary efforts to make it as transparent as possible. Furthermore, it was argued that MOU ensured that the RLFF did not have any influence on the outcome of the process. Most critically, the PPP not only enabled a substantial level of stakeholder participation but also the development of new GIS technology such as the MarineMap. Therefore, there can be hardly any dispute that the organisers of the MLPA Initiative process did almost everything they could to make the process legitimate.

Nevertheless, it could be argued that it was the usage of the science guidelines, which made the MLPA Initiative process 'science-based', which had a significant impact on the outcome of the process. Indeed, the MLPA Initiative process was a 'stakeholder-driven' process, which involved a substantial level of stakeholder participation, because it was the stakeholders who developed the MPA proposals. However, it is important to recognise that the stakeholders had to develop the proposals based on the science guidelines, which made the MLPA Initiative process 'science-based'. Furthermore, the stakeholders were repeatedly directed or advised to comply with science guidelines through the iterative process. Subsequently, it could be argued that the MLPA Initiative process revealed that the concept 'science-based' could be an oxymoron of 'stakeholder-driven'.

Furthermore, it is also possible to argue that the MLPA implementation process revealed a conundrum of the PPP for implementing a public policy. For instance, it appears that the organiser of the MLPA Initiative was the RLG, since the RLG developed the MLPA Initiative process structure. The critical part of this is that the RLG works for the RLFF. Furthermore, it was a small number of core scientists of the SAT who developed the science guidelines; guidelines which had a significant impact on the outcome of the process. At the same time, it appears that those core scientists receive much of their research funding from the Packard Foundation, which also funded the NRDC to draft the MLPA and funded the RLFF to implement the MLPA. In addition, it was the BRTF that directed the stakeholder process and, often

unilaterally, modified the stakeholders' proposals. Crucially, it appears that certain members of the BRTF had a very close relationship with the Packard Foundation. It was the I-team that managed and guided the stakeholder process. Importantly, it appears that the I-team, which is mainly comprised of external contractors, eventually absorbed the DFG. Furthermore, at least one of the Fish and Game Commissioners, who make the final decision, works directly for the Packard Foundation. Perhaps most critically, throughout the MLPA Initiative process, the DFG, which represents the state, was not only gradually pushed to the side, but also disassembled. Ultimately, the DFG, which is in charge of the implementation process and managed the MPAs once the implementation process is completed, became a bystander.

Although this is not suggesting any collusion or under hand deals, it could be argued that the process was very transparent and open within a certain defined area. In other words, the RLG, which works with the RLFF and designed the MLPA Initiative process structure, also defined extremely key participants. This could explain why the process was perceived as very restricted, which in turn results in the prevalent scepticism among stakeholders towards the implementation process.

Subsequently, the biggest criticism of the MLPA implementation is that the private interests groups, such as NGOs, captured the state to push through their agenda into public policy. Since the PPP has been widely recognised as the key mechanism for designating the MPAs (Hastings et al. 2012), it is inevitable that the PPP would be increasingly applied. However, based on the MLPA Implementation process, it can be argued that the deep involvement of the private sector in organising the process should be refrained, as it could damage the legitimacy of the process.

Furthermore, it can be argued that the state, despite certain problems with their capacity, still has to play a key role, not just as a facilitator, but with certain authority, in order to ensure the legitimacy of the process.



## 9.2. NGOs: Representing Civil Society?

In most governance debates, including environmental governance, NGOs are typically considered as representing civil society or the community. At the same time, it could be argued that BINGOs are the most direct beneficiaries of global dominance of the neoliberalism as they grow exponentially in terms of both size and political influence.

One of the reasons why BINGOs may be so influential in environmental governance is that the natural resources were transformed into commodities and became tradable, as a result of neoliberalism (see Section 2.4). BINGOs quickly adopted the concept of privatising the environment and applied it as an effective way in which to establish protected areas. For instance, BINGOs often use the PPP in developing countries to establish private protected areas (see Section 2.6.3). Indeed, such practice is also widely applied in the US, mainly by the TNC (see Section 2.6.3). However, there is one critical difference between the TNC's model of PPP and the MLPA Initiative model of PPP.

Indeed, one could contend that the TNC, at least for now, operates within the legal frame and uses the PPP in that frame rather than creating a new law. On the other hand, the NGOs which are involved in the MLPA Implementation process, particularly the Packard Foundation, and NRDC, created the law, which was the MLPA, in order to realise their agenda. It is clear that the Packard Foundation did not draft the law. nor did it direct the funding process. However, it is also true that it sponsored the NRDC to draft the MLPA while funding the RLFF for the MLPA Initiative process. More importantly, and as mentioned earlier, key personnel, who had significant leverage on the outcome of the process, were all tightly connected to the Packard Foundation (see Figure 7.4.4).

At the same time, it may be worth noting that many BINGOs, particularly

conservation BINGOs, represent the views of those who do not have much contact with the nature but believe they can make a difference (Brockington et al. 2008). It was argued that the entrepreneurs who participated in drafting the MLPA had regular contact with the California environment, although this was mainly for leisure purposes, such as scuba diving (Weible 2008).

Furthermore, the implementation of MLPA was also justified, since the economic contribution of commercial fishing in the California economy is much lower than other industrial sectors and coastal tourism, although it is one of the major factors resulting in determinations (see Chapter 5). Such an approach sounds very similar to certain BINGOs' approaches in LEDCs. For instance, BINGOs, particularly in LEDCs, are often considered as the 'new tyranny' as they regularly impose their values on local communities (see Section 2.6.2). In addition, and perhaps more seriously, BINGOs occasionally place direct pressure on the state in LEDCs, to push through their agenda (see Section 2.6.2). However, this is somewhat ironic because the NGOs supposedly represent the vulnerable members of the society (see Section 2.6.2).

It could be argued that BINGOs can carry out a check-and-balance function much more effectively against private corporations or the state on behalf of civil society. However, it is also true that BINGOs are after all private organisations and do not have ultimate legitimacy like a state. Nevertheless, as they became very influential, particularly in environmental governance, BINGOs have developed significant influence on policy. Indeed, it could be argued that the MLPA implementation process demonstrates that the BINGOs' ability to exert their agenda could be extended from LEDCs to MEDCs.

This research is not suggesting or painting BINGOs as some kind of evil organisation which takes advantage of the system. However, it is clear that BINGOs, although based on good will, represent a certain private agenda. Furthermore, it appears that as they often work too closely with private corporations, the BINGOs have also become increasingly corporatised. At this

point, it is important to remember what happened when the private investment Banks, such as Goldman Sachs, significantly influenced the financial policy. In addition, it is almost certain that those private investment banks did not intend to cause disasters.

### **9.3. What is “meaningful participation”?**

On the surface, ‘the roll back’ neoliberalism not only provided fertile soil for the rise of civil society but also promoted democracy through participation. In environmental governance, stakeholder participation has been considered as the Holy Grail when it comes to implementing the policy.

However, the question must be asked, what is meaningful participation? If meaningful participation refers to stakeholders’ ability to influence decisions, ironically, the MPAs prior to the MLPA implementation process should be considered as a result of the meaningful participation process. For instance, prior to the MLPA implementation, the MPAs in California were designated by legislature, agencies, and public referendum in an ad-hoc, case-by-case approach without much consideration for achieving overall conservation objectives (see Section 3.2 and 8.2.2). Unfortunately, those MPAs not only functioned properly, but also significantly contributed to the deterioration of California’s ocean environment (see Section 3.2, 3.3 and 8.2.2). Therefore, it could be argued that the MPAs in California prior to the MLPA implementation process demonstrate the fundamental limitations of the complete bottom-up approach for designating MPAs. Based on this, one could contend that pre-existing MPAs prior to the MLPA implementation demonstrate certain limitations for the CRP governance theory, which places emphasis on the community-based conservation with minimum top-down intervention. Indeed, it appears that even the CPR governance theory scholars acknowledge that certain top-down intervention is required in order to achieve large scale conservation objectives (see Section 2.5.2).

Subsequently, it would be worth visiting the somewhat ‘shocking idea’ of Brockington’s (2004) opening account, which stated:

*‘Local support is not necessarily vital for the survival of protected areas. Conservation can be imposed despite local opposition and protected areas can flourish notwithstanding resistance to them. Rural poverty and injustice do not undermine the foundations of conservation’* (Brockington, 2004: 411).

Interestingly, it could be argued that Brockington’s (2004) ‘shocking idea’ somewhat fits with what happened in the CCSR MLPA implementation process. For instance, despite many local stakeholders’ resentment of the MLPA implementation process and subsequent result of networks of MPAs, it was argued that there is a high level of compliance due to the severe penalty, as state by a commercial fisherman:

*It is not worth a risk to break the law*<sup>300</sup>.

However, it is clear that Brockington (2004) did not argue that we have to go back to the top-down approach. Besides, it is fairly clear that a completely top-down approach, like the complete bottom-up approach, for designating protected areas does not work well (see Section 2.5.1). Subsequently, it could be considered that while stakeholder participation is an important factor for MPA designation process, it should not be a factor that delays or derails the designation process.

Subsequently, and as pointed out by Jones and Burgess (2005) it is important to achieve the ‘middle ground’. Indeed, it was argued that the MLPA Initiative process was a combination of top-down and bottom-up approaches.

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<sup>300</sup> Interview with commercial fisherman (C-NP111) verified by scientist (C-P5), commercial fisherman (C-P39; C-P42; NC-P56; C-NP66; C-NP70; C-P86; C-NP88), commercial fisherman also owns recreational fishing shop (C-NP74; C-NP90), recreational fishermen (C-NP21), ocean related business owner (C-NP35; C-NP95), environmentally oriented stakeholder (C-P31), non-consumptive user (C-P48)

For instance, it was also contended that the stakeholders brought in local knowledge, which constituted the bottom-up component. Thus, developing the proposals based on the science guidelines, which consist of top-down experts' knowledge, naturally combined both the top-down and bottom-up approaches (see Section 6.3).

However, it appears that the stakeholders felt that their opinions were not only neutralised but also used against them. Although this research does not completely agree with stakeholders' opinions, it appears that there were several very strong top-down elements which neutralised the stakeholders' argument, such as interpretation of the MLPA, and strong political will which was not only channelled through the MLPA Initiative process but also through the Fish and Game Commission process (see Section 8.1.2 and 8.2.2).

At this point, it may worth drawing attention to Irvin and Stansbury's analysis regarding the meaningful participation process (Irvin and Stansbury 2004). Irvin and Stansbury (2004), clearly stated that *any one of the following indicators is not a conclusive reason to avoid a participatory process* (Irvin and Stansbury, 2004: 62). Nevertheless, if many conditions fall into High-cost Indicators and Low-Benefit Indicators, it might be more effective to make top-down decisions (Irvin and Stansbury 2004). Interestingly, many conditions for the Californian MLPA implementation process fall under those indicators (see Table 9.1).

**Table 9.1 High-cost and Low-Benefit Indicators (Irvin and Stansbury 2004)**

High-Cost Indicators	Low-Benefit Indicators
An acquiescent public is reluctant to get involved in what is considered the job of government employees.	The public is generally not hostile toward government entities
The region is geographically large or presents other obstacles that make regular face-to-face meetings difficult	The agency has had prior success in implementing policy without citizen participation (that is, the voting process is sufficient to guide policy-making behaviour)
Many competing factions and socioeconomic groups require a very large participatory group	The Population is large, making it difficult to involved stakeholders to influence a significant portion of the population
Low-income residents are key stakeholders for the issue at hand and should be included, yet they cannot because of work and family priorities	The decisions of the group are likely to be ignored, regardless of how much effort goes into their formation (the group does not have authority to make policy decisions)
Complex technical knowledge is required before participants can make decisions	The decisions of the group are likely to be the same decisions produced by the government entity
The public does not recognise the issue under consideration as a problem, nor are potential competing policy alternatives familiar to the public	

Indeed, it could be argued that the CCSR MLPA implementation process had all the conditions categorised as High-Cost Indicators (see Table 9.1). For instance, the CCSR study region alone covers over 340 miles with a very scattered population (see Section 5.2). In addition, there are many different socioeconomic groups, such as recreational, commercial, farming and tourism (see Section 5.3). Furthermore, as was mentioned previously, many stakeholders, particularly commercial fishermen, had to make economic sacrifices to participate in the stakeholder process while the developing stakeholder proposal requires certain technical knowledge (see Section 8.2.3). Perhaps most critically, many stakeholders did not feel it was necessary even to implement the MLPA, as they already believed there were enough fishing regulations (see Section 5.3).

Moreover, it could be argued that the CCSR MLPA implementation process had few conditions which fell under the Low-Benefit Indicators (see Table 9.1). For instance, as previously mentioned, the Fish and Game Commission is the ultimate decision maker and the regulatory process was strongly supported by

a highly political appointment by the Governor (see Section 6.4 and 8.2.2). With this in mind, the stakeholders' opinions can be ignored.

At the same time, it is worth pointing out that the MLPA Initiative cost \$38 million (\$19.5 million from the private and \$18.5 from the state) to complete the MLPA implementation for the entire coastline of California (Kirlin et al. 2013; Gleason et al. 2013). The cost of the MLPA Initiative could be justified because it involved a substantial level of stakeholder participation. Furthermore, the MLPA Initiative process significantly contributed to the implementation of the MLPA, which suffered two previous failures.

Nevertheless, it is also important to recognise that the outcome of the process, at least for the CCSR, bears remarkable resemblance to the Initial Draft Concepts (see Figure 6.2. (a), (b) and Figure 6.3 (c), (d)). Furthermore, and perhaps more critically, it appears that many stakeholders, at least for the CCSR, were sceptical about the MLPA implementation process, despite the claim that it was a science-based stakeholder-driven process. Therefore, it could be argued that the more top-down decision process, which was supported by 'consultation' based stakeholder participation, might have been more effective in terms of cost-benefit analysis. Indeed a member of staff said:

*I think the participation process was successful and necessary. But I don't necessarily think you have to go to quite the extreme like the MLPA Initiative. There's cost benefit analysis you have to do. If you take a look at the maps that were proposed by DFG in the first process [Initial Draft Concepts] and compare them to maps from MLPA Initiative, they are not exactly the same but at the same time they are not dramatically different<sup>301</sup>.*

This research is not suggesting that the MLPA initiative stakeholder participation process was not meaningful. In addition, it does not suggest that

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<sup>301</sup> Interview with a staff (CNC-P97)

the protected areas must be designated via a top-down approach, as this obviously does not work (see Section 2.5.1). Nevertheless, it could be argued that it is sometimes more effective to designate MPAs based on the more top-down approach process and on ‘consultation’ stakeholder participation, rather than being caught up with ideas of a ‘stakeholder-driven’ process.

#### **9.4 Lessons Learned**

It can be argued that the term ‘science-based stakeholder-driven’ is an oxymoron because the stakeholders were very restricted in driving the process. Indeed, they had to develop a proposal based on science guidelines and had to complete three iterative processes, which were managed through a high level of facilitation. It can be considered that the MPAs were designed based on science, whilst the staff of the MLPA Initiative worked hard to move the process forward. In light of this, one could contend that the MLPA implementation process actually involves a number of strong top-down elements. It can be further argued that such strong top-down elements are the key factors when it comes to the ‘successful’ completion of the MLPA implementation process. Indeed, as was argued earlier (see Section 8.4), a strong legal mandate and political will are the most important factors which significantly contributed to the successful completion of the MLPA implementation process.

However, it can be also argued that those factors were produced and generated by the private sector (see Section 8.1 and 8.3). Indeed, in reality, the contemporary governance has to include different actors, including those who can exercise significant influence on the policy decision-making process. Furthermore, PPPs are becoming widely recognised as important mechanisms not only for MPA governance, but also in wider governance. It can be further argued that the true intention of the private actor RLFF, which strongly supported MLPA implementation, was to improve the ocean environment in California. Indeed, the designation of a network of MPAs should have a



positive impact on the environment.

Nevertheless, the perception that the state was captured by private interests was one of the core reasons for the prevalent scepticism amongst certain stakeholders. Furthermore, it appears that it does not help to improve the stakeholders' perceptions by continuously claiming that it was a 'science-based stakeholder-driven' process. Based on the fieldwork, it would appear that conducting collaborative research with local fishermen to monitor the MPA could potentially hold the key to improving many sceptical stakeholders' views of the process.

### **9.5 Further research**

As the research is mainly based on the CCSR MLPA Implementation process, which was the 'pilot' study region, it is obvious that further research is required. More importantly, as the process itself 'evolved' throughout different study regions, more detailed impartial research would provide more valuable information. For instance, it appears that at the South Coast Study Region (SCSR), which was considered the most challenging factor, the BRTF did not insist on meeting the science guidelines like CCSR or NCCSR. Furthermore, it was reported that for the North Coast Study Region (NCSR), which was the last study region and has a high population of Native Americans, the stakeholders did not produce a number of alternatives, but rather only one proposal based on consensus. Subsequently, those two case studies can provide more detailed implications of the participation process, as it appears that the biodiversity conservation objectives of MLPA were compromised in SCSR and NCSR.

At the same time, it is important to recognise that the DFG has been heavily criticised as being incompetent and considered as an agency which does not have the capacity to implement the MLPA. However, very ironically, it is the DFG which is managing the network of MPAs. Subsequently, as the MLPA

implementation was completed along the entire coastline of California, it is also important to gauge how the MPAs are currently managed.

In Central California, there is another effort to designate conservation areas, known as the No Trawl Zone. It has very different conditions from the MLPA implementation as it pertains not to biodiversity conservation, but rather to fisheries management. Furthermore, the NTZ is placed in the Federal water, which has different sets of legal frames from the state. Nevertheless, one important factor is that it was led by another BINGO, namely the TNC and the Environment Defense Fund (EDF). The TNC bought the fishing permits from the commercial fisherman while the EDF was working with legislature to introduce ITQ, thus ultimately transforming the fisheries from open access to limited access. The comparative study of the MLPA implementation and NTZ designation process could provide much deeper knowledge regarding the role of NGOs in environmental governance and the subsequent consequences.

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