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Portfolio Committee Submission

1. Introduction

Masifundise welcomes the Portfolio Committee's commitment towards hearing directly from traditional fisherfolk in addition to the report received from the Department of Environment, Forestry and Fisheries (DEFF) on the state of the small-scale fisheries sector during COVID-19. We are pleased to have the opportunity to submit a report and are motivated to do so by a strong belief that our scope of work and understanding of the sector will provide further insight for the Portfolio Committee.

2. Masifundise's work and engagement in the small-scale fisheries sector:

The Masifundise Development Trust (Masifundise) has a long track record in the small-scale fisheries sector in South Africa, and globally. Since 2000 it has supported and built the capacity of small-scale fishers across South Africa to secure their fishing and tenure rights to ensure food security and more sustainable livelihoods. Some key milestones since 2000 include: a landmark victory in the Equality Court in 2007 that instructed government to recognize small-scale fishers as a legitimate category of food producers in South Africa; the development and adoption by government of a Small-scale Fisheries Policy (SSFP) in 2012; an Amendment to the Marine Living Resources Act (MRLA) in 2014; assisting small-scale fishers to work alongside government to implement the Small-scale Fisheries Policy (2015-2019); and, strengthening the capacity of inland small-scale fishers to engage in the formulation of a National Inland Fisheries policy.

Masifundise works alongside Coastal Links South Africa (CLSA), a community-based small-scale fishers' association that was established in 2003, to support them to translate their fishing rights into long term environmentally, socially, and economically sustainable livelihood opportunities, and to position small-scale fishing communities as valuable and unique contributors to South Africa, recognising them as the traditional custodians of our country's marine and freshwater natural resources. Masifundise acted as both support and secretariat for CLSA from 2012-2017, collaborating on lobbying and advocacy strategies to translate the rights promised in the SSFP to tangible rights with socio-economic benefits for small-scale fishers across South Africa.

Masifundise's scope of work extends beyond the borders of South Africa and it is an active member of the World Forum of Fisher People (WFFP), a global social movement representing small-scale fishers. The secretariat of WFFP was hosted at Masifundise from 2011 until 2017. Masifundise is also representing WFFP in the International Planning Committee on Food Sovereignty (IPC), an international space for solidarity and alliance of small-scale food producers engaging and lobbying governments to

bring the debate of social movements and civil society into the relevant spaces in order to influence decisions. The IPC is recognized by the Food and Agricultural Organisation (FAO) as the facilitator of engagement with Civil Society globally and regionally.

Masifundise played a key role in the development of the Voluntary Guidelines on Securing Sustainable Small-scale Fisheries, in the context of food security and poverty eradication (SSF Guidelines). The SSF Guidelines are the first internationally agreed upon instrument that is dedicated to the small-scale fisheries sector and are intended to support the visibility, recognition and enhancement of the important role of small-scale fisheries and to contribute to global and national efforts towards the eradication of hunger and poverty. They promote a human rights-based approach in support of responsible fisheries and sustainable social and economic development, with an emphasis on small-scale fishers and fish workers and related activities and including vulnerable and marginalized communities. The implementation of these guidelines in a holistic manner in the South African context is something that Masifundise is striving for. This is directly connected to the implementation of the SSFP and the state of small-scale fisheries in South Africa, which Masifundise monitors closely in cooperation with CLSA and other partners.

3. The state of small-scale fisheries pre-COVID-19

Small-scale fishers in South Africa were facing a multitude of challenges prior to the COVID-19 lockdown in South Africa. The pre-existing challenges, outlined below, contextualise the extent of the struggle that fishers face during the lockdown.

3.1. Exclusion of fishers:

With the Amendment to the MRLA in 2014, the South African government formally recognized the key role that small-scale fishers play in providing food, nutrition, and employment for more than 80000 people. In alignment with this and the adoption of the Small-scale Fisheries Policy (SSFP), 47% of the 22,621 fishers who applied for rights are now registered as small-scale fishers in more than 100 coastal fishing communities across South Africa. However, this means that 53% of those who applied during the verification process have been excluded from accessing their rights. Some did not register, especially women and youth, when they were told that they did not qualify while others either did not have the necessary documentation or did not lodge appeals. These fishers have been forced to fish with recreational fishing permits or engage in low-level poaching for food.

3.2. Capacity of Cooperatives

In the implementation of the SSFP, DEFF has facilitated the establishment of 152 cooperatives as the institutional vehicle for exercising small-scale fishing rights. As of December 2019, a total of 29 of these cooperatives have received the right to become operational. However, the two cooperatives in the Northern Cape (Port Nolloth and Hondeklipbaai) that became operational in 2019 are the only ones that are fully functioning. It is evident that the cooperative members lack the capacity that is needed to turn their cooperatives into fully functioning and successful entities. The formation of the cooperatives was dictated by DEFF with no contribution from fishing community members, and the drafting of a cooperative constitution and management plan was dictated by the department in the form of a template. Additionally, because DEFF operates at national level only, it lacks the capacity at the

provincial and local levels for adequate training of cooperatives and results in fragmentation in the governing of the sector.

3.3. Customary Rights and Legal Systems

The disregard for customary law in fisheries tenure systems is evident in the government's adoption of a 'one-size fits all' approach to policy implementation. This process has not acknowledged the differences in living customary laws and practices within traditional fishing communities across South Africa. The government's approach to natural resource management has been largely influenced by Western ideals, often anchored by technocratic and scientific perceptions of conservation which do not account for the significance of customary law in fisheries tenure systems¹. The method in which the policy is implemented illustrates the unequal power dynamics between the statutory and customary legal systems and DEFF has not shown initiative to engage with fishing communities to ensure the inclusion of customary practices within the process. There is also a misunderstanding by the state of the distinction between tribal and customary authorities in the Eastern Cape and KZN². Although tribal authorities have been given greater powers by the state they usually have very little to do with fisheries tenure systems, while customary authority refers to elders in the community who hold knowledge pertaining to land and resource tenure systems². This relationship with the state has resulted in tribal authorities acting as gate keepers who do not distribute information such as dates and processes for consultations, applications and appeals with the affected small-scale fishers.

3.4. Co-management

Co-management is central to the SSFP, suggesting that all decisions regarding the SSF sector should be made in collaboration, with the government as the duty bearer of the resource and small-scale fisher as the rights holder. However, this has not been translated in the implementation of the SSF Policy and decision-making powers remain within government structures rather than in the hands of the resource users, contravening the SSFP and the amended MLRA and lacking any account for community-based governance. In fact, the policy regulations give effect to a system where the Minister of DEFF is given power to regulate the sector down to its most local detail with, at most, some inputs by co-management committees, who are not necessarily the small-scale fishing community.

3.5. Lack of Social Security

Small-scale fishers fall between the gaps in terms of labour legislation and the ability to benefit from social security and social assistance programmes, in addition to being excluded from contributing to and receiving relief from the Unemployment Insurance Fund (UIF). For example, fishers in the Western Cape are concerned that although they contribute to the Road Accident Fund when buying petrol for their boats but cannot claim from this fund when accidents happen at sea.

3.6. Inland Fishing

In 2017, the Department of Agriculture, Forestry and Fisheries (DAFF) began formulating a National Inland Fisheries Policy. However, this process is taking place in the absence of a sound understanding of

¹ Ramutsindela, M. (2008) 'The contours of political transformation and conservation areas in southern Africa', Geography Compass.

² Mbatha, P. 2018. The Influence of Plural Governance Systems on Rural Coastal Livelihoods: The Case of Kosi Bay. Unpublished PhD thesis

the scale, scope, and socio-economic state of this sector. The policy drafting process is also lacking meaningful and accessible engagement with affected parties, including small-scale fishers, for public participation and community consultation. In the interim policy gap, freshwater bodies are predominantly regulated by conservation regulations that do not account for the intrinsic relationship between the water body, the resources, and resource users in the broader environment, resulting in the consistent criminalisation and harassment of inland fishers.

3.7. Threats from the Blue Economy and Extractivism

South Africa's expansion of the Blue Economy through the adoption of Operation Phakisa poses a threat to small-scale fishing communities, the fisheries resource, and coastal and inland water bodies. These developments are framed as sustainable development to boost the economy and combat poverty, unemployment, and inequality. However, extractive activities across the country's coastline continue to hinder fishing practices as transnational mining companies destroy the coastline and marine ecosystems, and the expansion of Marine Protected Areas in other regions is limiting small-scale fishers' access to their traditional fishing grounds. These industrial users of the ocean space are squeezing out small-scale fishers and forcing them to opt for low-paying and inadequate jobs at the expense of their traditional livelihoods.

4. Impact of Covid-19 and lockdown on small-scale fishing communities in South Africa

Given the above challenges that small-scale fishers in South Africa face daily, the arrival of an additional crisis, such as the COVID-19 pandemic and national lockdown, results in a heightened challenge for already vulnerable and marginalised communities.

Coastal small-scale fishing communities had been feeling the economic impacts of COVID-19 even before the virus reached South Africa, due to the closure of the international market for West Coast Rock Lobster (WCRL). As China is the main importer of South African WCRL, and these exports are a major contribution to the income of small-scale fishers on the West Coast, SSF communities have been suffering financially.

COVID-19 has starkly highlighted the vulnerability of South Africa's food system. South Africa's historical and post-apartheid centralisation and consolidation of the food production, supply and retail system means that the food economy is highly skewed and dominated by a small number of corporate commercial producers, squeezing out the small-scale producers and suppliers³. While the lockdown measures are necessary to contain the spread of the virus, their economic and social consequences have disrupted food and resource flows between rural and urban areas and within households, creating a situation where many fishing communities, especially in rural areas, do not have adequate access to food, water, or health care

Small-scale fishers play an extremely important role in providing nutritious food for their households and local communities, although the fish alone cannot meet the full spectrum of necessary nutrients. Many fishers have lost access to markets they were previously supplying, including the international market. Suspension of school feeding programmes and loss of employment, both formal and informal, have sharply increased the need for distribution of food to those in need. The support that is received by

³ <https://foodsecurity.ac.za/wp-content/uploads/2018/04/FINAL-REPORT-MNCs-8-August-2016-SP2.pdf>

this sector, including the women and youth in these communities, will largely determine the survival of the small-scale fishing sector over forming a dependency on state resources for grants and food parcels. There is a need to re-think food systems in response to COVID-19, strengthening localised food economies, with small-scale producers playing a key role in responding to local food needs and providing nutritious produce to increase the nutritional diversity of the diets of vulnerable communities, while supporting sustainable livelihoods.

The importance and opportunities for small-scale fisheries to contribute to securing sustainable local livelihoods and their contribution to food security in their communities must be recognised. South Africa's COVID-19 lockdown restrictions have had significant impact on small-scale fishers, their capacity to practice their livelihood activities, and ability to feed their households and communities.

4.1. The response of the Department of Environment, Forestry and Fisheries to COVID19

The Department of Environment, Forestry and Fisheries (DEFF) has taken a few measures in support of small-scale fishers during the lockdown, including:

- Recognising small-scale fishers as essential food providers whose activities should continue under the lockdown;
- Granting a three-month exemption on existing fishing permits;
- Extending the West Coast Rock Lobster season until July;
- Setting up a range of initiatives to try to resume export to China;
- Allocating 10 000 food parcels to small-scale fishing communities.

However, these measures have proven to be insufficient in addressing the food and income insecurity in many small-scale fishing communities and the structural challenges that they face, both before and during the current crisis. It is also important to note that the only significant exceptions or measures taken in support of inland small-scale fishing communities during this time is the following:

- After more than 50 days of lockdown, kraal fishers on Vanderkloof Dam were eventually granted permits as essential services to resume their fishing activities after much engagement by fishers, Masifundise, and members of the Vanderkloof Fisheries Project Advisory Group with DEFF, the Northern Cape Department of Agriculture, Rural Development and Land Reform, and the Renostenberg municipality.

Through engagement with CLSA leaders from each of the coastal provinces (Northern Cape, Western Cape, Eastern Cape, and KZN) as well as representatives from the inland communities with which we work (Gariep, Vanderkloof, and Jozini Dams), the following general issues were raised:

- Although registered small-scale fishers have the right to fish under lockdown, the thousands that are excluded from the Small-scale Fishing Policy (SSFP) and have been fishing with recreational fishing permits are unable to fish.
- Inland small-scale fishers exist in a legislative vacuum, fishing with post-office permits and falling under the authority of nature and conservation. They are also prevented from fishing under lockdown.

- Communication with DEFF has been a challenge. Fishers have been required to carry copies of their catch permits, fishing vessel licenses, and permit to perform essential services. However, the fishing permits and exemptions from DEFF were transmitted electronically to the authorised representatives of the SSF cooperatives, many of which are located in remote areas with limited access to internet or the means to print the relevant documentation.
- The process of food parcel distribution has been highly contentious, resulting in conflict in communities, and mistrust in government. The process has been associated with corruption and political affiliations. The parcels have also not consisted of sufficiently nutritious or culturally appropriate food, indicating that a voucher or grant system might be better suited, allowing recipients to purchase other essential goods such as electricity and hygiene products.
- The health and safety of small-scale fishers during the pandemic has not been prioritised by the State, with no provision of PPEs or sanitisers and limited screening and testing for COVID-19.
- Small-scale fishers fall between the gaps in terms of labour legislation, as they are not registered under UIF and do not have any form of social security. There has been no specific relief fund to which individual fishers can apply during a time of disaster, and the cooperatives have not been able to benefit from the relief schemes that have been made available for SMMEs.

The national lockdown as a result of COVID-19 has exacerbated pre-existing challenges in the SSF communities and the management of small-scale fisheries during the lockdown has threatened their inalienable right to food, creating a fertile ground for the erasure of traditional and cultural practices that inform these communities. The following sections provide an in-depth account of the challenges in SSF communities in each of the coastal provinces as well as the inland fishing communities surrounding Gariiep, Vanderkloof, and Jozini Dams.

4.2. Western Cape Challenges

Small-scale fishers in the Western Cape and Northern Cape have been impacted by the closure of the export market for West Coast Rock Lobster. Fishers depend on the 5-month lobster season as their main source of annual income. Fishers export internationally, predominantly to China, the first country to be affected by the COVID-19 pandemic. Due to the collapse in demand for the species, fishers are only receiving about half of the usual price per kilogram from marketers.

In addition to the income from WCRL exports, the annual snoek run is a lucrative period for small-scale fishers on the West Coast. Usually, fishers will travel to neighbouring towns in order to partake in the snoek run, often spending the night in order to reduce travel costs. However, the lockdown restrictions have forced fishers to make single day trips, leaving early in the morning and returning late at night. Vehicle passenger restrictions have further increased travel and petrol costs for these trips, reducing the viability of benefit.

Small-scale fishers in the Western Cape will often travel between towns to sell their catch. They now require permits in order to travel but face challenges in printing these permits as well as fishing right extension permits due to the closure of print shops.

4.3. Northern Cape Challenges

The Northern Cape is the only province in which the cooperatives that are registered under the Small-scale Fishing Policy are fully functioning. These two cooperatives have been facing many challenges since their inception, predominantly due to the lack of capacity required to run a cooperative successfully, which have been exacerbated by the COVID-19 lockdown restrictions. The leaders from both the Port Nolloth and Hondeklipbaai cooperatives have expressed that although DEFF has granted fishers exemptions to harvest fish, there is a lack of communication with the Local Law enforcement who are preventing them from going to sea and practising their livelihood activities.

The Northern Cape small-scale fishers are struggling to sell their catch due an inability to access their usual markets and they face the same challenges as the Western Cape around exporting the West Coast Rock Lobster. This results in a huge dent in their annual income.

4.4. Eastern Cape Challenges

Small-scale fishing communities in the Eastern Cape are facing violations to their human rights around access to basic services; food, water, and health and sanitation. Water needs have intensified during the COVID-19 pandemic, with hand washing and general hygiene essential in combating the virus. Access to water in rural areas has been a major challenge, and many water-scarce communities, without access to clean water in their homes, have been forced to meet their water needs through contaminated rivers and lakes, depleting boreholes, and inconsistent water deliveries from local government. As an example, the rural community of Centane has been without a consistent water source since 2017. The remote nature of rural villages creates an added burden to water collection, with communities having to walk as far as 2km to fetch clean water. Women are particularly vulnerable and are forced to collect water in groups in order to avoid gender-based crimes. Many of the community members rely on social grants in order to survive and simply cannot afford the purchase of personal water tanks. Water shortages have left communities especially vulnerable to COVID-19 and unable to perform duties that require water.

The basket of species and the fishing regulations in the Eastern Cape is not suited to the traditional and cultural practices of the communities. Women are limited to harvesting 50 mussels per day, enough to feed the family but not to sell. Rangers and local law enforcement officials are unaware of the exemptions and are preventing fishers from carrying out their livelihood activities, harassing and threatening fishers when they are accessing the shore, even on communal land. In Dwesa-Cwebe, fishers have been prevented from fishing, despite carrying exemption letters and permits. The SAPS, National Park Rangers, and DEFF officials are not applying the lockdown regulations in a uniform way.

Finally, these communities have not been receiving food parcels, they do not qualify for SASSA grants, and are criminalised for attempting to make an income by cutting tree-trunks for food or catching fish. Some kind of support is needed for these communities to support themselves and their families in times of crisis.

4.5. Kwazulu Natal Challenges

Small-scale fishers in KZN have faced a variety of communication challenges since the beginning of the lockdown period. In terms of the exemptions and fishing permits: the chairperson of each of the SSF cooperatives in KZN received the exemption and fishing permits electronically, to be printed and

distributed to all of the fishers in the cooperative. However, largely due to language barriers and the difficulty that communities face with internet access, many fishers in KZN have not fully understood the extent and limits of the permits and exemptions, and important information from government officials is not reaching the fishers on the ground.

In addition to these challenges, a significant amount of the KZN coastline is taken up by Marine Protected Areas and Nature Reserves. Because National Parks have been closed under the lockdown, small-scale fishers who are usually specially permitted to access these nature reserves and practicing their traditional fishing within the boundaries are prevented from doing so. This highlights a lack of coordination and communication between the various government departments and different levels of government.

4.6. Inland Fishery Challenges

Inland small-scale fishers exist within a legislative vacuum and are currently not managed in terms of livelihoods and right to food within a national policy and legal framework, but rather are managed by provincial nature and conservation authorities or in terms of water users such as sanitation, irrigation, or electricity production. Fishers are therefore forced to rely on recreational post-office permits to fish, which only allow angling, limited catches, and prohibit the selling of the fish. The exemption granted by DEFF did therefore not include inland small-scale fishers who have been increasingly criminalised and harassed under the national lockdown. Fishers in Oviston community, Eastern Cape, have been arrested when fishing in Gariep Dam, their usual fishing grounds.

The criminalisation of inland SSF across South Africa has been an ongoing challenge which has intensified under the COVID-19 lockdown. Thousands of inland fishers traditionally operating in dams, rivers, and lakes all over the country are unable to fish and continue to be harassed by SAPS, nature and conservation authorities, and private citizens.

The communities of Vanderkloof and Keurtjieskloof in the Northern Cape have been experiencing 8-10 hours of load-shedding per day, despite a statement by the Minister of Mineral and Energy Resources, that the likelihood of load shedding in South Africa would be improbable during the lockdown. The load shedding creates an additional burden and challenge to an already impoverished community that struggles to attain even the most basic of needs.

Strong and clear interim solutions need to be created while developing an Inland Fisheries Policy protecting inland fishers' human rights, and to build their food sovereignty to contribute to their local economy and rural livelihoods. Inland fishers need clear provision to operate and contribute to feeding the nation during the hunger crisis exacerbated by the COVID-19 lockdown.

5. Recommendations:

To address some of the challenges outlined above and to harness sustainable livelihood opportunities for small-scale fishers, a human rights-based approach needs to be adopted by the State in all dealings with communities, including in the work done around combating the Coronavirus pandemic. Their contribution to the informal economy and to local food security and income cannot be overlooked and it

is imperative that the rights of vulnerable communities are protected in order to foster food and nutrition security for households and communities.

There are thousands of fishers who have been excluded from the SSFP despite being recognised as bona fide fishers by their communities. Inland fishers also fall between the gaps in legislation and are managed by the relevant nature and conservation authorities. Temporary as well as longer term arrangements need to be made for the excluded fishers, both in terms of securing their fishing rights and tenure as well as in permitting the selling of their catch in order for them to benefit financially.

There is an evident need for the administration of relief to small-scale fishers and the cooperatives, in a transparent and accountable manner. The allocation of a relief fund to small-scale fishers would need to have a broad scope of eligibility in order to include those who have been excluded from the policy or are fishing with recreational licenses. The application process for a disaster relief fund would need to be simplified and translated in multiple languages. The type of support that this relief can be used for should be flexible, as household needs fluctuate and relief may be required for food rather than fishing gear.

Additional areas of support for small-scale fishers and cooperatives:

- Support fishers and cooperatives who are sitting on surpluses of lobster that they are unable to move due to travel restrictions and access to market.
- Simplify the process for application and approval of essential service permits, making the distribution and marketability of fish more accessible to SSF.
- General information on health and safety for small-scale fishers during COVID-19 must be made available simply and in multiple languages, including information on social distancing, hygiene, and handling food safely. This information, as well as information around essential service and travel permits should be distributed digitally in low data intensive designs.

In the short-term, there is an urgent need for the State at national and local level, NGOs, and other actors to support small-scale fishing communities get the resources they need to weather the pandemic. This includes access to food, relief funds, personal protective equipment, and assistance programmes to support their fisheries in the long-term, ensuring sustainable livelihoods and the protection and security of basic rights. This is an opportunity for government to allow small-scale food producers to mitigate food shortages and hunger by providing them with the necessary tools and infrastructure, and by assisting them in providing nutritious food to those in need. It is time to recognise that small-scale food producers play a crucial role in the food production system.