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Governance requirements for Inland Fisheries

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Presentation inputs

- Existing property rights in inland fisheries
- Existing institutional and organisational arrangements
- Proposed institutional and organisational arrangements

Property rights

- Key element in description and analysis of human use of common pool resources
- Assign benefit streams from utilisation
- Define uses that are legitimately viewed as being enforceable and who has these rights.
- Give *entitlements* for resource use and rules under which those entitlements are exercised.
- Entitlements require and entail an organised structure of institutional arrangements
- Property rights must be consistent with ecosystem goals of equity, efficiency and sustainability.
- Rights can be formal (*de jure*) or informal (*de facto*)

Property rights regimes

- Four ideal types of property rights regimes: *open access*, *communal property*, *private property*, and *state property*
- Important to distinguish between resource and regime, since a resource can be held under more than one regime.
- Function in limiting use, co-ordinating users and providing institutional mechanisms for responding to changing environmental conditions.

Property Rights as 'Bundles of Rights'

- Rights-holders can hold a number of different type of rights to a resource
- Thus the thinking of property rights systems as *bundles of rights*
- Five property rights systems can be defined: access right; withdrawal right; management right; exclusion right; and alienation
- Five types of user-resource relational positions can be defined: viewer, authorised user, claimant, proprietor and owner

Bundling Property Rights

- Bundles of rights and the associated position this entails for a right holder towards the resource

Level	Type of right	Associated position				
		viewer	Authorised user	claimant	proprietor	owner
Operational	Access	X	X	X	X	X
	Withdrawal		X	X	X	X
Collective - choice	Management			X	X	X
	Exclusion				X	X
	Alienation					X

Total number of Registered dams (public & private) in South Africa

Province	Total Number of Dams
Eastern Cape	697
Free State	404
Gauteng	332
KwaZulu Natal	924
Limpopo	312
Mpumalanga	479
Northern Cape	82
North West	149
Western Cape	1324
Total	4703
Total surface area	1500422

Total number of Public Dams according to size

Province	Size of Dam				Total
	Large	Medium	Small	Non categorised	
Eastern Cape	31	52	41	1	125
Free State	8	33	36		77
Gauteng	12	17	59		88
KZN	12	24	26		62
Limpopo	14	26	12		52
Mpumalanga	16	35	19	2	72
Northern Cape	2	5	9	2	18
North West	7	21	29		57
Western cape	28	59	53	1	141
Total	132	273	293	6	704
Total surface area					791643

Ownership (custodial) rights – National Water Act

- As legal custodians of public dams govt (DWA, DAFF, Municipalities, etc) has all rights including the rights of alienation
- Ownership (or custodial) right gives govt authority to determine who will have access, withdrawal rights, management rights and who will be excluded
- Four types of water authorizations under NWA: Schedule One; General Authorisations; Existing Lawful Uses; and Water Use Licences.

Existing Use Right Practices

- Recreational (angling) clubs, water sports clubs and tourism concessions
- Subsistence, artisanal and commercial fishing by communities
- Communal rights
- (Co-) Management Rights

Recreational (angling) clubs, water sports clubs and tourism concessions

- Currently and historically have had dominant presence on most public dams.
- Their position is strengthened by enabling provincial nature legislation which largely caters for recreational angling and biodiversity conservation.
- Legally, have access and withdrawal rights only

Subsistence and commercial fishing by communities

- Legally, communities have access rights that NWA gives to general public (6am to 6pm)
- Should be able to fish using recreational permits just like recreational anglers - exercise withdrawal fishing rights.
- Most provincial legislation bans use of nets
- Conflicts arise where fishers from communities use nets
- Ambiguity of legitimacy community fishing activities results in serious conflict between them and recreational anglers, tourism operators on some dams
- Lack of an inland fisheries policy means there has been lack of appropriate institutional arrangements for subsistence and commercial fishing on dams.

(Co-) Management Rights

- NWA provides for co-management on public dams:
 - ❑ WUAs supposed to be vehicles for devolution of management authority and responsibility.
 - ❑ WUAs offer to create and extend management rights to users.
 - ❑ Can such bodies can be used to strengthen and protect access and withdrawal fishing rights for communities?

Natural Water bodies under Traditional Authority

- For natural lakes, e.g. Lake Fundudzi & floodplain pans (Pongolo downstream)- custodianship is held by Traditional Authority even though NWA does not explicitly recognise customary (*de facto*) rights.
- Through control of land surrounding lakes & pans chiefs holds access, withdrawal, management and exclusion rights.
- Communal tenure gives opportunity to formalise communal property rights regime - CBM

Management of Inland Fisheries

- NWA does not specifically mention fisheries as a resource in dams
- Legislation gives authority for management of fisheries in dams to provincial departments of the environment and nature conservation agencies.
- The departments and agencies have authority to determine access, withdrawal, management and exclusion rights
- Legal instruments - provincial nature conservation legislations and ordinances, NEMA

Use of provincial legislations & ordinances for inland fisheries

- None mention either subsistence fishing or any other form of fishing which could be linked to a form of livelihood.
- All ban or restrict use of nets
- Not in line with NEMA principles and objectives, constitutional imperatives and government rural development policy for a livelihood approach to utilization of nature including inland fisheries.

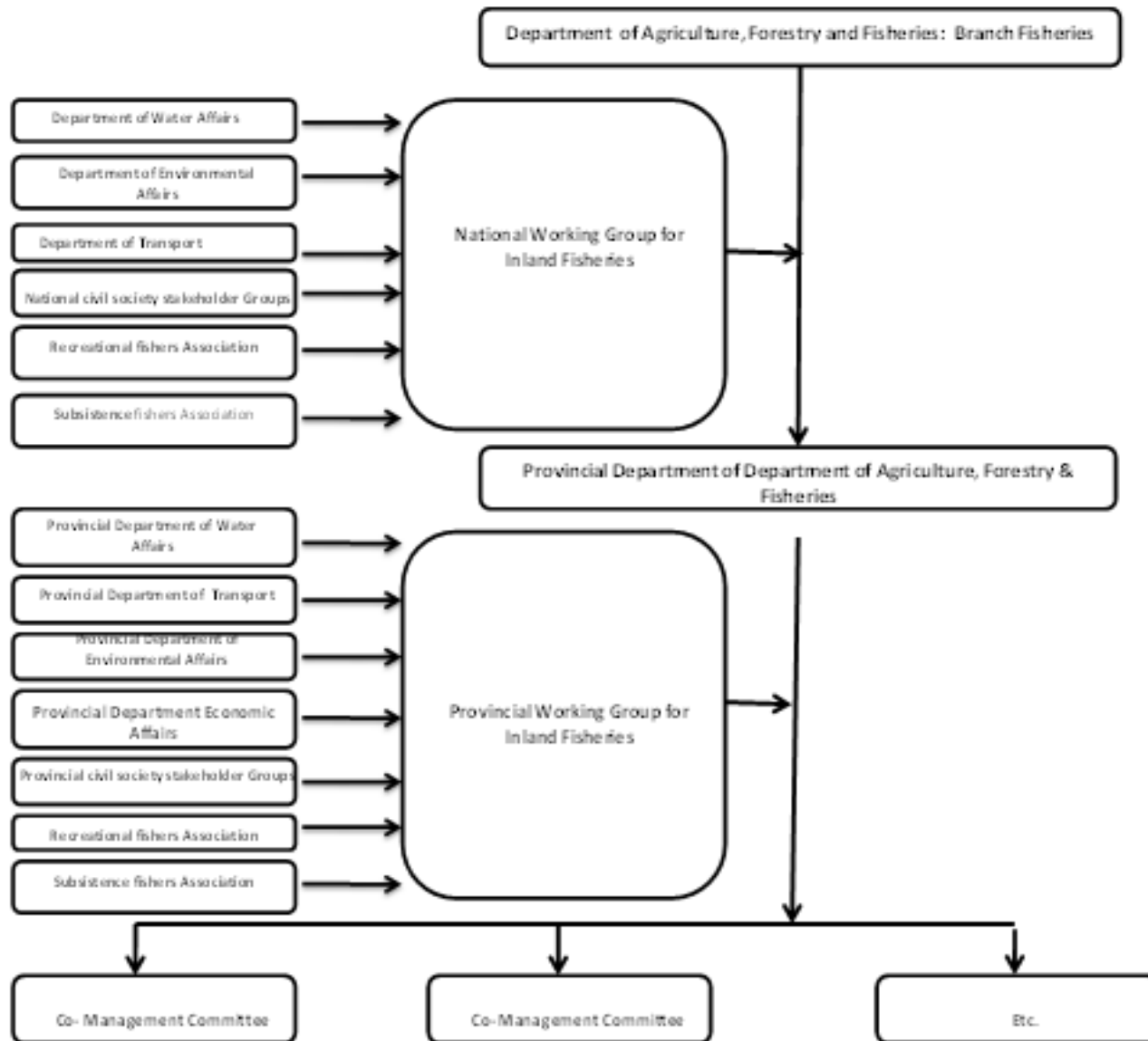
Use of NEMA for Inland Fisheries

- Gives legal effect to environmental rights in Constitution
- Provides for development and enhancement of inland fisheries based on principles of utilisation of nature for sustainable development.
- Could be used to formulate comprehensive inland fishery specific legislation or revision of existing provincial legislations

Need for a Developmental Approach

- NEMA, NEMBA & Constitution have adequate provisions for a developmental and livelihoods approach to utilisation of inland fisheries.
- Need for common principles, as provided for by NEMA, NWA and DAFF's strategic plan, to guide development and management of inland fisheries and the legal instruments to underpin these.
- Key to future legislative revisions and principles would be to align these with government developmental policies and strategies, especially those promoting rural livelihoods.
- Such an approach will require leadership of the Department of Agriculture, Forestry and Fisheries (DAFF)

Proposed organisational structure for inland fisheries



Thank You!