PARTICIPATION IN WATER RESOURCE MANAGEMENT:
BOOK ONE

LEARNING ABOUT PARTICIPATION IN IWRM: A SOUTH AFRICAN REVIEW

Jane Burt, Derick du Toit, David Neves & Sharon Pollard

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PREFACE

The National Water Act (1998) opens the way for ordinary people to take part in water resource management (WRM). This is a significant move towards a more social orientation and away from an approach that focused almost exclusively on the technical aspects of WRM.

This set of two books asks what a social orientation means in practice. Since the National Water Act became law in 1998, how have WRM practitioners involved people in the process of managing water? What have we learnt so far? And how can we use these lessons to move forward?

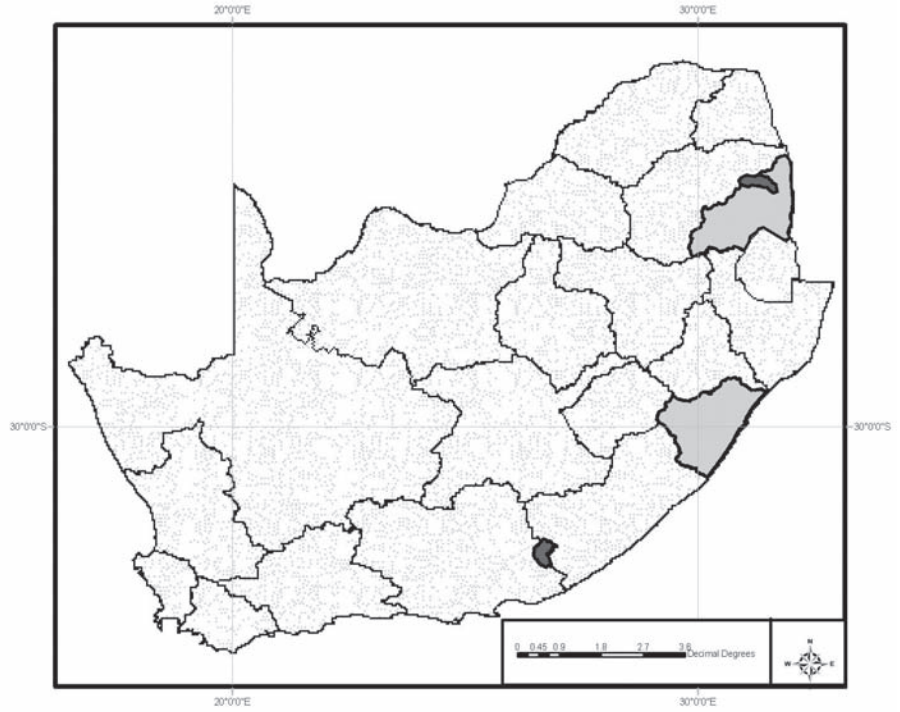
The content of the books is based on research that looked in some depth at national and local participatory practice in South Africa, and also broadly at international trends. The research was conducted by three WRM practitioners and two researchers in the field of participatory approaches.

The design of the research went beyond the gaining of new information, and the development of knowledge (along the lines of developing 'best practice' guidelines). The research was viewed as having the potential to change thinking and behaviour, and thus to address current issues. We emphasised dialogue as a research method and regarded each encounter with another practitioner as an opportunity to use the research process to share knowledge and develop capacity.

The research also had a critical intent, in that it aimed to provide deeper insight into the 'hidden' dimensions of participation, and to make more explicit aspects that may paradoxically inhibit democracy, equity and participation. This critical approach led to a series of questions along the following lines: "Participation for what purpose?" "Who benefits from participation?" and "In what context does participation take place?"

The research process began with our experiences in two pilot projects: one in the Sand River Catchment in Limpopo Province (Inkomati Water Management Area (WMA)) and the other in the Kat River Catchment in the Eastern Cape (Fish-Tsitsikamma WMA). In our role as researchers and WRM practitioners we asked the same questions of people at national and regional levels that we had been asking ourselves about our working experience in these pilot projects. We also did an international literature review, looking at how other countries are institutionalizing participatory water resource management and asking what we could gain from their experiences. The information gathered through these engagements was then used to enquire in depth

into participatory processes in the larger context of two Water Management Areas – the Inkomati WMA (which includes the Sand River Catchment) and the Mvoti-Mzimkulu WMA (KwaZulu-Natal).



South Africa's Water Management Areas, showing the Mvoti-Umzimkulu WMA, the Inkomati WMA, the Sand River Catchment and the Kat River Catchment

We asked a wide range of stakeholders what the idea of participation meant to them. We asked how WRM practitioners encourage people to participate. We spoke to community representatives, Department of Water Affairs and Forestry (DWAF) officials, and water resource practitioners. We asked how new institutions could support participation and how we could begin to monitor participation so that it becomes a process that supports democracy and the principles of the National Water Act.

There were two key findings from the research process:

1. There is a need for an in-depth understanding of participation in the WRM sector, as our understanding of participation directly affects our practice of water resource management (WRM). Book 1 opens up the dialogues and questions that need further deliberation by water management practitioners.

2. There is a need for practical guidance for the planning of participation and for setting the parameters of participation in different contexts. Book 2 suggests a framework for doing this. This framework is still to be tested in more depth.

The two books are tools to further dialogue and critical questioning amongst professionals involved in integrated water resource management. Participatory WRM is being played out within the context of institution building in an emerging democracy, which is reflected in the way in which the books are written.

Book 1: *Learning about participation in IWRM: A South African Review*, documents the challenges, learning points and questions that came out of the research. It gives the context of WRM in South Africa and introducing the ongoing debates and showing how these debates apply to institution building and resource management. It describes the way in which different Water Management Areas have responded to the challenges of creating WRM institutions. It also describes in detail the steps leading to the setting up of the two Catchment Management Agencies (CMAs) that had been formally established at the time of writing (June 2005). These are the Inkomati CMA in Limpopo/Mpumalanga, and the Mvoti-Mzimkulu CMA in KwaZulu-Natal/ Eastern Cape.

Book 2: *A task-oriented approach to participation*, describes how participation in IWRM could work in practice. It suggests a framework for building the starting blocks for participatory practice.

CONTENTS

INTRODUCTION: LEARNING ABOUT PARTICIPATION

Participation just means 'taking part', but there are lots of ways to do this. An approach with a social orientation begins with the assumption that we are all part of our physical, political, social and economic environment and that we have a right to be involved. This means becoming fully aware that South Africa's water – the rain, the rivers, the dams, the pumps and pipes – are both ours to share and enjoy, and our responsibility. The law invites us to become more aware of the role of water in our lives. Everyone is now encouraged to look at how water is allocated and distributed, and how is it cared for. Everyone can contribute to the decision-making processes.

Water resource management (WRM) practitioners in South Africa have been grappling with the issues surrounding participatory water resource management since the mid-1990s, even before the National Water Act (NWA) became law. A great deal has been achieved, but there is still confusion around the concept of participation. Much of this confusion stems from the fact that people see participation as a 'product' or 'finite condition' rather than a 'social process'. In much the same way that democracy can be described as an ideal that we have to continually strive for, so it is for participation. A participatory society is one that generates a social and legislative environment that involves people and enables them to deliberate from multiple standpoints. The aim of this particular participatory process is to help to achieve the ideal of 'sufficient water for all', as mandated in South Africa's Constitution.

This book is based on the findings of a research project that reviewed participation in water resource management in South Africa. It explains why participation is an important process in water resource management. It looks at participation in the context of the laws governing management of the water resource. There is a particular focus on developing institutions for integrated water resource management and on the role of these institutions

in establishing platforms for stakeholder participation. The book looks at stakeholder participation in the establishment of Catchment Management Agencies (CMAs), as a measure of how participation is understood and pracised in South Africa generally.

The research identifies the discussions and debates about participation in water resource management that are going on in South Africa, and to some extent in the rest of the world. Being aware of these perspectives challenges us to look at different ways to set up institutions. Through evaluating these varied perspectives we can more usefully reflect on our own assumptions and practices in building institutions, and in setting up processes for more equitable and inclusive integrated water resource management.

SECTION A
PARTICIPATORY WATER RESOURCE MANAGEMENT MEANINGS AND ASSUMPTIONS

1. A LEGISLATIVE AND POLICY FRAMEWORK

Many countries are trying to implement participatory approaches to water resource management, based on the premise that participation contributes to more equitable and sustainable water resource management[1].

South Africa is emerging from a centralised and authoritarian water resource management system. In the past civil society was rarely, if ever, consulted about or involved in issues related to water provision and management. Access to water was highly inequitable and based on racial lines.

We now have a revised legal framework based on a non-racial participatory orientation, but there is still a lack of clarity on what this means theoretically and in practice. The purpose of this research is to shed some light on what a sound participatory orientation might entail, using dialogue with practitioners and drawing on the experiences documented by the research.

Internationally, a vast amount has been written about participation and stakeholder involvement in natural resource management, of which integrated water resource management forms only a small part. In South Africa a specific orientation to participatory WRM is emerging. The three main principles of this are: 1) water as a public good, 2) water as a human right, and 3) the catchment as the unit for water resource management.

1) Water as a public good
International protocols, such as the Helsinki Convention and the World Commission on Dams, recognise water as a public good rather than as something to be privately owned.

These protocols state that although a government may be a custodian of water, the use of water is for the benefit of everyone. If water is to be managed and used for the public good, it is logical that the public should decide what the public good means. Without the participation of the public it is very unlikely that governments will make sound long-term choices.

Take for example the allocation of extra water to factories in an area where farming also takes place. Allocating water to factories will benefit the industrial sector, creating jobs and profits, but it will take away a proportion of the water allocated to farmers in the area. 'The public' both gains and loses because there is no clear right or wrong in the situation. The people involved have to decide the outcome together, bearing in mind the long-term health of the river, so that water can be a public good for future generations

2) Water as a human right
South Africa has adopted a rights-based approach to governance, as reflected in the country's Constitution and Bill of Rights. Access to clean water is recognised as a human right. Access to water and the health of water directly affects everyone, so everyone should have the opportunity to participate in water management.

WATER RELATED PROVISIONS IN THE CONSTITUTION

The Constitution, under Chapter 2, has many relevant provisions that relate to the right to water:

Section 7(2): Rights
The State must respect, protect, promote and fulfill the rights in the Bill of Rights.

Section 26: Health Care, Food, Water and Social Security
1) Everyone has the right to have access to sufficient food and water
2) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.

Section 9: Equality
1) Everyone is equal before the law.
2) Equality includes the full and equal enjoyment of all rights and freedoms.

Section 24: Environment
Everyone has the right:
a) to an environment that is not harmful to their health or well being
b) to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and secure ecologically sustainable development and use of natural resources, while promoting justifiable economic and social development.

Section 39: Interpretation Clause
1) When interpreting the Bill of Rights, a court, tribunal or forum:
   a) must promote the values that underlie an open and democratic society based on human dignity, equality, and freedom;
   b) must consider international law; and
   c) may consider foreign law.

All of these clauses of the Bill of Rights are related to the right to water. Other human rights have a connection with the right to water, among them are: the right to housing, the right to food, the right to life, the right to a healthy environment, and the right to health. It is only when citizens of our country are aware of these rights and know how to participate in governance to achieve them that they are likely to become a reality. The management of water within our local Water Management Areas (WMAs) is closely linked to all of these rights: they are all interlinked in some way or another. (Adapted from: Pejan et al. 2005)[2]

The Bill of Rights is the most general level at which environmental and water rights are enshrined. The next level is that of the National Water Act, promulgated in 1998. The Act provides a strong foundation on which integrated water resource management can be built. One of its underlying principles is the need for redress – to give a voice to those who have been marginalised, and to give a social voice to the water resource itself, and to all the living creatures that depend on it for their survival.

The two most significant changes introduced by the National Water Act are:

- *Who can use water?* Under the old Water Act of 1956, people's right to use water was linked to riparian ownership – ownership of land next to, or on which, the water source is located. In the new Act everyone has the right to use water.

- *How must we use water?* The new Act acknowledges that the water resource is finite, and has to be protected in a healthy state in order to support the life of humans and all living creatures. This issue was ignored in the old Act.

THE CONCEPT OF A RIGHTS FRAMEWORK

In the Sand River Catchment it was found that the understanding of a rights framework for water allocation by all the people in the catchment was very poor. Everybody involved needed a clear understanding of what a rights framework meant – a commitment to the principles of a rights focus (non-discrimination, participation, universality), the defining of obligations, how to find out when and where violations of obligations were happening, and how to remedy these situations. What emerged in workshops was that the various stakeholder groups did not have adequate access to information, so they were not able to carry ideas forward into action with confidence.

3) The catchment as the unit for water resource management
Integrated catchment management (ICM) uses the river basin boundary as the natural unit to determine the most significant processes of WRM in the catchment. This requires a move away from resource management by a single department, to management that involves the whole government. Despite the intentions of the legislation, which devolves decision-making to catchment level, centralised decision-making is sometimes retained under the guise of avoiding parochial thinking.

THE CATCHMENT AS A UNIT OF WRM IN THE KAT RIVER VALLEY

One of the challenges of capacity building in the Kat River Valley was scaling up people's understanding of water resource management from a local village level to a catchment level. Catchment Forum (CF) members, as representatives of the Kat River Catchment, needed to understand the catchment as a whole. This meant understanding, among other things, how upstream water use influenced the quality and quantity of water available downstream.

To help the catchment residents, practitioners at Rhodes University developed a series of learning processes[3]:

- 3-D models: Catchment Forum members were introduced to the idea of upstream and downstream relationships using a 3-D model of the catchment, which allowed members to physically see the effects of upstream use on downstream users.

- Role-play and games: Stories, drama and games were used to explore the relationship between upstream use and downstream availability.

The capacity building enabled Catchment Forum members to work on action plans with the whole catchment in mind rather than just the needs of their own village.

THE SOUTH AFRICAN LEGISLATIVE ENVIRONMENT

South Africa is unique because law and policy legislates for the involvement of all people in the governance of the country . This means that the people are expected to do more than vote during elections. It is their democratic right to participate in all aspects of governance and to be consulted and involved in decisions that directly affect their lives.

The legislative environment guides participatory practices in WRM. Below we briefly review the legislative environment. For a more detailed description of water law and policy you can refer to Department of Water Affairs and Forestry (DWAF) guidelines[5] as well as the book *Some for All, Forever* produced by the Water Research Commission (WRC) (Palmer et al[6]).

The Constitution

South Africa's Constitution recognises all people's right to water. To give effect to the water rights embodied in the national Constitution the government, its institutions and individuals, also have obligations with regard to water. The right to water within South African law can be interpreted as the entitlement of everyone to sufficient, safe, physically acceptable and affordable water for personal and domestic use.

The right to participation is also enshrined in our Constitution, and also in the Universal Declaration on Human Rights (UDHR). Article 21 of South Africa's Constitution states: "everyone has the right to take part in the government of his/her country directly or through freely chosen representatives."

The principle of participation relates directly to our human rights. It is linked to the right to seek, receive and impart information, and to the right to freedom of expression. This means that participation is much more than simply voting in elections. It requires all members of society – not just the majority – to take part in decisions that affect their lives. Participation entails input at all levels of the development process, including in the creation and drafting of policy and legislation. This is both a responsibility and an obligation of society.

An important part of a rights-based approach to water is that it comes with the obligation to *facilitate*, *promote*, and *provide*. This is the responsibility and obligation of the State.

The obligation to *facilitate* requires the State to take positive measures to

assist individuals and communities to enjoy their rights.

The obligation to *promote* obliges the State to take steps to ensure that there is appropriate education concerning the hygienic use of water, the protection of water resources and the methods used to minimise water wastage.

The obligation to *provide* requires the State to adopt and implement a national water strategy and plan of action for the whole population. This process should give particular attention to disadvantaged or marginalised groups (Pejan, et al. 2005)[7].

THE NATIONAL WATER ACT

The National Water Act's statement of purpose (Chapter 1.2), reads as follows:

"The purpose of this Act is to ensure that the nation's water resources are protected, used, developed, conserved, managed and controlled in ways which take into account amongst other factors:

(a) meeting the basic human needs of present and future generations
(b) promoting equitable access to water
(c) redressing the results of past racial and gender discriminations
(d) promoting the efficient, sustainable and beneficial use of water in the public interest
(e) facilitating social and economic development
(f) providing for growing demand for water use
(g) protecting aquatic and associated ecosystems and their biological diversity
(h) reducing and preventing pollution and degradation of water resources
(i) meeting international obligations
(j) promoting dam safety
(k) managing floods and droughts."

KEY CHANGES INTRODUCED BY THE NWA

1. Riparian and private rights were abolished, and water became a national asset under the custodianship of the Minister of Water Affairs and Forestry.
2. Catchments were made into the units for water resource management and 19 Water Management Areas were designated.
3. Statutory protection of the right to water was given to the environment and to people through the concept of the Reserve.
4. The active participation of stakeholders was required.

These changes all require re-thinking practices towards the integration of land and water, with the support of all stakeholders (Pollard, 2002)[8].

The NWA stipulates that for any decision made in water resource management, two processes of participation must take place:

1. Relevant stakeholders and water users must be consulted on every step, from establishment to implementation.
2. Before anything can be legally formalised it must appear in the *Government Gazette*, inviting written comment from the public.

Although the Act is clear about the fact that people should participate, it does not go into detail about how[9]. This has lead to many different interpretations of what participation means and what the obligations are in relation to fulfilling the terms of the Act.

Consider these very different interpretations by DWAF staff members of the obligations for participation:

"It is not up to the Department (Department of Water Affairs and Forestry) to ensure that participatory processes continue or that institutions are active. This is the responsibility of the public."

"There is a moral obligation and a social obligation to ensure that people can and do participate."

"We need an educational approach to participation where the first task is capacity building before trying to establish institutions."

"We need to go beyond our legal obligations. DWAF's legal obligation is to give the public 60 days to respond to the *Government Gazette*, but people can't read or they do not know the *Government Gazette* exists."

1. Lotz-Sisitka, H.B & Burt, J, 2005. *A Critical review of participatory practice in IWRM*. WRC Report no K5/1434. Water Research Commission, Pretoria.
2. Pejan, R. 2004. The Right to Water: *The Road to Justiciability. 36 Geo. Wash. International L.R. 1181*
3. Other information on methods used can be found in Burt, J. (et al). *A Voice Flowing: A report on environmental education work for the Kat River Valley Project*. Geography Department, Rhodes University. Internal report.
   Motteux, N. G. 2005. *Guidelines for participation in Integrated Water Resource Management (IWRM) in South Africa: Participatory Guidelines.* Draft final report to the Water Research Commission, WRC project number K5/1233.
4. McMaster, A.R. 2002. *GIS in Participatory Catchment Management: A Case Study in the Kat River Valley, Eastern Cape, South Africa*. Unpublished Masters Thesis: Rhodes University
5. For detailed description of the legislative environment refer to the DWAF guideline, "A Guide to the National Water Act". This document can be obtained from the DWAF National office. See "How to obtain DWAF documents" on page 112.
6. Palmer, T., Berold, R., Muller, N. & Scherman, P. 2002. *Some for All, Forever*. WRC Report TT 176/02. Pretoria.
7. Pejan, R. 2004. The Right to Water: The Road to Justiciability. *36 Geo. Was. International L.R. 1181*
8. Pollard, S.R. 2002. *Operationalising the new water act: Contributions from the Save the Sand Project - an integrated catchment management initiative*. WARFSA WaterNet Symposium: Integrated Water Resource Management: Theory, Practice, Cases. Cape Town 30-31 October 2001
9. DWAF has developed its own policy guidelines for participation. These include:
   - Generic Public Participation Guidelines
   - Guidelines for the establishment and management of catchment forums
   - Guidelines in support of Integrated Water Resource Management, public participation for CMAs and WUAs
   - The National Water Resources Strategy

   These documents can be obtained from DWAF National office.

2. FINDING A WORKING MEANING

Integral to the concept of participation is an attempt to address an imbalance of power in our society. In South Africa, therefore, 'redress' is embedded in the term 'participation'. But redress is not the only official motivating factor behind participation. Engaging civil society in all aspects of resource management is likely to generate a healthy and empowered sense of collective ownership, which in turn contributes to the sustainability of the resource.

During the research process we discovered that the term 'participation' is already being applied in many different contexts, often with widely differing interpretations. Among the meanings given to the term "participation" are:

- Being informed about policy decisions and invited to comment on them
- Being part of a discussion forum which influences policy decisions
- Having decision-making power, and having a vote (or power of veto)
- Actively engaging not only in decision-making, but also in certain aspects of implementing policy.

Not all processes require the same degree of participation. This depends on the task to be done. For example setting the ecological reserve requires a different form of participation from stakeholders, to that required when voting for representatives of a Catchment Management Agency.

DIFFERENT FORMS OF PARTICIPATION

Participation as consultation

People who are affected by a certain decision, or policy document, or piece of legislation, need to be consulted before the decision can be finalized. Consultation usually takes place by asking people to comment on a document, which they can obtain from a public office, or by holding a public meeting where a presentation is given and people are asked to comment afterwards. Consultation is usually used when broad public participation is needed, as anyone can participate by commenting. An example of when consultation would be used with regard to WRM is in consulting

the public on policy, proposals or strategies, by holding meetings and publishing documents in the *Government Gazette*.

An example of a consultation process would be when a CMA proposal is gazetted and then made available for public comment. For example, the Mvoti-Mzimkulu CMA proposal was gazetted and then sent to libraries, district municipalities and traditional authorities. The response was poor, with fewer than 10 comments received. When the proposal was left at the offices of the Umgungundlovu Municipality, only three comments were received. In contrast to this approach, the consultation process followed for the National Water Resource Strategy was far more specifically directed – documents were sent to carefully identified people and workshops were held at which comments were received and recorded. All comments were considered and responded to before the strategy was finalised (DWAF, 2004)[10].

Participation as decision-making
People representing different affected groups come together to make decisions about how water is managed. The aim is to reach consensus on a decision so that everyone benefits (including the resource itself). Participation as decision-making is achieved through some recognised body, which has the power to make decisions, such as a Water User Association (WUA). The decision-making form of participation would be appropriate when negotiating water allocations with all stakeholders.

An example of this form of participation would be the making of decisions by a reference group with regard to the development of the CMA proposal. The reference group usually consists of representatives of different stakeholders – in the case of the Upper Vaal WMA the reference group represents three catchment executive committees, which in turn represents 13 Catchment Forums. The reference group will consult with the groups it represents. The representatives of the different groups will be responsible for making decisions on behalf of these groups after consultation with them. Another example of when this form of participation would be used is in relation to the task of allocating water. A representative of all water users will need to be part of this process. In the Kat River Catchment, the WUA intends to develop a plan for water allocation. As it is not representative of all users, the WUA will need to consider inviting other representatives to meetings, such as people from the tourism and forestry sectors, so that they can participate in the making of decisions.

Participation as forming partnerships for implementation
This can happen when groups have established a partnership for the implementation of water management. Partnerships by implication recognise frameworks for participation that they have agreed upon. Participation in the form of taking part in a partnership for implementing IWRM, usually occurs through a designated body, such as a CMA, which has the power to coordinate action and develop partnerships. For IWRM purposes Mitchell (2004)[11] favours the notion of partnerships above multi-stakeholder platforms, as partnerships are likely to focus on participation to facilitate implementation, rather than on political processes and debates about representivity.

In all Water Management Areas there are partnerships that develop along side the institutionalised multi-stakeholder platforms for IWRM. A typical example of such a local partnership would be a local community organisation partnering with an NGO or other institution. For example, the recent partnership between the Institute of Water Research, Rhodes University and the Water Users Association in developing a Catchment Management Plan for the Kat River sub-catchment (O'Keefe, J. & Birkholz, S. 2004[12]). Another example is the Association for Water and Rural Development (AWARD) a non-governmental organisation (NGO) operating in the Inkomati WMA, which has formed partnerships both with national DWAF, regional DWAF and with local communities to address WRM issues.

Partnerships concerned with funding Catchment Management Agency (CMA) establishment have also been developed. A recent example of this is the DANCED (Danish International Development Agency) /DWAF IWRM project, which funded participation processes in three WMAs in South Africa (DANCED/DWAF, 2002[13]). Partnerships can also develop around conflict situations, such as the proposed development of a dam in the Upper Berg catchment. Downstream users, Saldanha Steel and irrigation farmers, were particularly unhappy about the proposed dam and formed a partnership to express their dissatisfaction. Regional DWAF suggested that this partnership should be formalised and that users should coordinate their complaints through an Environmental Management Committee. This committee was then set up and is subsequently contributing to the CMA establishment process in the Berg WMA.

Participation as capacity building
Participation is itself a powerful form of capacity building and capacity building is necessary for meaningful participation. People will not participate unless they have an understanding of what they are participating in and why they are doing so. When participation is a legislated imperative, it is even more important that capacity building becomes an integral part of the process.

An example of contextually relevant capacity building for participation in WRM is the *Save the Sand public awareness programme* run by AWARD. Capacity building is developed using the spirals model (Du Toit, D. & Squazzin, T. 2000[14]), which emphasises the process rather than the content. Special focus is placed on the development of trust, conceptual capital, appropriate competence, skills and professionalism, as well as particular areas of knowledge. Continual learning is the underlying principle. The learning process responds to the day-to-day routines of participants rather than to the more traditional training interventions, which assume that learning will automatically be carried into participants' daily practice.

The capacity building programmes initiated by the DANIDA/DWAF IWRM project are examples of training-based learning programmes. This appears to have been most successful in the Olifants-Doorn WMA. The CMA establishment process was used as a focus for capacity building. A strong emphasis was placed on CFs and previously disadvantaged individuals, where consultation (as participation) tended to work hand in hand with capacity building. The programmes that were initiated were:

- *CF Forum Champions programme*: This was aimed at previously disadvantaged members of CFs. The intention was to develop champions within the context of IWRM.

- *Participatory Development Project Cycle management for IWRM*: The participants were not necessarily from CFs. This programme aimed to develop project development skills so that individuals would be able to initiate projects in the WMA that would support CMA activities. The outcome of this programme was a series of project proposals that will hopefully be included in DWAF business plans.

- *CF micro-projects programmes*: CFs were given a small amount of money to run small projects. It was envisaged that these micro-projects would be lead by the individuals who attended the champions programme.

- *Other capacity building initiatives*: These included mentoring and support of CMA development by DWAF and consultants through CF meetings, and training programmes on administration of CFs[15].

Participation as expressing a need
Often groups of people participate when they have a need or an issue that they want addressed. Participation ends when the need has been addressed. Stakeholders were mobilised through the implementation of the Save the Sand's integrated catchment management project (AWARD[16]) in response to serious water concerns associated with the protracted drought of 1992. When tensions between various users started to emerge it impelled stakeholders and AWARD to engage with the CMA establishment process through the Inkomati Reference Group.

Participation as covering bases
Encouraging participation ensures that there are no comebacks about an undemocratic process. This reduces the chances of contestation at a later date. For example, if DWAF needs to make a contentious decision about water allocation, calling for public opinion or assistance in making the decision means that it is not DWAF alone that is held accountable.

An example is in the Crocodile West/Marico WMA, where it was reported in the proposal for establishing the CMA that one of the reasons for involving stakeholders was to "gain legitimacy, especially among those who will be unhappy with having to pay for CMA operations". In the Fish-Tsitsikama WMA, where DWAF has been trying to initiate a Water Users Association it has been a struggle to get stakeholders involved. DWAF has literally had to 'buy' them in, by busing people to meetings and providing big lunches. People have even been paid to participate.

This resulted in meetings costing up to R30 000. Regional officials feel that the Eastern Cape needs to take a different approach because of this lack of 'volunteer culture'. A suggestion was made that a better institutional structure would be autonomous sub-units and committees in areas where payment is towards local management, so that stakeholders can see the legitimacy of being involved, and the legitimacy of contributing to locally relevant WRM.

Participation as ownership
Participation in general creates a greater sense of ownership among participants. This in turn fosters the taking of greater responsibility for the WRM process and the resource.

An example of this is the Catchment Forums in the Upper Vaal WMA, which take ownership of awareness creation, community outreach and addressing WRM problems. They had the support of DWAF in their establishment and formed the building blocks for the CMA process, but they nevertheless retain an independent identity. Because of this, these CFs are not concerned about their sustainability once the CMA establishment process is over. One reason for this is that the forums are multi-sectoral, including industry. Marginalised communities are represented by local government councillors. Each member organisation pays towards the running of the forum. Executive or business members contribute substantially more than other members. The ability to take ownership is definitely a result of financial independence.

Participation as a mechanism of decentralization
In an attempt to promote democratic values of accountability and equitable representation of local needs and interests in the management of resources, central government may delegate responsibilities to a local level. Participation by affected people at a local level ensures that these institutions are held accountable and represent local needs.

The establishment of all CMAs is an example of participation as decentralization. Governing boards are representative of stakeholders in the WMA and are accountable to them. This can be seen by the careful thought that the advisory committee for the Inkomati WMA put into its recommendations as to what sectors should have a representative on the governing board (see Section C of this book).

Using participation to help address past inequities and meet the needs of the poor
The following quotes from DWAF officials at national level show how participation is seen as a mechanism for redress and poverty alleviation:

- "Public participation is aimed at the poor being given a greater voice and role in the decisions that involve the use and management of natural resources."

- "Participation is key to development, upliftment and poverty reduction."

- "Participation is necessary because communities are not always organised."

- "People now have the opportunity to manage water resources. We are no longer in the environment of the helpless."

Clarifying confusion
One way to clarify confusion about participation is to be clear about why people are being asked to participate. You will find that the question "Who participates?" changes according to what the purpose of participation is (See Book 2, *A Task-oriented approach to Participation*).

People who have struggled with defining the term 'participation' say that the meaning becomes clearer as they put it into practice. One person said: "The more we get involved in water management the more we realise that there is never a single way of doing things. But we can build institutions that embrace a more democratic ethic."

The task of the WRM practitioner is to find appropriate channels and procedures for people's participation and to build their capacity to participate. The overall context and degree of participation is laid down in the legislation, but within that there is wide scope. WRM practitioners, especially initially, have to take responsibility for setting the parameters within which catchment-level participation happens (see Book 2, *A task-oriented approach to participation*, for a suggested framework on how to set parameters for participation).

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14. Du Toit, D.R., & Sqauzzin, T. 2000. The Spirals Model: new options for supporting professional development of implementers of outcomes based education. Department of Education, Pretoria.

15. DWAF. 2003. *Proposal for the Establishment of the Olifants Doorn WMA*. Department of Water Affairs and Forestry: Cape Town

16. AWARD stands for Association for Water and Rural Development

3. CONCERNS AND POTENTIAL PROBLEMS

The following quotes from interviews with DWAF national office staff reveal concerns about participation:

“Institutions are struggling as a result of our historical legacy.”

“We need parameters for public participation. At the same time we need to accept we will never have perfect public participation.”

“We need the right people in each WMA to initiate the process.”

“There has not been a lot of success in involving previously disadvantaged people in public participation to date.”

“There is a difficulty in public participation in South Africa because of our history. All forms of cooperative participation were undermined and destroyed by the apartheid government.”

“People become tired of attending meetings, and numbers drop.”

“The legislation guarantees participation, but it is difficult to say when the rights of public participation have been violated, people don’t even know that they have rights.”

“How do you know when participation stops?”

“Participation cannot be funded half way. If it is to be comprehensively implemented, it must be funded to all levels.”

“More men than women participate. Women are represented, but their contribution does not seem to count.”

“Those involved in participation need to be dedicated. We want the right process, not a product. We need skilled teams of people who can take issues forward.”

"We do not share our lessons enough, we struggle out there, but we do not share what we learn."

"Public participation cannot be done in isolation. It is a dynamic but fragile process. The law says that people must be consulted, but it does not say how, when, and where."

"Public participation can be manipulated and trivialized."

"How do we know whether communities gave meaningful input to the process? Public participation is expensive but does it add value to the process?"

These concerns can be summarised as follows:

- Do institutions, government and society have the capacity to participate?
- What are the parameters of participation?
- Is comprehensive participation at all levels affordable?
- How can we reach marginalised groups?
- How can we know if the ways in which people participate are meaningful to them?
- Should we view participation as process or a product?

Below, we look at some of these concerns in more depth. Where appropriate we draw on case studies and learning points that have emerged out of the international literature review.

FIVE CONCERNS ABOUT PARTICIPATORY IWRM SOME INTERNATIONAL EXAMPLES AND LEARNING POINTS

A. DECENTRALISATION OR 'DECONCENTRATION'

The National Water Act states that water resource management must be decentralised. The purpose is to make institutions accountable to local stakeholders and to allow more scope for local involvement. But it can happen that decentralisation of power merely turns into what Ribot (2002) calls "de-concentration" [17].

Deconcentration happens if central government passes the burden of its

work on to a lower level of government without handing over any of the decision-making power or resources. Deconcentration also happens if central government hands over responsibility without ensuring that the local level has the capacity to be accountable. Without such capacity building, participation cannot hope to be meaningful.

SOME INTERNATIONAL EXAMPLES AND LEARNING POINTS

Mexico[18]

Mexico's water policy is driven by a centralised federal system, ensuring that its water-policy objectives and implementation strategies are coherent from national to regional levels. National government assumes the dominant role. With the establishment of River Basin Councils (RBCs), a shift in water policy has occurred from supply-oriented to demand-oriented development. The shift to demand-oriented development means that farmers have had to become actively involved in decision-making for administering their share of water resources. It seems that this was possible in Mexico because a majority of farmers generate wealth from commercial farming. Demand-oriented policies that create economic incentives for farmers appear to have enhanced voluntary participation in Mexico. Even though this shift has ensured increased farmer participation in water management, the national government has remained strongly involved through the water governing structure, CNA, with top-level ministers taking part in decision-making.

Municipalities also play significant roles in water governing bodies, and they have government's financial and administrative backing. Involving municipalities in this way ensures that the central government has access to information concerning on-the-ground needs. The Mexican government seems to rely strongly on public institutions (the municipalities) in water resources management. The Mexican CNA is a semi-autonomous federal agency. The River Basin Councils fall under the CNA and govern smaller areas, with fewer responsibilities. They do not direct water policy, and are essentially cooperative forums with certain responsibilities for WRM. The CNA is neither a private nor a business institution and therefore does not fully represent the notion of decentralisation away from government. Central government delegates some but not all management responsibilities to the RBCs. This indicates that Mexico is following a model of de-concentration, with centralised control of water resource management still in place.

Australia[19]

The Ministerial Council plays a co-ordination role, while the Murray-Darling Basin Commission functions as the operating organisation, and power resides

at State level in terms of policy formulation. At the catchment level, several CMAs are responsible for the day-to-day management of water resources, but they do not feed into policy decision-making processes. At these levels, water management is governed by a variety of policy instruments, which facilitates water management decision-making. For example, a system of permits is used for water diversion, which encompasses all water discharge, except for the water needed for domestic use, livestock production and irrigation of up to 2ha, all of which are recognised as a prior right, and are exempted from the legal and permit system. An effective cap is set on water diversions, to ensure environmental supplies. This is accompanied by a system of volumetric licensing to users, which raises the scope for large-scale water trade across states and sectors. The effective cap on diversions can only be done after reserves are determined.

California, USA [20]

The State of California Central Valley Basin is highly urbanized, with a community of water users that are relatively well informed and homogenous. There are high levels of stakeholder participation. Legal procedures are in place for negotiating and settling disputes about the allocation of natural resources to different interest groups, including the conservation of the environment. Stakeholders have learned that litigation does not always lead to optimal outcomes, and cheaper alternative solutions are invariably sought. Water policy, resource allocation and regulation are planned and executed at the catchment/basin level. A single strong agency at basin level carries the major responsibilities for water resource management. A strong argument is put forward for coordinated control through one agency. Stakeholders recommended central control, because they found prevailing laws and administrative procedures, where a number of water authorities were performing limited, overlapping and sometimes contradictory functions, unwieldy. The State Water Resource Control Board became the main policy maker, with regional bodies established at watershed levels to administer, investigate and enforce a national water programme. Some of the features of the California Basin Management System, which have been described as contributing to the success of WRM are:

- Public agencies, including the courts, are involved in water management at both national and regional levels
- Decisions, agreements and contracts between parties are made privately

and are enforceable by law; mechanisms for resolving disputes, in the form of water courts, play an important role in resolving private disputes from conflicting interests
- Water rights are well defined, except in relation to groundwater
- Information on water resources (such as watershed yields) is stored on databases that are publicly available
- Decision-making is transparent.

Argentina[21]
Argentina follows a decentralised federal system of WRM. The Constitution of Argentina gives control of water resources to 23 provincial jurisdictions. This constitutional arrangement prevents the national government from adopting a consistent water resource policy at a national level, and from stipulating provincial or local level responsibilities. This situation has led to Argentina's water policy being 'out of step' with international trends, in the sense that the State has yet to propose and execute policy, programmes and projects aimed at sustainable development; propose and promote strategies aimed at integrated management of watersheds; and evaluate and promote the setting of regulations aimed at preserving and protecting the country's water resources.

There seems to be overlap of inter-departmental functions at both national and provincial levels, which leads to confusion between technical and political functions in WRM. At provincial level further complexity is added due to the diversity of agencies responsible for water resources, and due to the appearance of private operators and public service regulatory agencies. At the inter-governmental level, conflicts arise because some river basins cover several provinces, and because bodies set up to resolve conflicts are compromised and weakened by a lack of resources and financial autonomy. A lack of systematized legislation results in a lack of incentives to save water, and a lack of inter-sectoral reallocation through transfer or purchase of rights. In this context provincial control of water resources is ineffective, and there are no secure legal and economic rights. From this example it would seem that decentralisation without the necessary economic and legal instruments could result in managerial inefficiency, which in turn affects stakeholder participation.

Zimbabwe[22]
Zimbabwe's 1995-2000 new water policy framework aims to address inequality of water use (water use was traditionally dominated by commercial agriculture). The policy aims to eliminate the existence of private water ownership, and introduce demand-oriented development approaches. This

is done through the issuing of renewable permits. In principle the flexible permit system will ensure that government is able to redistribute access to water according to principles of equity. Currently there is strong government involvement in WRM through the Department of Water Development (DWD), but representivity in WRM is to be broadened with the establishment of Catchment Councils. As with the Mexican example, demand-driven development approaches create the space for broader participation in WRM, but in the case of Zimbabwe, strong centralised government policy and ideology may introduce an authoritarian approach to the demand-driven process (as the government may decide how to issue permits through the flexible permit system). This is likely to change the nature of public participation.

Tanzania[23]

All rights to water are vested in the national government, and legislation provides for the Central Water Board and Basin Water Boards to facilitate administration and legislation. Problems are being experienced with the implementation of the legislation. A key problem is the lack of explicit laws and procedures to regulate the power and functions of various stakeholders. Water rights are not well defined; no regulation exists on the use of groundwater; no provision exists for the establishment of Water Users Associations and participation; no provision exists for a framework of water resources planning; no provision exists for water resource management or protection of water resources from non-point pollution. To prevent water resources management from becoming a constraint to national development, an approach that is participatory, multi-sectoral and multi-disciplinary is needed. According to Mutayoba (2002) such an approach should recognise the linkages between land use and water use and recognise the important role that water ecosystems play in the national economy. The new water policy provides the following guidelines:

- Water allocation for socio-economic activities is a basic right
- Water user permit rights are treated separately from land rights, sanitation and access to clean water
- A demand-driven management system will be used
- Planning and development of water resources will be done at basin and sub-basin level
- Information, education and communication are important to enable all stakeholders to participate
- Co-operation in the management of trans-boundary water resources is needed
- Water resource management groups will be strengthened and capacit-

ated at all levels.

With regard to decentralisation, local management structures will be given a greater degree of autonomy, but these will be subject to regulation, which will be established at a national level. This represents another case of deconcentration, rather than full decentralisation of water resources management. This case also emphasizes the importance of policy instruments to enable appropriate management of water resources at a catchment level.

LEARNING POINTS

- In most of the cases water resources are centrally controlled with various steps being taken to ensure greater participation through 'deconcentration' rather than through decentralisation. More successful cases of decentralisation have occurred in countries (e.g. Australia) where there are adequate resources, and where legal processes are effectively managed. However both a decentralised and deconcentrated approach rely on efficiently managed resources and relevant legal and policy instruments. The cases indicate that this appears to facilitate stakeholder participation.

- Demand-driven policy frameworks appear to require increased stakeholder participation. Where stakeholder groups are more homogenous this does not appear to create difficulties (as in the case of Mexico); but where political and ideological issues come into play (as in the case of Zimbabwe and Tanzania) stakeholder participation processes may become more difficult.

- IWRM functions best when the various levels of government are allotted distinct but mutually reinforcing roles.

The key learning point for South Africa and for CMAs is that there is a need to clearly articulate how the functions of different levels of government and various policy instruments can be applied so as to strengthen stakeholder participation.

B. REACHING MARGINALISED GROUPS

"How do we encourage participation from those who have never had the chance to be involved?" This question was asked by everyone we spoke to. People at national and regional levels of DWAF made comments like: "We still have not been able to reach the poor in an adequate way," and "We still struggle to include the marginalised enough in participatory processes." Despite these frustrations, it is encouraging that inclusion was viewed as a serious issue by so many. It means that for the first time in South Africa, people are considering pro-poor water resource management.

PRO-POOR LEGISLATION

Much has been written about how access to water is important for ending the cycle of poverty. A paper by Barbara Schreiner and Barbara van Koppen[24] looked at poverty and water resource management from a South African perspective. They identify pro-poor aspects of our new legislation and argue that CMAs, as decentralised forms of governance, can address the issue of how better to involve poor communities in water resource management, if their strategies are carefully designed with the poor in mind.

Various structures are being established to foster community participation in water resource management. For example in South Africa, a system of Catchment Forums exists, which give marginalised communities a structure through which to participate in WRM. In other contexts, Water Users Associations appear to be the chosen structure for enabling community participation. The question is how do communities make use of participatory structures once they exist? As in the case of Tanzania, outlined above, a failure to work within local cultures and existing practices, has led to problems with the water management policy implementation, as communities 'return' to traditional water management practices, and fail to make use of new structures for participation. There are many possible reasons why the new structures are not used, or are considered to be inadequate. Below are some examples of how communities use various structures to ensure appropriate and integrated water resource management.

Some international examples and learning points

India – valuing local knowledge

In April 2002, India adopted a new water policy, whereby water became government property. Each state was required to formulate its own water policy. Concern was expressed that there was inadequate public participation in the planning, development and management of water resources. Currently communities are meant to participate in government water schemes. These are not financially sustainable (Argarwal, 2003)[25] and the repair and maintenance for these schemes is abysmally inadequate (ibid). The serious problems associated with the structure and management of the current drinking supply water schemes does not hold much promise for the future, even if there is participation by the community. India has a rich history of water-harvesting technologies. Argarwal (2003) argues strongly that it would be more valuable to engage communities in participatory projects, which strengthen their abilities to maximise the benefits of these local water-harvesting technologies, instead of participating in structures that would appear to be ineffective in addressing community needs.

The Arvari River Parliament (ARP) in Rajasthan, India, provides further evidence of the importance of considering community-based solutions to water management issues. In the 1985-86 drought, the groundwater table in Rajasthan receded below the critical level. Local knowledge of building *johads* (earthern check dams that improve percolation and groundwater recharge) was applied to resolve the problem, and community members participated in the building of 6 000 *johads* and repairing 2 500 old structures in 1 058 villages in the region. The building of these structures led to an increase in water availability and the revival of the Arvari River. One of the outcomes was an increase in the fish population. The government awarded a contract for fishing to a private company. The community protested and formed the Arvari River Parliament in 1999 to regulate all aspects of the use and management of the resource. The Arvari River Parliament consisted of two representatives from each of the 72 villages in the region. A local NGO has facilitated the entire process, and is now trying to get the 'rules', or what is effectively the customary law of the Arvari River Parliament, recognised by the legislature.

Bolivia and Ghana - taking account of access inequalities and community activism

The 'commodification' of water is becoming a global trend through the privatisation of water delivery services. Communities around the world have protested against actions that constrain access to water (such as privatisation). A widely publicized example of such community activism took place in 1999 in Bolivia's third largest city, Cochabamba. In the late 1990s the World Bank made debt relief and other development assistance to Bolivia conditional on the country's agreement to privatise the public water system of Cochabamba city. The Bolivian government awarded a 40-year contract to provide water services to the city to a United States California-based multi-national company that had invested in Bolivia's water sector. Soon the price of water tripled and thousands of residents were unable to afford water. To protest against the privatisation and unfair pricing, the community formed institutions and organised protests, which included a sustained series of marches, negotiations and demands for the revision of national water policies, and a demand for the repeal of the contract[26]. Ensuing riots forced the government to concede to public demands. The contract was withdrawn and the government revoked its privatisation legislation.

The Cochabamba case is exemplary, as it demonstrates the power of public participation and coordinated action, and the fact that when community interests are at stake, possibilities exist for mass mobilization and action that can challenge institutional policies and practice. Similar examples of community mobilization against harsh and unfair water policies are documented in many countries, such as Ghana, and include the late 2005 water privatization protests in Gauteng, South Africa. Participatory structures in these cases are emergent and highly politicised, and may not follow the institutionally-framed participatory structures.

Jordan - incentives that support community use of participatory structures

There are many examples in the literature, which show how local women's groups have improved domestic water supplies through incentive schemes that foster participation. One such example is that of Rakin Village in Jordan. Here rural women are supported by the Global Environmental Facility (GEF) small grants programme, which supports communities and NGOs with relatively small amounts of funding (maximum of US$ 50 000) to implement community-based projects. In the past Rakin village received piped water once every two weeks, for six hours only. This supply was insufficient to meet the needs of the community

(for human consumption, livestock and irrigation). The water purchased was very expensive, and the households did not have water storage facilities. The Rakin women's society gained a GEF grant to install water cisterns and implement water harvesting techniques in households. The resulting success of the project prompted more households to apply for loans, based on a 66% repayment system. A second project was then initiated, with loans based on a 100% repayment system being granted to more than 150 households. A participatory structure, consisting of a steering committee, was established to implement the incentive scheme[27]. In this example, participatory structures were established to coordinate and implement the incentive scheme.

LEARNING POINTS

- In the South African context, it is important for CMAs to develop strategies for working within local cultures and existing practices, where relevant. This includes taking account of and valuing local knowledge.
- A key issue to consider in CMA establishment is inequality of access, a) to water and b) to participation in WRM. This has implications for ensuring an inclusive stakeholder representation process, and for building capacity.
- Incentives may also assist with fostering community participation in WRM.

C. REPRESENTIVITY AND DECENTRALISATION

Other problems of decentralisation can stem from the extent of local representation. Representative bodies are needed to incorporate all the various stakeholder groups. Even if representation is fairly comprehensive this may not necessarily lead to effective participation.

Some international examples and learning points

Representation and stakeholder interests

The relative degree of representation that stakeholder interests receive in CMA establishment depends on the broader socio-economic and political environment. Dube and Swatuk (2001)[28] provide some insight into how socio-economic and political circumstances can influence representivity and participation. In Zimbabwe, tea estates and mining companies are guaranteed access to water because they are generators of foreign capital,

while communal farmers have more erratic access, even though they may regularly attend meetings.

From the cases listed above (see page xx the section on decentralisation and de-concentration), it seems that concerns of human survival and ecological sustainability are given priority in defining degrees of representation, and that central government is normally charged with the ultimate authority in determining how these interests are best served in order to further the interest of society as a whole. The factional interests of individuals and groups are given second priority, and are determined in accordance with prevalent ecological, economic and social values.

In the cases relating to the way that marginalised communities use structures (see page 22), representation amongst water user groups is determined in more organic and emergent ways in accordance with local concerns. Participatory structures can emerge to address a concern, to utilise community knowledge, or when incentives are provided to foster participation.

Legitimacy and participation
Representation is the main source of legitimacy in public participation, but the focus is often on participation, without necessarily addressing the representation of interests adequately. It is often unclear how, and to what extent, user-groups are supposed to participate. This often leads to situations where representivity is used to gain legitimacy for government processes, rather than to allow stakeholders who have the necessary skills and abilities to participate meaningfully. In such cases representivity is tokenistic.

Representivity and power
In most countries reviewed above there is an imbalance of power among various stakeholders, with the state often retaining most of the power. Stakeholder participation in water management involves a redistribution of power among multiple stakeholders who share decision-making. In this new scheme, former elites must give up some of their power and recognise the voice of previously marginalised stakeholders. If there is an imbalance in the power relations, it can be seen as a form of 'misrepresentivity'.

Appropriate community, racial and gender representation is required in the CMA structures to guide the implementation of the catchment management strategy within each area. Water Users Associations and Catchment Forums are seen as the foundation stones of the CMA and provide the conduit through which public participation takes place with 'appropriate community, racial

and gender representation'. However, a key issue affecting representivity in developing countries is gender bias.

Pakistan[29] *- issues of gender bias*
Socially entrenched gender bias in Pakistan makes projects aimed at bringing about the empowerment of women in the context of IWRM very difficult to implement. Culturally, men and women do not mix, and women do not play a significant role in decision-making. Men occupy a dominant position in relation to women and are the decision makers in the household. In Pakistan the majority of women are trapped in a web of dependency and subordination because of the low social, economic and political status given to them by society. Because of this, international development NGOs have to form separate field teams for women and men, in order to implement projects.

Many women do not have the time to participate in development projects because of their heavy workloads. Many female children are not encouraged to go to school and because of their lack of education, have very little confidence in their abilities. According to the United Nations Statement on Gender in Pakistan (UN, 1998)[30], it is widely recognised that in Pakistan many women do not enjoy many of the rights laid down in the Universal Declaration of Human Rights, despite the best efforts of the government, NGOs, community based organisations (CBOs) and women's organisations. Although the country has put a Gender Reform Programme into place to address the inequality of women in water management issues, there is no mention of addressing gender discrimination in the Draft National Water Policy's section on stakeholder participation.

There are many United Nations-driven projects aimed at empowering women in water management issues in Pakistan, but whether or not these will prove successful in the long term remains to be seen. Unless government departments adopt an aggressive approach to including women in water management issues, little improvement will be achieved. Men still determine the principles of action adopted to address gender issues in Pakistan.

LEARNING POINTS

- South Africa needs to ensure a balance of interests. Human survival and ecological sustainability, as well as economic development interests, need to be equally accounted for.

- Power-related issues need to be taken account of in participatory structures and processes, particularly gender bias and any exclusionary practices.

D. CAPACITY BUILDING

Capacity building is seen to prepare people to participate in meaningful WRM processes. These are not only previously disadvantaged people. The Save the Sand Project has had repeated requests for support from a wide spectrum of people in relation to understanding the laws that have implications for WRM.

The research unearthed some learning points as to why capacity building is such an important aspect of participation. If these findings are taken into consideration it must contribute to an understanding of why stakeholders do not participate at all, or find it difficult to participate.

LEARNING POINTS – THE IMPORTANCE OF CAPACITY BUILDING

- In order to participate, stakeholders are called upon to understand complex concepts, and to have a grasp of policy, environmental science, the law and their rights. They are expected to understand how WRM institutional arrangements work and what platforms are available for them.

- Many stakeholders have to deal with a system that is foreign to them, with new managerial language and a new set of procedures. Many of them lack the formal education to do this, no only in terms of technical knowledge, but also in how they understand concepts like ‘democracy’ and ‘participation’.

- The institutional arrangements of water management in South Africa are based on management ideas that come from the ‘developed’ world. People who are not accustomed to the etiquette, language and processes that are part of this form of management, invariably find it more difficult to participate.

- It is often assumed that only the poor and uneducated lack skills. But both the 'educated' and 'uneducated' need capacity building. The rich and formally educated are generally in the habit of working within a participatory approach where everyone's opinion is respected as valid. Through the research we heard some widely contradictory comments. On the one hand, comments such as 'big users are up to speed, it's the small-scale farmer that needs capacity-building' and on the other hand comments like 'white people don't get involved and are ignorant of the process', or 'wealthy people often push for action without understanding the whole situation'.

E. THE COST OF PARTICIPATION

Without capacity building, people may not see the relevance of participating in WRM and may abandon the participatory structures that have been set up. However, developing people's capacity to participate, and setting up the relevant structures, can take vast amounts of time and money. If structures and channels of communication and capacity building are set up carefully, the costs decrease over time as the systems begin to manage themselves. Consultants play an important role in implementing water resource management in South Africa, however their role needs to be carefully facilitated so as to make the best use of their input and ensure that valuable skills and information are not lost once the contract is over. In the Mvoti-Mzimkulu WMA, academics and service providers felt that their participation was not encouraged, even though they had many skills that would have been useful in the CMA establishment process.

LEARNING POINT

The role of government, in facilitating participation and ensuring continuity, is vital in order to ensure the best use of the available financial and human resources.

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4. ASSUMPTIONS THAT INFLUENCE PARTICIPATORY WRM

The research showed that there are a number of concerns emerging, both at a national and international level with regard the practice of participatory water resource management. The research shows that these concerns are related to a confusion of meaning, as mentioned above (See page 13 - 19). The research also identified a number of assumptions about participation and the problems associated with these assumptions that may be adding to the confusion.

Assumption 1: Participation will bring about equitable and sustainable decisions at a decentralised level.
Power relations, sometimes known as 'power gradients', often hamper equitable and fair participatory practices. For marginalised groups, the act of joining landowners and local politicians in discussions on water management can be daunting. Issues related to power inequalities must be taken into account, otherwise the negotiation process itself may make them worse.

Assumption 2: Setting up structures such as CMAs, WUAs and CFs will ensure participation
Participatory water resource management does not follow naturally from the existence of a legal framework, or from the establishment of relevant institutions. Work by the Save the Sand Project and the research initiatives in the Kat River Valley have shown that there is a strong need for the facilitation of participatory processes, especially where user groups are less organised and where there are steep power gradients.

Participation is too often thought of in terms of the following:

- How many people will attend?
- Is every stakeholder represented?
- How will the committee be organised?
- When will the committee meet?
- What needs to be included in the constitution?

While all these questions are valid, the most important consideration is whether or not the organisation is meeting people's needs. If a structure does not meet the needs of people, membership slowly dwindles. No structure by itself can ensure that the legislative, moral, or democratic imperatives of the National Water Act will be fulfilled.

Assumption 3: People are willing participants
One of the main assumptions of participatory approaches is that people are willing to enter into dialogue, to negotiate positions, and to make compromises and reach consensus. This view holds that participation will inevitably have positive outcomes and that a vision will be arrived at that will be acceptable to all stakeholders and of benefit to the natural resource. This assumption can be criticized for not considering the following: that participation might not have only a single outcome, that there might be conflict, and that consensus-driven processes might not adequately respect difference (Edmunds & Wollenberg, 2002)[31].

Assumption 4: Stakeholder identity and interests are clearly defined
Stakeholder groups seldom define their interests or their identities clearly. They might represent a variety of interests and constitute a number of identities with respect to the water resource base. This is particularly true of those using water for multiple small-scale productive uses. Furthermore, stakeholders might not freely associate themselves with a system unless they expressly agree to see themselves as belonging to it.

Assumption 5: A participatory approach strives to reduce or eliminate conflict
Some authors claim the opposite: that conflict or at least the threat of conflict may be a precondition for meaningful participation and negotiation. Daniels and Walker (2001)[32], for example, maintain that conflict in natural resource management is not only unavoidable but that it is desirable, because it leads to innovative agreements among stakeholders. Conflict can also function to highlight issues that are important to marginal groups, which might not otherwise be recognised.

Assumption 6: Formal structures are all that is needed
South Africa has embarked on a formalised model for participatory WRM practice. However there is evidence that many aspects of natural resource management, including water allocation and usage, are regulated by traditional institutions and structures, which have not been formally considered in the newly-proposed structures. In reality, indigenous and traditional management approaches represent a considerable contribution to regulating access to water resources. Traditional management approaches are poorly reflected in the new participatory framework. The Inkomati CMA makes allowance for one traditional authority on its board, but this does not necessarily mean that 'informal' management approaches will be adequately represented in the CMA's decisions. In the Mvoti-Mzimkulu WMA, traditional authorities did not participate in the CMA establishment process.

Issues of gender are closely related to the nature of participation. Meizen-Dick and Zwarteveen (1997)[33] maintain that women tend to exert more control under informal arrangements. A similar situation has been noted in the Inkomati WMA. Further exploration of how marginalised (and especially women's) groups are expected to become part of formalised participatory processes is needed.

Hemson (2002)[34], in a report on the participation of women in rural water committees in South Africa, comments that women often do not participate when men are present. This needs to be taken into consideration when developing formal participatory structures for water resource management.

Assumption 7: Water use is the most important determinant of stakeholder identity
Water use categories derived from stakeholder analysis may not be the best way to engage water users in participatory practices. In fact it can be argued that channels for participation in highly regulated and institutionalised structures limit the options and opportunities for genuine participation, because people are forced to fit into particular water use categories that might not be of their making. In the case of the Inkomati WMA, only 14 seats are made available for representation according to categories of use. Yet users might straddle a number of categories, resulting in uncertainly as to where to focus their participatory efforts.

Assumption 8: Participatory processes and negotiations are transparent
It is a common but flawed assumption that participatory processes are automatically transparent. Stakeholders might purposefully conceal information in order to gain competitive advantage over other participants in negotiations. 'Water theft' and river blocking are issues that have been under-reported in the Inkomati WMA.

Assumption 9: Processes of participation are about maximising benefits
Natural resource management experts claim that stakeholders will enter into negotiations only if they expect to gain more from the negotiation process than they would 'away from the bargaining table'. Stakeholders will therefore only make the effort of participating in negotiation processes if they feel that they can benefit personally from doing so.

Stakeholders often use negotiation platforms to form alliances, both as bargaining tools and as a means of striking new institutional arrangements. Switching from a rival to a collaborative mode may be the result of stakeholders' perceptions of future opportunities and interdependencies

that merit attention.

It is not yet clear how understanding and protection of the natural resource base will be integrated into the WRM process. This includes the regulatory role of DWAF and the vested interests of the inhabitants of WMAs in the well-being of the ecosystem.

Assumption 10: People participate because of a concern for their resource
There are many reasons why people participate, some of which may have little to do with concern for the river resource:

- *Payment*: In some Water Management Areas stakeholders were paid to come to meetings

- *Economic incentive*: People often participate in the hope of getting employment, if not through the water management institution, then through people that they may meet by being involved in WRM.

- *Indirect needs are satisfied:* Some people, particularly those who are poor, will be attracted to attend meetings merely because meals are offered. There have been cases of people who arrived at meetings just before a meal was served and left soon afterwards. In the Western Cape, meetings have been an opportunity to socialise: "they are places where old friends meet". This is not necessarily a bad thing, since it has encouraged participation.

- *Facilitation approach*: Stakeholders often participate because of the way

in which the process is run. Marginalised stakeholders have said they will continue to participate in WRM processes on the following conditions: if they feel that their concerns are being listened to; if meetings/workshops are not intimidating; and if they feel that the team facilitating the process is committed to those who are participating.

- *Developing an image of compliance*: Large-scale water users, such as industries, may participate to create an image of compliance and concern for the resource, so as to lessen potential resistance to their activities in the catchment.

31. Edmunds, D. & Wollenberg, E. 2001. A Strategic Approach to Multistakeholder Negotiations. Development and Change 32: 231-253.

32. Daniels, S. E., & Walker G. B. 2001. *Working Through Environmental Conflict: The collaborative Learning Approach*. Westport, Connecticut and London: Praeger.

33. Meizen-Dick, R. & Zwarteveen, M. 1997. Gendered Participation in Water Management: Issues and Illustrations from Water Users Associations in South Asia. A paper prepared for Women and Water Workshop. Sri Lanka: International Irrigation Management Institute, 15-19 September, 1997.

34. Hemson, D. 2002. 'Women are Weak when they are amongst Men': *The Participation of Women in Rural Water Committees in South Africa*. HSRC: Cape Town.

SECTION B
PARTICIPATION THROUGH WATER MANAGEMENT INSTITUTIONS: EXAMPLES AND NEW QUESTIONS

5. THE SOCIAL CONTEXT

Participatory practice in CMA establishment in South Africa is located in a particular social context. This context is one of institution-building in a democratising society (where the models of democracy may not be clearly articulated or well understood amongst South African citizens) in response to new national legislation that is based on principles of equity, efficiency and sustainability.

The focus of this research is primarily on participation in the establishment of CMAs. The research was commissioned to contribute to, and to extend a broader range of research initiatives related to institutional arrangements for IWRM in South Africa. To date institution building (with a focus on participatory practice) has taken place mainly at the individual sub-catchment level. This study broadens earlier research into participatory practice in WRM, as it focuses on participatory practice at the CMA level.

EARLIER RESEARCH AT A SUB-CATCHMENT LEVEL THE SAVE THE SAND PROJECT AND THE KAT RIVER VALLEY RESEARCH INITIATIVES

Pilot Project 1: The AWARD/Save the Sand Project (SSP)

This national pilot project was launched in 1998 by the Department of Water Affairs and Forestry (DWAF) and the Department of Agriculture and Land Affairs (DALA). It aimed to test and implement Integrated Catchment Management (ICM) and Land Care principles within the water-stressed Sand River Catchment in the north-eastern part of South Africa, near Mozambique. The Association for Water and Rural Development (AWARD) has been closely associated with the implementation of the National Water Policy and ICM principles in the area.

Over decades, poor water management in the Sand River Catchment has compromised ecological integrity, productivity and water resources. This was exacerbated by the political legacy of the apartheid homeland policy, which created high population densities and limited access to land and water in the former Gazankulu and Lebowa areas. During the protracted drought of 1992, conflict regarding water use came to a head. Commercial farmers continued to get irrigation water for their crops, while water for basic human needs had to

be trucked in. Research conducted at the time indicated that some people were living on as little as 10 litres per person per day (Pollard, 2002)[35].

The Sand River Catchment continues to experience water stress, with the catchment being in water deficit for at least four months of every year. DWAF has recognised that meeting the growing demand by simply supplying more water ('the technological push') is not a long-term solution.

Water management policy proposes that the management of demand contributes to improving availability. Ideally all residents of a catchment should be in a position to negotiate water allocations and resolve resource-based conflicts in an equitable way. The situation in the Sand River Catchment reveals how difficult this task actually is. Communities and users in the catchment have been historically divided, with participation in resource management virtually non-existent. The project has shown that attempts to incorporate marginalised communities into the catchment management process cannot be realised without empowerment through awareness raising, knowledge and skills-based support.

Pilot Project 2: Rhodes University research initiatives in the Kat River Valley

In the Kat River Valley in the Eastern Cape, activities related to catchment management have taken the form of independent research projects focusing on local issues. These projects have led to the development and support of a Catchment Forum and a Water User Association[36].

The Kat River Valley[37] is situated on the eastern edge of the Fish to Tsitsikamma Water Management Area. The valley is a tertiary tributary catchment of the Great Fish River catchment and occupies 1700 sq^2km or 1.8% of the area of the WMA[38].

Settlement patterns in the area reflect a history of dispossession and resettlement. The establishment of the Ciskei in 1979 put the greater part of the eastern side of the valley under a separate political entity, which soon incorporated the highly productive irrigation farming districts of Balfour and Seymour.

The south-west section of the valley consists of large privately-owned farms with high levels of production, some with labour forces of up to 200 people. In contrast, the densely populated sections of communal state-owned land are characterised by low levels of production and a high degree of poverty. The formerly prosperous villages of Balfour and Seymour are now in a state of economic collapse. Fort Beaufort, at the centre of the catchment, supports a relatively large population of 25 000, and remains functional as a service centre, but also suffers from economic stagnation and high levels of unemployment[39].

Apart from the final establishment of the Kat Water User Association, few of the initiatives in the Kat River Valley have been sponsored or managed by DWAF. However DWAF policy and legislation has influenced and enabled many of the processes. Most of the initiatives have been conducted or facilitated by Rhodes University, through projects where research and practice are closely interrelated, with researchers also acting as WRM facilitators and practitioners.

The establishment of a Water User Association, as stated in the National Water Act, has provided the framework for water users to contribute to the management of water use. Similarly the formation of a Catchment Forum has given many catchment residents access to integrated water resource management activities and actions. In some cases DWAF personnel from both the regional and national office have participated in these processes, sharing their knowledge, providing a sounding-board, and listening to what the groups have to share.

Villagers and practitioners have had to balance two diametrically opposite approaches to participation. The first approach, driven from within the catchment, sees participation primarily as a response to catchment needs. The second approach treats participation primarily as a response to the legal requirements of the National Water Act, and is driven largely from outside the catchment.

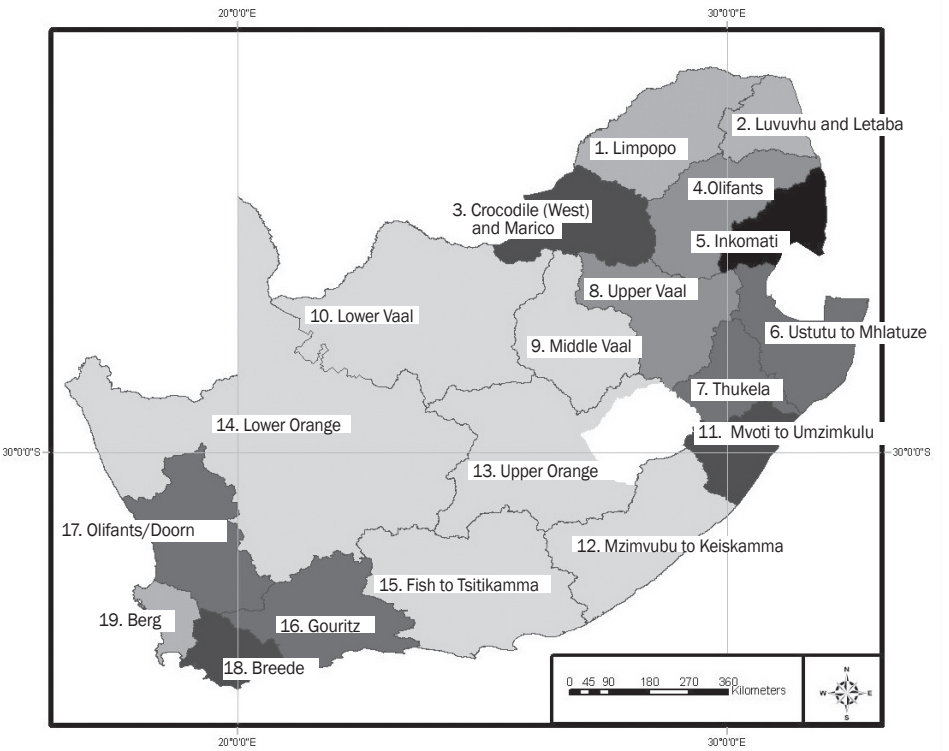
The difficulty of juggling these two approaches sparked a need to enter into dialogue with other IWRM practitioners. Talks were started with the Save the Sand Project, which culminated in Rhodes University practitioners submitting a proposal to the Water Research Commission to carry out the research on which these books are based.

This section briefly describes the processes of setting up and participating in water resource management institutions, in particular catchment management agencies. It draws on examples of how this is being done in the 19 WMAs in South Africa. We have drawn largely on the considerable work that regional DWAF offices have done towards establishing CMAs.

Because CMAs are new institutions, there has been very little experience to draw from. In April 2005, of the 19 Water Management Areas in South Africa only one CMA complete with a Governing Board, had been fully established. This is the Inkomati CMA in WMA 5, which falls into both Mpumalanga and Limpopo provinces. DWAF national is committed to having a total of five CMAs fully established by the end of 2006. Besides the Inkomati, there will be CMAs in the Olifants, the Breede, the Crocodile West & Marico, and the Mvoti-Mzimkulu WMAs (DWAF, 2004[40]).

In addition to the numerous technical aspects of establishing a CMA, there has to be participation in the process of establishment. The National Water Act (NWA) is not specific about how participation should happen, but it does stipulate that there must be broad consultative processes, and that all stakeholders must be represented. This is not necessarily a deficiency in the law, as it allows enormous room for debate and for the accommodation of different approaches within each catchment.

The map[41] below shows the 19 different WMAs in South Africa.



35. Pollard, S.R. 2001. *Operationalising the new Water Act: Contributions from the Save the Sand Project - an integrated catchment management initiative*. WARFSA WaterNet Symposium: Integrated Water Resources Management: Theory, Practice, Cases. Cape Town, 30-31 October.
36. A chronology of the establishment of the WUA and CF in the Kat River Valley can be found in Motteux, N.G. 2003. *Evaluating people-environment relationships: Developing appropriate research methodologies for Sustainable management and rehabilitation of riverine areas by communities in the Kat River Valley, Eastern Cape, South Africa*. PhD Thesis, Grahamstown: Rhodes University and McMaster, A. R., Burt, J. & Rowntree, K. 2003. Lessons learned from the Kat River Valley. Internal report. Grahamstown: Rhodes University.
37. Adapted from McMaster. A. R. 2002. *GIS in Participatory Catchment Management: A Case Study in the Kat River Valley, Eastern Cape, South Africa*, Unpublished Masters thesis. Rhodes University: Grahamstown.
38. Further physical descriptions of the catchment can be found in Everitt, V. (ed.) 1999. *Biomonitoring Report: The Kat River Valley Project, Eastern Cape*. Geography Department Rhodes University, Magni, P. 1999. *Physical Description of the Kat River Valley*. Report for the Kat River Valley Project, Rhodes University and Soviti, M.K. 2002. *An assessment of the impact of the Black village communities, their associated land-use, and related practices, on water quality of the Kat River in the Eastern Cape, South Africa*. MSc dissertation, Rhodes University, Grahamstown.
39. Further historical, social and economic descriptions of the valley can be found in Nel. E.L. 1998. *An evaluation of community driven economic development, land tenure and sustainable environmental development in the Kat River Valley*, Final report to the Programme for Human Needs, Resources and the Environment and Motteux, N. G., & Nel, E.L. 1999. "Participatory techniques to elicit a community's environmental knowledge: The Kat River", in Janse van Rensburg, E (ed.)., *Indigenous Knowledge in/as Environmental Education Processes*. EEASA Monograph No 3, Regional Environmental Education Programme, Howick.
40. DWAF. 2004. *National Water Resource Strategy*. Department of Water Affairs and Forestry: Pretoria
41. WMA Boundaries: DWAF Geomatics

6. WATER MANAGEMENT INSTITUTIONS AND PARTICIPATION

The primary water management units, based on geographical areas, are called Water Management Areas, or WMAs. The institutions responsible for the WMAs are called Catchment Management Agencies or CMAs. The CMAs are assisted by other management structures in which civil society can participate. These range from formally registered water users who are organised into Water User Associations (WUAs) to less formally constituted multiple stakeholder platforms like Catchment Management Forums (CMFs), also called simply Catchment Forums (CFs).

The diagram on page 51 shows how these institutions work together. The CMA is the central structure, the heart of the process, which coordinates the other structures.

At the time of writing (June 2005) many of these structures were not actually in place. Only one CMA had been formally established, and the process of transforming the old Irrigation Boards into WUAs was going slowly. However there were many Catchment Forums, varying from very active to dormant. Some of these were recognised by DWAF, while others were still struggling to get recognition.

So far, most institution building efforts have been focused on building CMAs and WUAs, with less focus on building relationships, processes and participatory practices. This will come later as we learn more about how to participate in WRM.

The Department of Water Affairs and Forestry has provided detailed guidelines on how water management institutions should look and how they should be established. Below we give a very brief summary of the different institutions.

CATCHMENT MANAGEMENT AGENCIES

The primary purpose of establishing a CMA is to involve all stakeholders in water resource management. Once a CMA is established, its task is to coordinate the activities and participation of all stakeholders and water management institutions in the WMA. This must be done through a Catchment Management Strategy (CMS).

Each CMA is to be run by a Governing Board whose members are appointed by the Minister of Water Affairs and Forestry from nominations made by

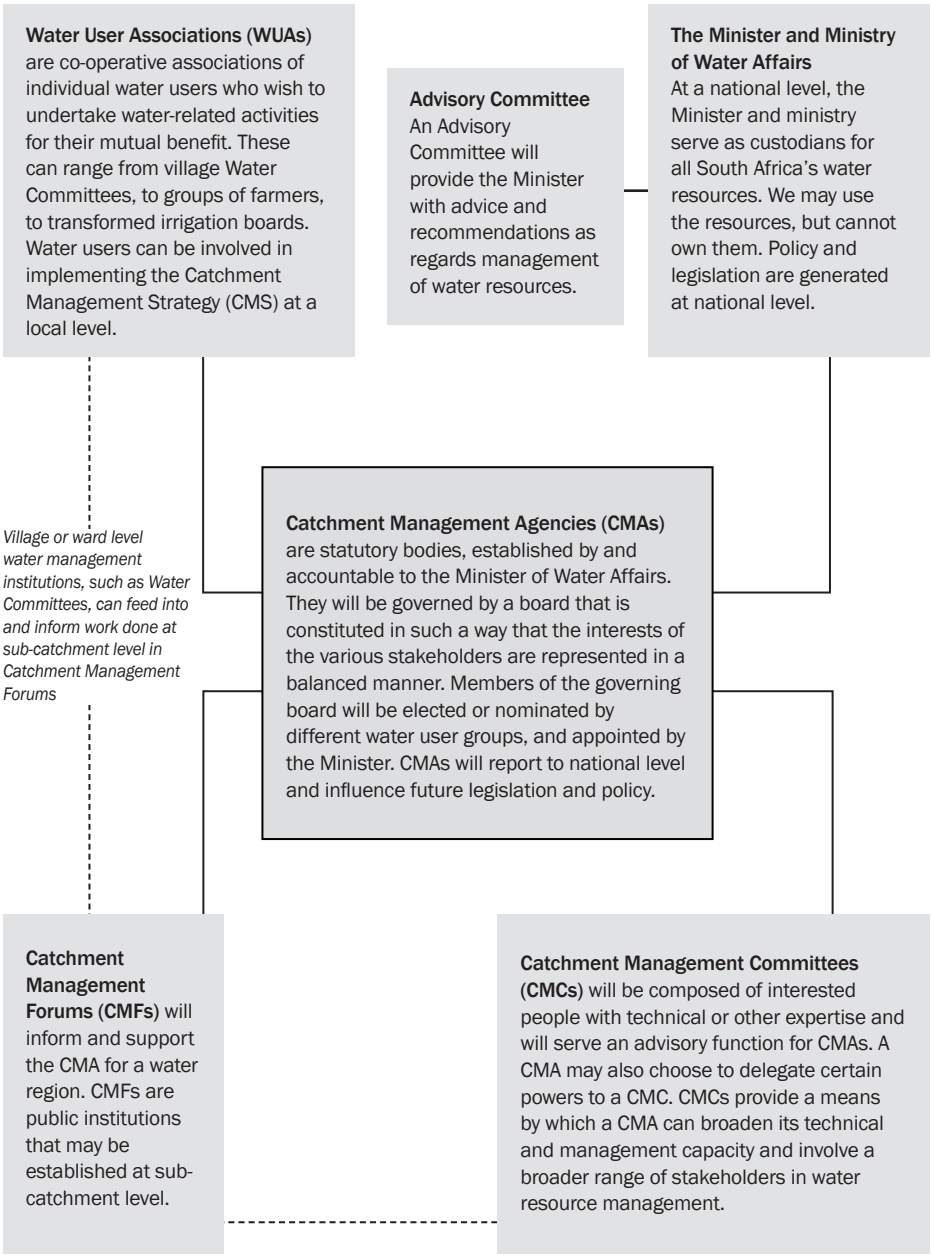


DIAGRAM from: Sguazzin, T., Du Toit, D. (2002). Issues of access: Professional Portfolio unit 8. Limpopo, Save the Sand Project. AWARD. South Africa

all stakeholders within the WMA. The Governing Board is the only legally stipulated structural component of a CMA. The National Water Act, in the spirit of enabling rather than dictating, sets out the basic components that make up a CMA, but allows the people within the WMA to decide how those components will fit together.

Looking at the proposals for CMA structures that had been accepted (as of June 2005) it was clear that they differed widely, according to the profile of the stakeholders and the finances available for each CMA.

Even when a CMA has been established, it may not immediately take on all the responsibilities and functions envisaged by DWAF. There will first be a phasing-in process to give the CMA staff time to build their capacity and set up their infrastructure. The intention is to make use of all the resources in the WMA as efficiently as possible. This may mean that the CMA could be given additional functions, or alternatively some of its functions could be given to other institutions, such as Water Boards or Water User Associations.

WATER USER ASSOCIATIONS

A WUA is a statutory body made up of different water users, who wish to undertake water-related activities for their mutual benefit. Membership of a WUA is limited to registered water users as defined by the NWA, namely people who use water other than for basic domestic purposes. WUAs can play an important role in the CMA establishment process.

Since a WUA does not represent everybody who has a stake in the water resource, it is not a fully representative body. It should be considered as one of the stakeholders or sectors in the process of CMA establishment.

All the old Irrigation Boards are being transformed into WUAs. This has to be done in a participatory way so as to include users who were not previously represented by the Irrigation Boards. This transformation process is happening throughout the country.

CATCHMENT FORUMS

A Catchment Forum (also called a Catchment Management Forum) is a non-statuary body with open membership. It can be established by a group of

stakeholders who come together to address a particular issue (an example is the Catchment Forum set up in the Kat River Catchment, see box below). Once that issue has been addressed, the forum may come to a natural end, or it may go on to tackle other issues.

CFs may also be set up as part of a DWAF initiative to create a channel for communicating with stakeholders. They can be designed so as to represent all the different geographical areas of a catchment or sub-catchment. In some CMA establishment processes, DWAF regional has initiated CFs so as to completely cover the geographical area of the water management area.

The role of CFs is open-ended. Each particular CF has to respond to local issues. Whether set up by DWAF, by practitioners, or by communities themselves, CFs are meant to be forums for local involvement of stakeholders.

TWO EXAMPLES OF CF ESTABLISHMENT

Enabling village participation in the Kat River sub-catchment[42]

A doctoral student at Rhodes University began work in the Kat River Valley, Eastern Cape, in 1996. She was interested in indigenous perceptions of river conservation and use. On interacting with people in villages along the Kat, the researcher saw that they were frustrated at having little say in water releases from the Kat River dam. At times the river ran dry, at other times the river came down in flood – villagers believed that a drowning some years before was caused by one such flood. The researcher agreed to assist the villagers in organising themselves so that they would have more bargaining power.

At about this time the National Water Act came into being. This enabled villagers to set up a Catchment Forum. With support from the doctoral student, Nicole Motteux, they applied to the Water Research Commission for funds to pilot the establishment of a CF by local communities. The money was granted, and a Catchment Forum was formally established in 1999, representing 14 villages in the upper and middle Kat River Valley.

Catchment Forums in the Olifants-Doring CMA process

The proposal for the Olifants-Doring CMA in the Western Cape was submitted in October 2003. It was developed with a relatively large budget, by DWAF Western Cape and the Danish funder DANIDA (Danish International Development Agency)

Before this, a series of public meetings had been held, and a wide range of stakeholders were informed about the CMA process. Affected stakeholders were identified and asked if they would be willing to serve on Catchment Forums. The CFs were set up in 2002, each electing a chair and vice-chair. The vice-chair was generally chosen from the previously disadvantaged group and was mentored by the chair as a way of building capacity amongst members. DWAF and consultants from DANIDA played a mentoring role for all the Catchment Forums.

The CFs drew up an action plan for each area. This included regular meetings, identification of issues, processes of seeking solutions, and recommendations to DWAF. The CFs were to become platforms for licence applications, and places where professionals and researchers could feed back information on projects and the latest developments in the legislation. CF members were kept informed about the National Water Resource Strategy and the Olifants-Doring water strategy.

CATCHMENT MANAGEMENT COMMITTEES

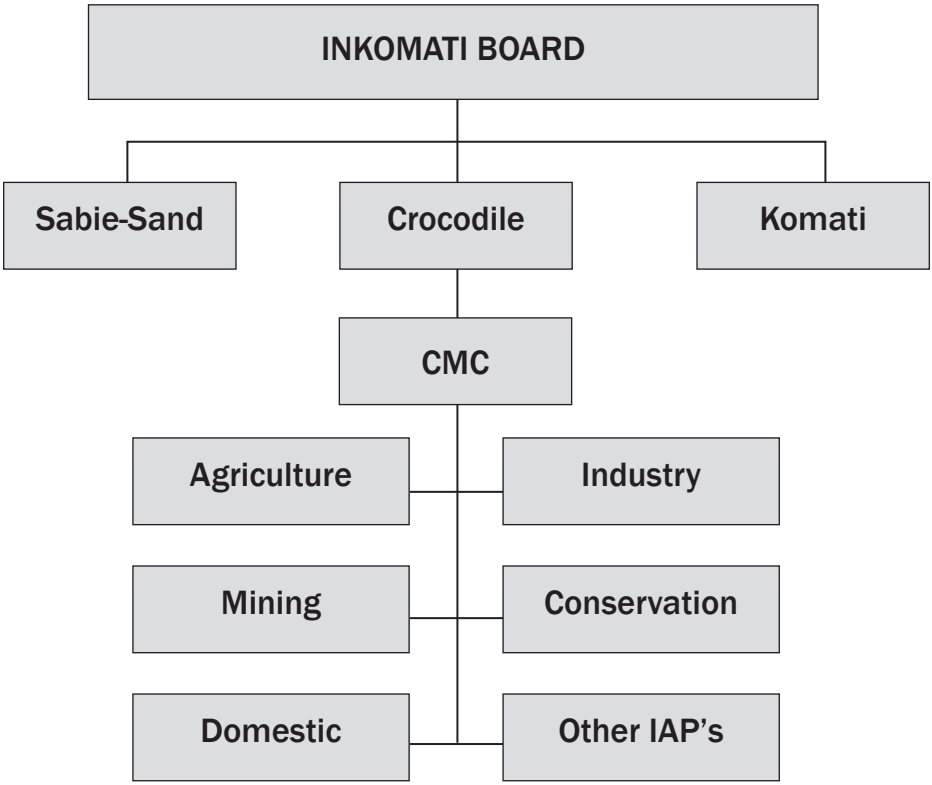
A Catchment Management Committee (CMC) is a formal and representative stakeholder body, which supports the Catchment Management Agency in the execution of its duties. The establishment of CMCs for various sub-catchments in a Water Management Area is one of the first tasks of the Catchment Management Agency.

CATCHMENT MANAGEMENT COMMITTEES IN THE INKOMATI[43]

In the Inkomati WMA there are three sub-catchments: the Komati, the Crocodile, and the Sabie-Sand (see diagram on page 56). Each of these has its own peculiarities which makes it difficult to treat the WMA as a homogenous whole.

The Advisory Committee to the Minister found that, because of their differing circumstances, the three primary catchments in the WMA all needed to be represented on the CMA Governing Board. The committee recognised that there were in fact five distinct areas, namely: the Sand catchment, the Sabie catchment, the Crocodile catchment, the Komati catchment west of Swaziland and the Komati catchment north of Swaziland. The Committee proposed that each of these should be represented by one or more 'champions' from the nominated/appointed members among the 14 seats. This means that representatives on the CMA will each be champions for more than one district area, and in this way ensure that each district's concerns can be brought to the CMA Governing Board.

The Inkomati CMA will establish a Catchment Management Committee in each of the three main catchments. Governing Board catchment champions will be part of these committees and represent catchment interests on the Governing Board. The area-based champions represent all interests and concerns within a specific catchment, which reduces sectoral competitiveness.



THE ADVISORY COMMITTEE

An Advisory Committee is a legally required committee, which advises the Minister on the composition of the CMA Governing Board. Its members are nominated by stakeholders or through stakeholder platforms. They are chosen carefully because of the importance of their role in advising the Minister.

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42. Motteux, N. 2002. *Evaluating People-Environment Relationships: Developing: appropriate methodologies for sustainable management and rehabilitation of riverine areas by communities in the Kat River Valley, Eastern Cape Province, South Africa*. Rhodes University: Doctoral thesis Motteux, N. 2000. *The Development and Co-ordination of Catchment Fora through the Empowerment of Rural Communities*. WRC project report K5/1014: Pretoria
43. MBB Consulting Engineers (Africa) Environmental Consultants and Association for Water and Rural Development (AUARD) 2001. Proposed for the Establishment of a Catchment Management Agency for the Inkanah Basin. October 2001.

7. THE PROCESS OF ESTABLISHING A CMA

The National Water Act states that CMAs can be initiated by the Minister or by stakeholders. In practice all the CMAs that were in the process of being established, with the possible exception of the one in the Olifants WMA, had been initiated by DWAF on behalf of the Minister, through DWAF's 'structured plan for CMA establishment'.

INITIATING THE OLIFANTS CMA PROCESS

DWAF established Coordinating and Technical Advisory Committees for the Middelberg Dam, Witbank and Klipspruit in 1994. These committees participated in the development of a water quality management plan for the Olifants catchment. The primary participants were some mining companies, the Department of Mineral and Energy Affairs, organised industry and the Mpumalanga Parks Board. In 1997 these committees discussed establishing a CMA. A meeting was planned by DWAF (regional and national office), the Olifants River Forum and the Mpumalanga Department of Environmental Affairs and Tourism.

DWAF acts as the CMA until the CMA is capable of fulfilling its functions. DWAF is also responsible for encouraging and supporting participation

A complicating factor in implementing inclusive and participatory management in the setting up of a CMA is that the sub-structures may not be in place. For example Water User Associations may not have been established, or Catchment Forums may not exist. These structures may have to be initiated by the people setting up the CMA in order for stakeholders to participate in setting up the CMA! In some cases, regional DWAF departments have had to start right from the beginning and set up Catchment Forums so that there is a recognised representative structure to draw on.

This process takes time. If the participatory structures are set up too hastily, participation by marginalised groups will generally remain at a token level. It seems better for WRM practitioners to put time and resources into playing the role of facilitators, educators, and motivators until people are ready to decide who should represent them on water management institutions and on the CMA.

DWAF practitioners, for the most part, have used the CMA establishment

process as a catalyst for developing and supporting stakeholder participation. The establishment of a CMA then becomes an evolutionary process, and although this may be frustrating to some stakeholders, it allows for the establishment of strong foundations for stakeholder participation in all aspects of WRM. No matter what the approach, every CMA establishment process is driven by central institutions. The purpose of decentralisation is to begin shifting the balance of power. This is a long-term process of building networks between all people, regardless of who they work for or who they represent. These networks should be sustainable and based on the principles of democracy.

PARTICIPATION IN SETTING UP THE MVOTI-MZIMKULU AND GOURITZ CMAs

The Mvoti-Mzimkulu WMA hardly involved Catchment Forums at all in the CMA establishment process. Members of the Proposal Development Working Group (PDWG) felt that it was more important to first establish the CMA and then to build capacity. One member said the CMA would "latch people on as we go along," and that the strengthening of CFs would happen after the CMA establishment.

By contrast in the Gouritz WMA Catchment Forums were established partly in order to initiate the CMA process. A DWAF regional official commented: "A strong CF base will mean a responsible CMA".

The Mvoti-Mzimkulu approach means that the CMA can be set up rapidly. But it loses the opportunity to build capacity through the CMA establishment process. Even more seriously, the lack of broad participation in the structuring process may mean that the community will be alienated from the CMA structure that eventually emerges. Of the two approaches, the participatory approach of the Gouritz WMA is likely to yield better long-term results because it builds capacity and draws people in from the outset.

A drawback of the Gouritz approach is that establishing Catchment Forums can itself be a lengthy and costly process. If care is not taken to consult widely and draw people in through addressing pertinent issues, the Catchment Forums may not endure. They may die out once the CMA is set up. The Mvoti-Mzimkulu WMA approach counters this problem because its message is: "We will be in a better position to capacitate people to participate and establish localised institutions once we have finished building institutions at the top." This is a valid argument, because CFs need some structure and purpose around which to build their

identity and their capacity, and participation in an existing CMA would provide such purpose. Practitioners in the Mvoti-Mzimkulu found that CFs became dormant without an organisational focus.

Research shows however that if formalised, bureaucratic structures are developed without ensuring that marginalised groups are included, these structures often become inaccessible to marginalised groups (Bakker, 2005[44]).

The process of establishing a CMA has two distinct phases:

1. Developing a proposal for the CMA
2. Nomination of the Governing Board

Below, we look at opportunities for participation in these two processes. The Department of Water Affairs and Forestry has produced detailed guidelines on both these processes, including the requirements for participation, which can be obtained from the National office (See details on page 122)

DEVELOPING A PROPOSAL FOR A CMA

This is how one DWAF regional office saw the role of the proposal for the establishment of the CMA: "The proposal document is the view of the people. Quite a lot of the things in the proposal are not at a level that you can implement; it is more a document of broad principles. It gives us something to work with. We can go back and ask the stakeholders: Do you want a big bureaucracy with goods and services, or do you want a mean and lean institution? Do you want other institutions involved or not? So as far as we at regional DWAF are concerned, it is a document to consolidate the wishes of the people, sectors and individuals in a WMA."

Stakeholders put forward their vision for the CMA in a 'CMA establishment proposal'. At the proposal stage it is necessary to ensure input from an inclusive range of stakeholders. Catchment residents can lobby for the involvement of previously disadvantaged people, or for the inclusion of environmental groups speaking on behalf of sustaining the water resource (Pollard, 2001[45]). They can draw in anyone who feels that their interests need to be considered in the management of the resource.

THE PROPOSAL DEVELOPMENT PROCESS

(A regional officer's verbatim version of how to develop a proposal)

"When we talk about a proposal we have to talk about participation. So first of all, who are the stakeholders? What are their problems? They might give you a whole list of problems. They say, 'Health is our biggest problem. Then our second most pressing problem is we want better police services. Then the roads are not good, so that is Number 3. And water is not good, call that Number 4.' But now a consultant comes. The consultant says: 'I'm not here for health, I'm here for the road', so they only deal with problem Number 3. Next time, Water Affairs comes in and we listen to the same sequence of problems, then say: 'Sorry we are not dealing with your police problems or safety, we are dealing with water.' The next consultant may be coming there for new clinics, but they don't want to talk to him because the previous two didn't address their problem of safety.

"You'll always find such issues coming up and you must not discard them. Try to link people up with the right authorities. The CMA is about water resources not water services, yet people don't make a distinction, they want to talk about access to water. And we in Water Affairs must address it. We can address it outside of the meeting, but we must address it. At least put them onto the right people – do that to show how they can be accommodated.

"We are engineers, we know all the figures, but this is not how stakeholders perceive it. So we ask them to go back to the forums and discuss our ideas, which are recorded in what could be called a 'starter document'. Then they go back to the forums and at the next meeting, the forums will give their forum version of water resources.

"Then we talk about the functions that the CMA has to do. Again we send them back to the forums and hear their understanding of the functions. That is why the process takes so long. You can do everything within a few meetings, but if you really want to involve the forums and let them have their say, then you have to let them come back and elaborate on the functions and then maybe discuss the priorities.

"Then we come to the institutional arrangement – who must do what? It flows from the water resources to the issues, functions, institutional arrangements. They come back with the local authority, with an NGO, with a WUA. These institutions tell them what they do and what they can do for the CMA. Now this does not take one meeting because a local authority will come and tell us, 'I also

want to give a presentation, but I'm not prepared, let me come next week'. So they build up a picture of what each organisation can do. One can do monitoring, one can do water sample analysis, the other can do tributaries, the other can do administration.

"They might then ask, 'Well, what functions are left for the CMA?' The CMA is the structure in which all these things happen. The groundwater people will say we must have a geo-hydrologist, the environmentalists will say DWAF doesn't know about the environment, we must have that in the CMA because that is one of the gaps. You get the people you want through the structure. And then you have to decide about the finances. You must decide what the minimum needed is, what the priorities are. Of course it will cost money, so expenditure, budgets, and revenues have to be considered. And then you have to ask: 'Is the CMA acceptable?' This is the institutional viability. 'Are the local authorities going to accept us, are the WUAs going to accept us? Is the structure acceptable to the people? It's a big bureaucracy, can we afford it?'

We have to let them ask all these questions, and only when they have accepted the whole thing – that is when we say 'it is socially viable'. So that's the proposal process."

Once completed, the CMA proposal is submitted to the Minister for evaluation and approval. A proposal will be rejected if it is found that there was no sincere attempt at inclusive consultation, or if the stakeholders involved are not representative of society (defined as government, parastatals and utilities, private sector and civil society). Other grounds for rejection are if the DWAF office was not part of the process at all and/or if the proposal is not financially viable. A checklist[46] has been developed by DWAF for evaluating a proposal, which is publicly available.

The Minister will publish details of the proposed CMA in the *Government Gazette* and invite people to comment within 60 days. Interested persons who have been involved in the proposal development process should also be informed. When all comments have been considered, the Minister publishes a notice in the *Government Gazette* formally establishing the CMA.

PARTICIPATION CONCERNS IN RELATION TO CMA PROPOSAL ACCEPTANCE

"Is the standard practice of publishing proposals in the *Government Gazette* an appropriate way of eliciting comments from a wide range of stakeholders?" A DWAF national deputy director expressed concern that inviting comment on documents published in the *Government Gazette* presents problems for groups with a low literacy level, or for people who do would not normally know about the *Government Gazette*.

In the Mvoti-Mzimkulu WMA, the CMA proposal that was left at the offices of the Umgungundlovu District Municipality drew comments from no more than three people. This does not mean stakeholders were not interested in making comments, it merely reflects the fact that most people in civil society in South Africa, whether educated or not, are not aware of the opportunity of commenting on documents published in the *Government Gazette.*

An example of the National Water Resource Strategy[47]

The National Water Resource Strategy (NWRS) presents an example of trying to address the above concern, and offers a possible model of how civil society could be encouraged to participate in reviewing strategies, policies and plans.

In the NWRS process, DWAF national went well beyond leaving the document at public libraries and municipalities. DWAF officials conducted public meetings and workshops across the country. They made sure that the NWRS got media coverage on television and in national and local newspapers. They also compiled a stakeholder list of over 8 000 people, who received direct communication about the NWRS. Written comments as well as comments made at workshops were documented. All comments were reviewed and considered by a team. A full description of the consultation process can be found in Appendix F of the NWRS (2004[48]).

OPPORTUNITIES FOR PARTICIPATION IN THE PROPOSAL DEVELOPMENT PROCESS

Identify stakeholders who will be affected by the proposal
It is logical to use the proposal development process as a starting point for encouraging and structuring future participation. In doing so the workload of the CMA will be reduced.

Identify stakeholder needs
This is necessary in order for the CMA to develop a catchment management strategy. The more thoroughly these needs are articulated and understood from the beginning, the easier it will be to build on this knowledge and incorporate new needs later on.

Build stakeholder capacity
The proposal development process is a great opportunity to start educating stakeholders about policy and procedures, as well as to build a culture of learning and capacity building around water resource management. It is a way for stakeholders to learn about institutional structures, the new water law, and their rights.

Set up WMI
The development of the proposal is a good opportunity to begin mobilising stakeholder groups and formalising their participation through Water Management Institutions (WMIs) such as CFs and WUAs. The proposal gives stakeholders a strong focus for participation and a goal to work towards.

FORMALLY ESTABLISHING THE CMA AND APPOINTING THE GOVERNING BOARD

As the first step towards establishing a Governing Board, the Minister appoints an Advisory Committee to make recommendations about the composition of the Governing Board and make nominations to the Board.

After receiving recommendations from the Advisory Committee about the structure of the CMA Governing Board, the Minister must invite organs of state and public bodies to nominate representatives to the seats identified by the Advisory Committee and the Reference Group or Catchment Management Committee of the WMA. The Minister has to consider demographic representation (including gender and previously disadvantaged groups) and DWAF representation. Equally important for the Minister to consider is the expertise and skills needed in order to perform CMA duties.

Governing Board members are accountable to the group that nominated them, but their primary accountability is to the CMA as a whole. They must be able to make decisions without first consulting or gaining permission from their organisations.

ESTABLISHING A GOVERNING BOARD IN THE INKOMATI

In the Inkomati WMA, an Advisory Committee was established to advise the Minister on how the CMA Governing Board should be constituted. Six months after its appointment the Advisory Committee completed its recommendations.

The DWAF National Directorate of Institutional Oversight then presented the Advisory Committee's proposal to a stakeholder consultative meeting, which had been called by DWAF. A capacity building workshop to prepare stakeholders was held the day before the consultative meeting. Comments from the consultative meeting were integrated into the proposal for the Minister.

The Committee recommended that there be 14 seats on the Governing Board representing the following sectors and interests:

- Commercial agriculture
- Agriculture by historically disadvantaged individuals
- Potential new agricultural water use by historically disadvantaged individuals
- Streamflow reduction (forestry)
- Industry, mining and power generation
- Tourism and recreation
- Conservation
- Productive use of water by the poor
- Civil society - resource protection and sustainable development
- Local government - integrated planning
- Local government - Water Services Authority
- Traditional leaders
- Mpumalanga Provincial Government
- Limpopo Provincial Government

The Advisory Committee also suggested that there be three observers at Governing Board meetings – an independent IWR management specialist, a DWAF regional office representative, and a CEO.

At the time of writing (June 2005) stakeholders were putting forward nominations

for the various seats. This process was being facilitated by practitioners where necessary. The Minister will make the final selection of the Governing Board from the nominations put forward, taking into account representivity, gender, and inclusivity.

OPPORTUNITIES FOR PARTICIPATION IN THE GOVERNING BOARD SELECTION PROCESS

Establishing an Advisory Committee
Stakeholders are given the opportunity to submit nominations for the Advisory Committee. The Inkomati WMA and the Mvoti-Mzimkulu WMA experience shows that established organised groups find it much easier to make recommendations than the more informal groups do. In the Inkomati, NGOs become the voice for the less organised stakeholders.

Commenting on the recommendations of the Advisory Committee
An Advisory Committee process may present its draft recommendations to stakeholders before sending its recommendations to the Minister. This happened in the Inkomati WMA when the stakeholder consultation meeting was held. Stakeholder consultation can take the form of workshops where stakeholders comment on the draft recommendations. This is the time to register any disagreements, as once the recommendations are finalised it is very difficult to change them.

Nominating seats on the Governing Board
Stakeholders can get involved by aligning themselves with any of the categories that make up the Governing Board. In the Inkomati WMA the Minister called for three nominations per category/seat. In some cases these nominations were geographically located (for example, one from each of the three sub-catchments).

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44. Bakker, H. 2005. *When two realities meet.* Cordaid research report: Amsterdam.

45. Pollard, S.R. 2001. *Operationalising the new water act: Contributions from the Save the Sand Project - an integrated catchment management initiative*. WARFSA, WaterNet Symposium, Cape Town 30-31 October.

46. You can find this checklist in the following DWAF guidelines:
"CMA Proposal Development Proposal Framework and Evaluation Criteria". 2001
This document can be obtained from DWAF National office.
See "How to obtain DWAF documents" on page 122.

47. DWAF, 2004. *National Water Resource Strategy*. Department of Water Affairs and Forestry: Pretoria

48. *ibid*

7. DIFFERENT ROUTES TO ESTABLISHING A CMA

Since 1998, practitioners, DWAF staff (national and regional), NGOs and consultants have been trying out ways of establishing CMAs. The common approach has been to encourage participation while simultaneously building people's capacity to engage in the process of setting up and managing the structures.

Although DWAF national has generally taken responsibility for initiating CMA establishment, a large part of the detail and responsibility has fallen on DWAF regional offices. Local practitioners have had to take decisions about matters such as defining and involving stakeholders; drafting the proposal to establish the CMA Governing Board; calling for nominations to the board; and developing capacity.

The establishment process is linked with broader issues of water resource management such as redress, capacity building and empowerment. The most effective CMA establishment processes so far have been those that have identified areas of opportunity, remained flexible and responded to a variety of situations.

If water users feel that they are establishing a CMA just to satisfy official requirements, their enthusiasm is likely to evaporate. In the course of this research we found that practitioners (usually DWAF staff and NGOs) have found it better to start with a concrete issue that is important to the water users themselves. Such specific issues immediately get people's attention and give them a tangible reason for participation.

However there are limits to an issue-based approach. Not all water users are driven by the same set of issues. If a particular issue is chosen to motivate participation there may have to be alternative strategies to motivate and include users who do not identify with that issue.

Different WMAs have used different ways of establishing CMAs. These can be classified as follows:

A. Proposals emerging out of previous activities or pre-existing groups
B. Proposals using issues and change as a way of mobilising stakeholders
C. Proposals in which the establishment of the CMA is the focus
D. Proposals with the Catchment Management Plan as the focus
E. Proposals in which the legal imperative of water registration is a catalyst for establishment
F. Proposals which set up Catchment Forums to initiate participation in WRM and services concerns

We will now look at examples of each of these approaches.

A. PROPOSALS EMERGING OUT OF PREVIOUS ACTIVITIES OR PRE-EXISTING GROUPS

Breede-Overberg WMA

This CMA process started when the Breede River Basin Study established a stakeholder committee to share findings from their study with the public. The stakeholder committee recognised that a CMA process presented an opportunity to develop their capacity as stakeholders. A Reference Group for the proposal process was established in a series of meetings conducted by consultants appointed by DWAF. The Reference Group was elected by the Breede River Basin Study committee and the Overberg Stakeholder Committee.

Breede-Overberg WMA

Olifants WMA

In 1994, DWAF established coordinating and technical advisory committees for Middelberg Dam, Witbank and Klipspruit, to monitor and develop water quality management for the catchment. The major stakeholders participating in this process were mining companies, the Department of Mineral and Energy Affairs, local industry, and the Mpumalanga Parks Board. In 1997, these committees discussed the establishment of a CMA and a meeting was planned by DWAF that included other stakeholders.

Olifants WMA

The strength of starting the CMA process with established groups is that they already have an understanding and interest in water resource management. The weakness is that they may close ranks and exclude certain other stakeholders such as subsistence farmers or poorer people. A concerted effort needs to be made to involve marginalised people and develop their capacity.

B. PROPOSALS USING ISSUES AND CHANGE AS A WAY OF MOBILISING STAKEHOLDERS

Inkomati WMA

In the Inkomati, interaction with stakeholders began before 1998. Regional DWAF officials called meetings with relevant stakeholders to discuss water resource management issues and the imminent changes in policy and legislation. The meetings began as a way of identifying water-related issues directly relevant to the stakeholders. The approach of identifying relevant local issues was the focus from the start and has continued to shape the approach to stakeholders.

Inkomati WMA

In the Sand River Catchment of the Inkomati an NGO was mandated to oversee the implementation of an Integrated Catchment Management Project. This aimed to address the serious water concerns associated with the protracted drought of 1992, when tensions between various water users started to emerge (Pollard et al, 1998[49]). The steering committee for this project went on to play an important role in the Inkomati Reference Group.

DWAF initiated Catchment Forum meetings, again focusing on addressing immediate issues. Out of these meetings came catchment management steering committees, also focusing on issues of relevance to their particular water users. There was a strong focus on reaching consensus.

The strength of the Inkomati approach is that participation is sustained because all the meetings and forums focus on matters of immediate importance to members. Capacity is built by grappling with issues and striving to reach consensus between a variety of users. The weakness of the approach is that it is very difficult to gain consensus if well-organised and knowledgeable groups club together to address issues. Groups or institutions which have the most experience and clarity tend to dominate the debate.

USING CONFLICT AS A CATALYST FOR PARTICIPATION

Although the Berg CMA proposal process has yet to be initiated, conflict around the development of a dam in the upper Berg WMA has already been a catalyst for a public participation process. The conflict emerged when downstream users showed concern about how the development of the dam would affect them. They claimed that the dam proposal was flawed, and that all the good water would go to the city of Cape Town, which is by far the biggest water user in the Berg WMA. The Saldanha Steel Company was behind a lot of the complaints, as it needed good quality water from the lower Berg for steel production. Irrigation Boards have since joined Saldanha Steel in the dispute.

DWAF officials responded by inviting water users to coordinate their complaints through an Environmental Management Committee. DWAF officials have asked the company building the dam to contribute to the funding of the CMA process, since it will be in the company's best interests to ensure that the complaints are dealt with in the least disruptive way.

C. PROPOSALS IN WHICH THE ESTABLISHMENT OF THE CMA IS THE FOCUS

Usutu to Mhlatuze WMA *Mvoti to Mzimkulu WMA* *Thukela WMA*

Usutu-Mhlatuze, Mvoti-Mzimkulu and Thukela WMAs
Participation was initiated in these WMAs primarily for the purpose of establishing a CMA. Regional DWAF departments followed the National DWAF strategy of:

- Identifying stakeholders by dividing them into four categories: government; public sector; parastatals and utilities; private sector and civil society
- Holding regional workshops, where information is disseminated and discussions are held around the proposed participatory process

- Forming a Proposal Development Working Group (PDWG)

The strength of this approach is that the focus of participation was on the establishment of the CMA, so stakeholders were not sidetracked by other concerns. The weakness is that participation was limited to those who came to the workshops. It was assumed that stakeholders would spontaneously come to the workshops without first formalising their own representative groups, such as Catchment Forums. In fact, as can be seen in the Mvoti-Mzimkulu case study below, the involvement of marginalised people may be minimal.

THE MVOTI-MZIMKULU PROCESS

The process of setting up a CMA in the Mvoti-Mzimkulu WMA was almost complete at the time of finalising the research (June 2005) – it will be the second CMA to be formally established in South Africa.

The preparatory phase of the CMA proposal required a process of stakeholder identification. This process, driven by the consultants, was informed by the need to be as representative as possible, while at the same time identifying a coherent and informed stakeholder group.

The process consisted of registering stakeholders through public meetings conducted in 2000 at three centres in the WMA: Pietermaritzburg, Port Shepstone and Underberg. These meetings were advertised in English and Zulu in the local press. The first round of meetings focused on discussing the National Water Act and explaining the role and functions of CMAs. Regional workshops were then held in the three centres, followed by a second public meeting for the whole WMA in early 2001. This meeting resolved to elect a Proposal Development Working Group to oversee the development of the proposal. The PDWG represented key stakeholders within the WMA, and was designed as a middle course between having a small group of specialists and a large group of stakeholders.

The PDWG's role was to:

- Raise concerns and make comments
- Participate in the technical working sessions
- Review drafts of the Mvoti-Mzimkulu CMA proposal
- Give feedback to their constituencies
- Ensure that the CMA proposal reflected stakeholders' concerns and comments

Although the PDWG meetings were relatively successful in initiating public participation, they were marked by a number of constraints. There was a pattern of low representation by disadvantaged rural communities and local government authorities. It was agreed that members of the PDWG ought to 'be able to read English', and should be 'easily contactable, with access to a telephone and/or a fax machine'. This pattern set the tone for the whole CMA process. The PDWG consisted of 24 members affiliated to organisations ranging from DWAF to academic institutions, local government, the local water supply board, organised agriculture and an NGO.

The working group met 11 times in Pietermaritzburg (the centre of the WMA), in the course of 2001 and 2002. By mid-2002 a draft document for the CMA establishment was ready to be presented to stakeholders at meetings in Port Shepstone and Pietermaritzburg. Again, there were constraints on representation. The Port Shepstone meeting was particularly poorly attended, with not a single member of the public present. The working group ascribed this to public apathy. However the fact that the process involved relatively well-educated participants, all of whom were working for institutions of some kind, was undoubtedly also a factor in this 'apathy'. Another area of concern was the lack of input from local government (Ethekwini Metro and Ugu district municipality were the only exceptions). A further source of concern was that the Eastern Cape areas of the WMA had not been involved in decision-making.

The CMA proposal was finally accepted and gazetted in early 2005. An Advisory Committee was duly appointed to make nominations to the Minister for members of the Governing Board. There is no doubt that the CMA will need to do a lot to engage stakeholders in public participation. Despite this, all indications show that it does already enjoy a fair amount of support from stakeholders.

D. PROPOSALS WITH THE CATCHMENT MANAGEMENT PLAN AS THE FOCUS

Upper Orange-Middle Vaal WMA

The process of establishing a CMA began here with the development of a Catchment Management Plan in each primary catchment[50], starting with the priority catchment. Within a WMA a catchment may be labelled a 'priority catchment' if its concerns need to be addressed with great urgency.

Upper Orange-Middle Vaal WMA

The second phase was the establishment of a Catchment Coordinating Committee with advisory power only, representing a cross-section of sectors. Catchment Forums are in the process of being established so that stakeholders can participate in the development of a Catchment Management Plan.

The intention is that, as the Catchment Management Plan gets implemented, the coordinating committee will evolve into a Catchment Management Committee (CMC), as envisaged in the CMA guidelines. Once the plans for the priority catchments are in place, and a CMC is formed, catchment management plans will be developed for the surrounding catchments, and further CMCs will be developed. Then, when there are CMCs for all the primary catchments, the CMA will be established.

At the time of writing (June 2005) the process had not been fully implemented, so strengths and weaknesses can only be guessed at. A likely strength is that stakeholder representation at catchment level will be organised and mobilised before the setting up of the CMA. This should make it easier for the CMA to coordinate the participation of stakeholders through the CMCs and other participatory channels set up by DWAF. A likely weakness is that this process is dependent on the prior establishment of CMCs. A further possible weakness is that the timeframes involved might rush the stakeholder mobilisation process, resulting in token or superficial participation.

E. PROPOSALS IN WHICH THE LEGAL IMPERATIVE OF WATER REGISTRATION IS A CATALYST FOR THE ESTABLISHMENT

Gouritz WMA

Here DWAF focused on the need to register water use in the Gouritz river as a way of introducing the CMA process. A large number of meetings were held to inform the public about the need for registering water use. At these meetings water users were also informed about the CMA concept and establishment process. They were encouraged to get involved in the Catchment Forums that had been initiated by DWAF.

Gouritz WMA

The strength of this approach is that water users are very keen to take part, as the licensing process has a direct influence on their lives. A possible weakness is that once the licensing process is complete, users may no longer be interested in the other aspects of water resource management. Another possible weakness is that small-scale water users, who do not have to register, will not be attracted to participate unless a concerted effort is made to involve them. In the Gouritz WMA, establishing CFs was seen as a way of addressing this potential weakness.

F. PROPOSALS WHICH SET UP CATCHMENT FORUMS TO INITIATE PARTICIPATION IN THE WRM

Gouritz and Olifants-Doring WMAs

Here Reference Groups were formed from the membership of Catchment Forums. The CFs were established according to geographic areas set up through the facilitation of DWAF and consultants. The intention was to have continuous coverage of the whole WMA by CFs, with all water users being invited to join their local CF. To encourage participation, DWAF used the newly established CFs as the place to inform water users of the National Water Act. In the Olifants-Doring WMA, CFs began developing action plans.

Olifants-Doring WMA

The strength of this method is that it creates an organised system of representative CFs, which can then serve as institutions to establish the CMA. This sets a good precedent for the CMA to approach other water issues,

and to make it clear to stakeholders that the CFs are the platforms through which the CMA will work in the future. The weakness of this approach is that not all water users will participate through a Catchment Forum. Another potential weakness is that these CFs would have been established entirely through a DWAF initiative, which may mean that people may have difficulty 'owning' them as places to get their voices heard.

49. Pollard, S.R., Perez de Mendiguren, J.C., Joubert, A., Shackleton, C.M., Walker, P., Poulter, T. & White, M. 1998. *Save the Sand*: Phase I. Feasibility Study: The Development of A Proposal for a Catchment Plan for the Sand River Catchment. Department of Water Affairs & Forestry; Department of Agriculture & Land Affairs.

50. The term 'primary catchment' refers to a physical area that completely encircles and contains all the water entering into it, which means there is no water passing from one primary catchment to another. A secondary or sub-catchment is a catchment area that feeds into and is part of a primary catchment

9. SOME LEARNING POINTS AND CONCLUSIONS

There are many different ways of going about establishing a CMA and initiating participation. Whichever method is used, people are more likely to participate when there is some benefit for them, or some issue they identify with. This can be anything from an understanding that their resource is threatened, to conforming with the legal imperatives of the National Water Act, to being given the opportunity to raise concerns that affect local users.

DWAF has adopted a flexible approach to establishing CMAs. This approach, based on the visions of stakeholders, is laudably open-ended and inclusive. But its potential weakness is that stakeholder involvement can only be as effective as the stakeholders' capacity to engage in the technical and institutional aspects of water policy. The widely differing attitudes, needs and abilities within each WMA make the participatory approach doubly challenging.

The National Water Act offers great scope for participation, but it is doubtful that the majority of people living in a catchment will spontaneously start participating in the establishment of their CMA. It seems that some people view the CMA as a government institution that has little to do with their immediate needs.

HOW DO WE PARTICIPATE? EXPERIENCES FROM THE KAT RIVER CATCHMENT

A researcher looking at the effect of poverty on participation interviewed villagers and members of the Catchment Forum and Water Users Association in the Kat River Valley. She wanted to understand what factors might prevent the participation of poorer water users. Many of her interviewees wanted to participate but didn't know how to. "How do we participate?" was a question she was often asked (Naidoo, 2005[51]).

Those interviewed felt strongly that DWAF or other water institutions should run workshops on how people could effectively participate. People wanted structures to be provided for them. This illustrates the difficulty that people have when they are accustomed to authoritarian structures. Generally people tend to see government as the institution responsible for providing the necessary structures.

The examples given above provide important lessons about participation. Some of these lessons are applicable not only to the CMA establishment process, but to all start-up participatory processes:

- If there are stakeholder groups that have already been mobilised within the WMA, then draw in these groups rather than starting from scratch.
- If there are water users who are not represented by existing groups, make an effort to include them.
- Offer a clear goal or incentive so that people want to participate. An effective incentive is more likely to be the consideration of a pressing issue that affects people directly, rather than the establishment of the CMA itself, which is probably a remote concept for them.
- Understand the complete context (social, economic, political and bio-physical) and adapt your approach accordingly.
- Be aware that participation means that you cannot have full control of the process. You may have a clear picture of how you want the CMA to be established, but once you involve others, this picture may change.
- Keep reflecting on the overall goals of WRM, and on the actions to be taken in relation to these goals.

Initiating participatory processes and approaches may seem impossibly difficult at first, but the task tends to become easier as the people involved gain an understanding of IWRM and participatory concepts. Those who have participated will know a lot more about their local water resource and how it is managed and distributed, and they will understand how tradeoffs are necessary between different interest groups. Stakeholders will become aware of their water resource and their catchment from many perspectives – personal need, community redress, economic incentives, spiritual connectedness, concern for the environment and for people. As they gain the capacity to participate, the need to facilitate the process is likely to diminish.

51. Naidoo, 2005. *Using Household Interview Schedules to investigate public perceptions of Water Management Institutions in the Kat River Valley, Eastern Cape*. WRC Project K5/1434, Deliverable 3, Phase 2.

SECTION C
PARTICIPATION IN CMA ESTABLISHMENT TWO CASE STUDIES IN CONTEXT

10. CASE STUDY ONE: ESTABLISHING A CMA FOR THE INKOMATI WMA

Establishing the Catchment Management Agency in the Inkomati Water Management Area was a process which ran from March 2002 to December 2004. As it was South Africa's first formally constituted CMA, it was a groundbreaking experience. This account was written by WRM practitioner Derick du Toit, who works for AWARD, an NGO in the Inkomati WMA.

BREAKING NEW GROUND

In 2002, because water resource management (WRM) was being decentralised from a national to a regional competence, perceptions at the regional level were key to the process. Channels of communication between regional and national levels of DWAF had to be open, and the regional and national visions of participatory WRM had to be compatible. Unfortunately this was not the reality in practice. There were very different interpretations being made by DWAF-Nelspruit and DWAF national about the kind of participation being called for by the National Water Act (NWA).

One of the first things we noticed when we started the CMA process was that while DWAF staff at the national level were enthusiastic to implement the country's new water policies, staff at the regional level were uncertain. The policy and legal environments were designed to be enabling, but a number of regional staff members said they felt neither prepared nor adequately supported to meet the demands that the policy placed on them. They explained that their training equipped them for the technical aspects of water services delivery, but not for social aspects like conflict resolution, capacity development and public participation. As for the open and non-specific requirements regarding participation, they found these more problematic than supportive.

DWAF national had commissioned a number of studies and drawn up guidelines to assist regional offices to implement the National Water Act. While most practitioners agreed with the sentiments and principles contained in these guidelines, they needed reference points to which they could link their practice. But there were no such examples from which to learn, and regional staff felt that the guiding light of

policy was not sufficient to help them fulfil their obligations.

LEARNING POINT: NATIONAL AND REGIONAL DWAF ROLES

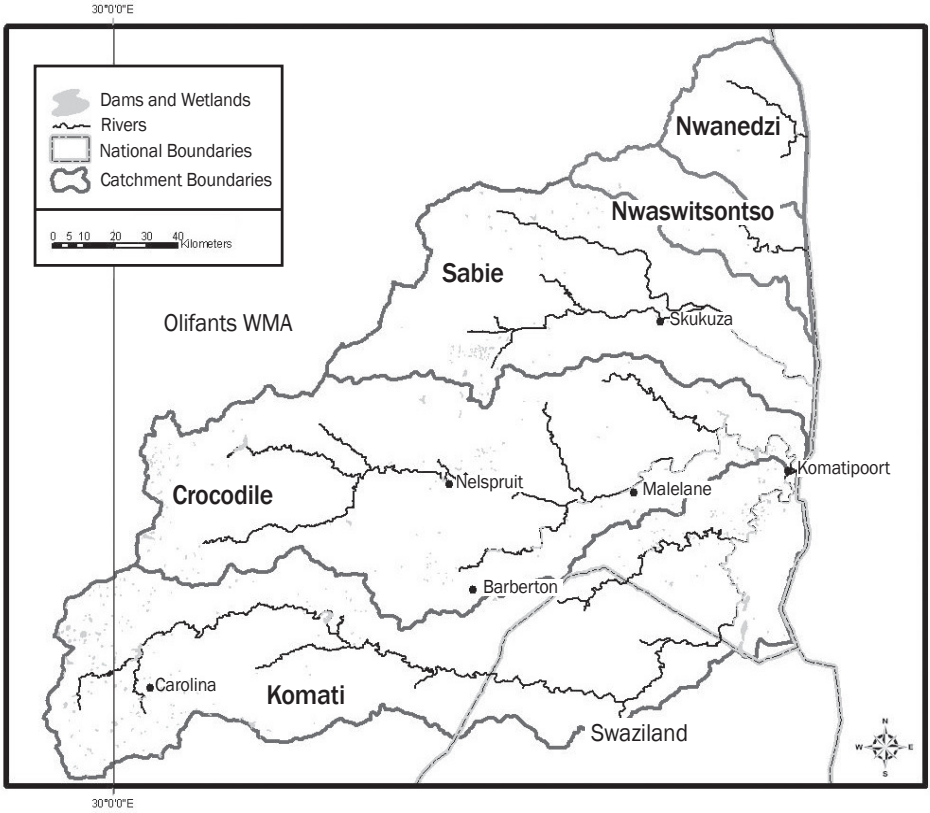
- National and regional DWAF need to share the same vision
- National DWAF should assist regional DWAF with more than just guidelines
- National DWAF should support regional DWAF with the implementation of policy
- Better communication channels are needed, possibly through sharing capacity between national and regional DWAF
- Antagonism and scepticism from both sides needs to be first acknowledged and then addressed

INTRODUCTION TO THE INKOMATI BASIN[52]

The area to be served by the Inkomati Catchment Management Agency, known as the Inkomati Basin, consists of three major catchments and two minor catchments. The major catchments are the Komati, Crocodile and Sabie-Sand catchments, while the minor catchments are the Nwaswitsontso and Nwanedzi. The Nwaswitsontso and Nwanedzi rivers fall mainly within the Kruger National Park, so their water resources, although necessary for supplying water to tourists within the park, are not crucial for basic human needs.

The Inkomati Basin includes areas formerly under the jurisdiction of the apartheid 'homeland' governments of Kangwane, Lebowa and Gazankulu. As a consequence the areas of Nkomazi, Mswati, Nsikazi, and Bushbuckridge still suffer from a deprivation of basic amenities. Most households in these areas practise some dryland subsistence agriculture, supplemented by wage remittances from family members who are migrant labourers in the cities. There are some commercial black farmers, most of them members of smallholder irrigation schemes. Outside of irrigation schemes, water is generally insufficient for commercial farming.

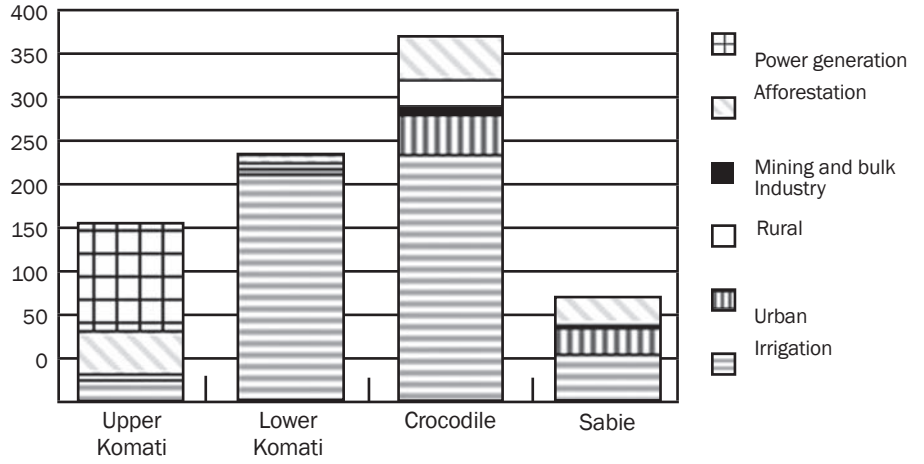
While great efforts have been made since 1994 to redress historical imbalances in service provision and land reform, a great deal remains to be done, particularly regarding access to water. Good water resource management is needed to maintain water quality and water supply and to support a broad range of economic activities.



The Inkomati Basin

Before the 1998 National Water Act, water resources within the Inkomati River basin were managed according to the 1956 Water Act through Government Water Control Areas (GWCAs) and Irrigation Districts, with DWAF acting as the responsible authority. At the time that the NWA was promulgated, there were nine GWCAs in the Imkomati basin, as well as 21 Irrigation Districts, one Water Board (Bushbuckridge Water Board) and one Water Authority (Komati Basin Water Authority).

The NWA requires that DWAF delegates the management of water resources to the Water Management Area (WMA) level. All Irrigation Boards are to be restructured as Water User Associations (WUAs), while the old Water Court is to be replaced by the Water Tribunal.



Water requirements (million m³) in the Inkomati Basin in 2000

THE ESTABLISHMENT OF THE INKOMATI CMA

Here we outline the major steps leading up to the establishment of the Inkomati Catchment Management Agency, and particularly the participatory challenges encountered along the way.

Stage 1: Initial consultations

The driving force behind the setting up of the Inkomati CMA was the deputy director of Water Quality at the DWAF regional office in Nelspruit.

DWAF started consultation processes well before the National Water Act was drafted. In our interview with the deputy directer she described how in the mid-1990s she had set up a forum to deal with water quality issues in the Komati Catchment. This forum involved mainly the two commercial sectors – mining and farming. The commercial farmers association, KOBWA, was involved as an interest group.

When the NWA was gazetted in 1998, the Nelspruit Regional office decided to set up a working group to develop a proposal for the establishment of the CMA. The deputy director volunteered to lead this process, drawing on her experiences with water quality forums. She soon became aware of two serious concerns: only certain sectors of the population were represented; and of the three primary catchments in the Inkomati Basin, only the Komati

Catchment was represented.

The deputy director found herself working largely in isolation. Her own field, water quality management, had not equipped her to deal with institutional transformation. She had very little practical support to draw on at regional level. Most of her colleagues were engineers with no experience in social or participatory practice.

The first thing the DWAF team did was to invite stakeholders from the Komati, Crocodile and Sabie-Sand catchments to a meeting to discuss the proposal for the establishment of the CMA. The meeting revealed important things that needed to be addressed before the process could continue. The participants needed more information. They wanted to know how much water was available within the WMA on an annual basis, how a pricing policy would work, and how the CMA would be financially supported.

Even with support from DWAF national, the deputy director admits: “We often just didn’t know.” The process of developing a CMA proposal was completely without precedent. It was the first time anyone in the country had attempted to set up a CMA, and also the first time that detailed participatory and consultative processes had been undertaken. The deputy director explained: “We first needed to establish representative committees that could provide input for the proposal. Stakeholders were invited to join one of three steering committees set up for each of the three catchments. A large number of people participated - roughly 50 people per steering committee.”

The three steering committees also formed the Reference Group for the Inkomati CMA. It was a large group of nearly 150 people. Asked if this was not unwieldy, the deputy director responded: “Rather too many than too few.” The deputy director saw the large numbers of participants as an opportunity for developing capacity and promoting learning, even though this meant bearing the costs of extra lunches and transport.

LEARNING POINT: THINK LONG-TERM ABOUT PARTICIPATION

The deputy direcor had a long-term vision of participation. The groups she had to facilitate were huge, but she saw this as an opportunity to develop capacity that would benefit the catchment in the long term. She viewed the cost of food and transport as worthwhile, since this outlay resulted in greater numbers of people getting involved in water resource management.

The Reference Group met on a regular basis but, as the deputy director put it, the people "became tired" because the same questions surfaced each time new participants joined the group. The DWAF team had to find a way to respond to this lack of continuity, and also to deal with the disparities of understanding within the group. They did this in three ways:

- Holding pre-meeting and post-meeting support seminars for those in need of additional information and background
- Holding meetings focusing on special themes for the more technically-minded
- Offering special support for specific groups, such as emerging farmers.

DWAF wanted to ensure that adequate community participation and representation was possible. DWAF realised that "because poor rural communities are not always organised, DWAF had to tap into community structures that existed", namely Civic Associations and Community Development Forums.

LEARNING POINT: BALANCING OUT DISPARITIES OF INFORMATION AND KNOWLEDGE

When DWAF officials realised that people were suffering from participation fatigue they responded by setting up extra meetings for people who needed additional input, or who were new to the group. These supplementary meetings were held both before and after the main meetings and served to eliminate the tedious repetition that was causing some participants in the main meetings to lose interest.

The same idea was used when informing stakeholders of the recommendations made by the Advisory Committee (see page 95). A single day is generally not enough for a major meeting of this sort, among other things there are generally newcomers who need background information on WRM before they can take part.

Although the cost and effort involved in organising these pre- and post-meeting groups may be greater than expected, the long-term gain of keeping people engaged and interested definitely pays off.

Stage 2: Submitting the proposal

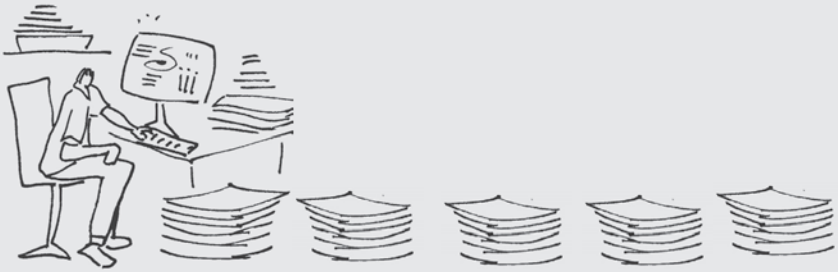
The three Catchment Steering Committees took 12 months to discuss all the issues and to reach consensus on the proposal. The proposal itself was drafted by a technical group appointed by the Mpumalanga regional office of DWAF. The technical group was made up of MBB Consulting Engineers; ACER (Africa) Environmental Management Consultants; and an NGO, the Association for Water and Rural Development (AWARD). Members of the technical group applied their expertise, but also aimed for maximum consultation and interaction with stakeholders. Finally, in September 2000, the first draft of the proposal was submitted to DWAF.

The document was over 300 pages long, and it was thorough. It analysed the issues affecting the catchment and recommended procedures for the establishment and functioning of the CMA Board. The regional office of DWAF felt that the document was too cumbersome and complex for a wide group of stakeholders to digest, so an abridged version was prepared, which was circulated in October 2001.

Regional DWAF was correct to point out that the document was cumbersome. Large technical documents are not accessible, especially in an area like the Inkomati WMA where literacy rates are 60%. In fact the problem of unmediated information presents a tremendous challenge to public participation processes. A survey conducted by AWARD shows that participants felt overwhelmed by all the reading required of them. One ward councillor complained, “Every time I go to a meeting I am given a file of documents to read… the boot of my car is like an office, full of documents and files.”

Expecting people to digest large amounts of information without providing them with a mediating context would seem to be unrealistic. We have found that it is not only those with limited literacy who find such documentation difficult to read, the more educated stakeholders also struggle with it.

LEARNING POINT: MAKING DOCUMENTS COMMUNICATE



The Inkomati case demonstrates the problems with providing unmediated information. Providing written resources, guidelines and information posters is not sufficient to get people to participate. Overwhelming people with documents, even highly literate people, is a waste of resources.

In both the national and regional interviews, DWAF staff expressed concern about the way information is presented:

"Too many guideline documents have been produced."
"Research reports are too lengthy."
"Too much research becomes a report."
"People on the ground are too busy to read reports."
"Materials are often inappropriate."

Suggestions were made as to how information could be used to promote more meaningful participation:

"We need information in languages other than English."
"Information should be more specific to WMA."
"We need tools that are more interactive rather than just beautifying posters."
"We need to consider whether people can use the information."
"We need to take into consideration issues of culture and culturally sensitive materials."

Producing relevant and appropriate information is more work than churning out swathes of lengthy documentation, but it is well worth the effort if it is to be read and understood. You may need to involve educators and editors in the development of these reports but in the long run the reports will be more useful.

In 2003 the regional DWAF deputy director was transferred to the DWAF national office, and since that time her position in the Nelspruit regional office has remained vacant. Meanwhile the remaining regional staff members have felt inadequately equipped to facilitate participatory processes. At the end of 2003 there were still some outstanding issues: the transformation of the Irrigation Boards into Water User Associations; how to address and meet the obligations required by the Reserve (both the ecological Reserve and the basic human needs Reserve); and meeting the international obligations set out in the treaties and accords with Mozambique.

Getting all stakeholders within the Inkomati WMA to participate has been one of the major challenges, and will remain a challenge for the CMA once it is launched. A senior official at DWAF Nelspruit mentioned how difficult it has been to get both the organised sectors (Irrigation Boards) and the less organised sectors (small-scale users and emerging farmers) to "buy into" the CMA concept.

Although the Irrigation Boards are now more positive about the CMA process, they were initially very reluctant to be part of it. Possible causes may be lack of clarity regarding the roles and functions of CMAs in WRM, and the Irrigation Boards' concern that their submissions and comments have been ignored. Irrigation Boards say they are vilified because they originated in the apartheid era, and that this hampers stakeholder participation. They feel that they are not given adequate opportunity to explain their position publicly.

Because of the difficulties experienced with participation, DWAF officials at regional level have asked for protocols to be put in place for responding to public participation and submissions. The director of the Bushbuckridge Retail Water Project appealed to the Participation Working Group for a communication strategy to be made a high priority of the CMA. Chief engineer WRM of DWAF Nelspruit, feels that DWAF national should be responsible for clarifying misunderstandings about participation although, he says, "meetings have helped the debate". Establishing open and transparent platforms for public participation is likely to be one of the major functions of the new CMA.

LEARNING POINT: COMMUNICATION STRATEGIES

How does one develop communication strategies that are relevant and effective? This question is beyond the scope of this book, but here are some points to consider:

- As the CMA process progressed it became clear that communication between stakeholders was vitally important.
- Since South Africa is in a period of transformation, there are many changes and many new insights. It is vital to communicate about changes that are being planned or have taken place.
- Good communication of information to all involved people and groups always helps participatory processes to run more smoothly.
- Just because people do not have access to certain forms of communication this does not mean that they should be left out. With time and a little creativity, communication systems can always be developed. In the Kat River Valley, for example, systems of communication have slowly evolved so that different people are responsible for passing on messages to others. Some participants' homes are used as drop-off points for documents or invitations.
- In developing a communication strategy, do not swamp people with thoughtless messages. Be sparing in the number of communications sent out, and make sure the content is well planned, easy to assimilate and targeted only at those who need it.

Between October 2001 and March 2004 relatively little was achieved in the Inkomati CMA establishment process. This was due among other things to staff changes at national level, increased demands placed on the limited regional staff, and competition for attention between water services delivery and the new and unfamiliar territory of water resources management. At the national level, DWAF officials were saying that the NWA was "too ambitious", and they were finding it difficult to establish criteria for the evaluation of CMA proposals. These issues took three years to resolve. Finally, in March 2004, the CMA proposal was gazetted.

LEARNING POINT: KEEPING MOMENTUM DURING DELAYS

In both the Inkomati and the Mvoti-Mzimkulu, delays at various stages of the CMA establishment process resulted in a loss of participatory momentum. Where a delay is unavoidable, the waiting period could be used more productively, for example to build capacity. Delays can even be incorporated into implementation plans.

Stage 3: The advisory committee and the proposal process

In early 2004, DWAF gave the go-ahead for an Advisory Committee to be appointed. The Advisory Committee met for the first time on 24 February 2004.

Over the following six months the Advisory Committee drew up recommendations. Its main task was to provide the Minister with recommendations for a CMA Governing Board that could fulfil the aims of WRM as outlined in the CMA proposal.

MANAGEMENT OBJECTIVES FOR INKOMATI WMA AS LISTED IN THE CMA PROPOSAL[53]

1. Effective and sustainable water resources management and development, which recognises the ecological Reserve and the productive, sustainable and equitable use of water as an asset to be utilised to bring about economic and socio-economic benefit.

2. To know and understand the size and availability of the water resource.

3. Equitable allocation of the water resources available to South Africa to encourage the development of the rural economy to contribute to poverty eradication.

4. To make more efficient use of the existing water resources available to all water user sectors. This could enable the CMA to free up additional water in the future, which can be put to beneficial use.

5. Maintaining water quality that is fit for its intended purpose and maintaining aquatic ecosystems health on a sustainable basis, with the negative externalities being borne by responsible institutions (polluter pays principle).

6. To ensure the availability of reliable data and information on all aspects of integrated water resource management.

The Advisory Committee's task turned out to be more complicated than identifying portfolios or sectors to be represented on the Board. DWAF National Directorate of Institutional Oversight called for a stakeholder consultative meeting to be held on the 25 June 2004. The meeting was to bring together a wide range of people, similar to the Reference Group meetings held three years earlier, and present the Advisory Committee's proposal to them. Comments would be gathered at the meeting before the proposal was submitted to the Minister. A full day of information-sharing and capacity building was to be held the day before, to enable small-scale water users and other previously disadvantaged groups to participate more meaningfully in the Advisory Committee meeting.

The capacity building day was facilitated by AWARD, an independent NGO active in the Sand River Catchment, with inputs from the Advisory Committee and logistical support from DWAF national. Part of the day was spent summarising what the legislation said about institutional development and the channels available for public participation. A brief overview of the institutions associated with the CMA – Catchment Management Committees (CMCs), Catchment Management Forums (CMFs) and Water User Associations (WUAs) – was presented. One of the Advisory Committee members explained what the proposal to the Minister contained, and how the different seats on the CMA Board had been decided upon.

The group who attended the capacity building day was made up of black farmers, civic organisations, local government representatives, people from the former homelands, women's groups and traditional leaders. The approach adopted was similar to that used by the DWAF deputy director and her team. The facilitators set up opportunities so that groups with special information needs, or those needing translation, could interact and ask questions in their own language.

Clearly a one-day workshop was not enough, because at the end of it not

all participants knew what was expected of them. This became evident on the following day when the groups were asked to comment on the proposal. Even after their intense involvement in the proposal drafting process, some people were not ready to take up their democratic role.

LEARNING POINT: PARTICIPATION IS CONTEXTUALISED DEMOCRACY

Information alone is not enough to ensure that stakeholders participate. People need to understand the processes of participation. Common questions are: "How do we participate?"; "In what do we participate?"; "What is expected of us?" Most people are familiar with some form of democracy, but they may not be familiar with the way in which a deliberate form of democracy is implemented through a participatory process. Their interpretation of democracy may be very formal and institutionalised – often it is influenced by a first world model of democracy in which voting is the primary component. The lesson: When building capacity make sure that people's role in WRM is understood in a specific context rather than as set of abstract principles.

The next day, 25 June 2004, was the official meeting. All the stakeholder representatives of all the stakeholders were there to hear what the Advisory Committee had recommended. The meeting proceeded fairly smoothly, although there were two issues that were notable because of their relevance to the participation process.

The first issue arose early in the meeting. The chairperson of one of the Irrigation Boards stood up and announced that they rejected the Advisory Committee proposal because, he said, the committee had ignored the earlier proposal drafted by the Reference Group. He said this meant that the Reference Group had wasted a year of its time. The Advisory Committee spokesperson responded, saying that the proposal from the Reference Group remained a valid document and that the Advisory Committee proposal to the Minister was merely a set of recommendations on the composition and size of the CMA and its Governing Board.

The meeting continued, but the suspicion that the status of the Reference Group had been undermined did not disappear. The Advisory Committee later explained in writing that its point of departure was the Reference Group proposal, but that since the proposal was three years old and the CMA process had advanced considerably, the Minister had called for an Advisory Committee and further input.

The second issue was the language of communication. There was much murmuring when it was suggested by the facilitator that, for purposes of efficiency and procedure, the meeting should be conducted in English without translation. One participant stood up and exclaimed: "This has happened too much in the past! Today we demand translation!" This was a good example of how participation can be much more than a head count. Stakeholders from previously marginalised groups were demanding the right to understand the proceedings. Their demand was granted.

LEARNING POINT: THE USE OF LANGUAGE

There is no doubt that choice of language can exclude people from participating. Practitioners from Rhodes University organised a workshop where two Eastern Cape Catchment Forums, the Kat Catchment Forum and the Mtata Catchment Forum, could come together and share their experiences. The facilitators ensured that the meeting was conducted in both English and Xhosa. At one point, a ward councillor from the Mtata CF asked whether Xhosa translations were necessary, "as we all should be able to understand English if we are part of these organisations." Members of the Kat River CF immediately objected – two women and one man stood up and requested that the translation continue. They said they found it much easier to understand proceedings if they were in Xhosa, and that speaking was easier if they could do it in their own language.

By contrast, when Mtata CF members were given reports of the meeting that had been translated into Xhosa, they felt insulted. A member of the Mtata Forum commented: "These are fine for rural people, but we want our reports in English." A follow-up workshop organised by different facilitators was held in Umtata. Here all proceedings were in English even though almost all people at the meeting were Xhosa speakers. The four people who did not speak Xhosa were academics, practitioners and a student.

These experiences suggest that different rural and urban institutional cultures are developing. The primarily rural Kat CF used language as a platform to demand equal participation, whereas the Mtata CF, which consisted mostly of academics, officials and consultants, saw language as a mark of their status as members of an institution.

In the Inkomati WMA, use of the local language was seen as key to being able to participate in the meeting. In the more urban Mvoti-Mzimkulu WMA membership

of the Proposal Development Working Group was based not only on knowledge of the water sector but also on the ability to read English, and on access to a telephone or fax machine.

The next step was for the Inkomati Advisory Committee to integrate the comments concerning the composition of the Governing Board into their proposal to the Minister. The Committee presented the following principles underlying their decision:

- In keeping with the National Water Act, redressing the inequalities of the past was a major aim for the Committee. Thus selection was also based on the objectives of equity and sustainability, and the need for balance on the Governing Board.

- Although the composition of the Board would be drawn from representatives of various sectors, in order to ensure equitable representation and participation, every effort should be made to focus nominations on the functions, roles and responsibilities of the CMA Governing Board. The focus needs to be on achieving integrated water resource management in the Inkomati, not on narrow sector interests.

- Sectoral representatives should bring an understanding of the social, economic, water resource and environmental issues in their respective sectors, rather than being sector lobbyists. The spread of representation should cover the key elements and diverse conditions in the WMA, so that the Governing Board has a broad understanding.

- The Committee noted the cautions raised by DWAF National about recommending a large number of seats for the Governing Board, in relation to good governance requirements outlined in the King II report. Thus, a balance had to be found between size, and meeting the objectives of representation.

PROCESS FOLLOWED BY THE INKOMATI ADVISORY COMMITTEE FOR THE FIRST HALF OF 2004

24 February: The inaugural meeting of the Committee was led by DWAF staff, who provided background and outlined the requirements of the Committee.

17 & 18 March: A two-day session was held by the Committee to develop a preliminary proposal on the size and sector and interest based composition of the Inkomati CMA Governing Board. This was based on a review of all previous information and proposals, an assessment of the water management area, and the governance requirements of a CMA.

30 March: Launch of the legally established Inkomati CMA, and public introduction of the Advisory Committee members.

23 April: Committee meeting to plan the process of stakeholder consultation, leading to distribution of the preliminary proposal on the size and composition of the Governing Board.

10 June: Closing date for written comments on the preliminary proposal for the Governing Board.

18 June: Committee meeting to finalise stakeholder workshop arrangements and review the stakeholder comments.

24 June: Stakeholder session for those requiring capacity building and empowerment, so that they could participate more meaningfully in the activities on the 25 June.

25 June: Broad stakeholder consultation session to obtain inputs on the preliminary proposal. Also discussed were general issues about the nature of the Governing Board, and institutions that should be established, or processes that should be followed for nominations.

5 July: Further written comments on the proposal and workshop discussions.

12 July: Committee meeting to develop final recommendations to the Minister, based on the stakeholder comments at the workshop and further written submissions.

Stage 4: Appointing a Governing Board

There were three key challenges for the Advisory Committee in relation to appointing the Governing Board:

Representation: How was the Advisory Committee to advise the Minister to constitute the Board so as to represent diverse users? Users had to be diverse both in type and in scale (small-scale users and large-scale users).

Inclusivity: Should all current and potential water users be represented on the CMA Board? Should representation favour current users? How much room should be made for new and emerging water uses? How do we deal with the problem that inefficient or inequitable uses may be entrenched by the representative approaches?

Functionality: The following resolutions were agreed upon by the Advisory Committee:

- The CMA must operate within the international obligations and agreements negotiated through treaty by national government (DWAF and Department of Foreign Affairs), which state that no representation of other countries or international bodies on the Governing Board should be considered. However, this does not preclude the CMA from being represented on South African delegations to international bodies, nor should it restrict cooperation with these bodies.

- DWAF will not be represented on the Governing Board, but will rather be an observer and provide support. This is to avoid possible conflict of interest in the institutional oversight role that DWAF must play.

- Other national departments (including their regional offices) will not be represented on the Governing Board as they provide the enabling framework for local resource management, service delivery and/or planning by provincial and local government. Their input and cooperation may be requested on an ad hoc basis by the Governing Board on specific issues.

- The governments of both provinces in which the Inkomati WMA falls (Mpumalanga and Limpopo) should be represented on the Governing Board.

- Local government should be represented on the Governing Board in accordance with its key mandates affecting water resources, namely integrated planning and water services.

All stakeholders should see the Board as a legitimate and valid body representing their views. Public confidence in the Board is only likely to develop if representatives are democratically elected and felt to be legitimate. Already some concerns have emerged regarding the representative nature of the Inkomati CMA Governing Board. These relate to the democratic nature of the election process and to whether the nomination process will ultimately result in the election of a Board that is balanced and representative of the inhabitants of the catchment.

RECOMMENDATIONS TO THE MINISTER ON THE COMPOSITION OF THE CMA BOARD

The following extract from the Advisory Committee report describes the 14 seats on the Inkomati CMA Board:

After a rigorous process of evaluating current water users, potential water users, the role and interests of local and provincial government, and environmental interests within the Inkomati WMA, the Advisory Committee recommends the following sector and other interest representation on the Inkomati Governing Board.

Three nominations are required for each identified sector / interest, from which the Minister will appoint one Governing Board member.

1. Commercial agriculture
This seat primarily represents commercially irrigated sugar cane and fruit farmers in the Inkomati WMA, but includes all commercial farming, irrigated crops and livestock.

2. Existing agriculture by historically disadvantaged individuals
This seat represents existing small-scale irrigation by historically disadvantaged individuals, including existing stock watering and other agricultural activities.

3. Potential agricultural water use by historically disadvantaged individuals
This seat represents the interests of people with access to some land for agricultural production (particularly those engaged in dryland farming or beneficiaries of land reform), but who currently have no entitlement or access to water. These groups may require reallocation of water and/or local infrastructure development to enable the use of water for small-scale irrigation farming. This seat will represent the needs of this relatively marginalised group in the broader process of water resources planning, utilisation and development.

4. Streamflow reduction (forestry)
This seat represents streamflow reduction activities defined under the NWA, which currently includes only forestry. It is intended that this sector reflects the interests of both large commercial and small emerging forest growers that have an effect on water resources, and that it should be extended to include other sectors that may be defined as streamflow reduction activities in the future.

5. Industry, mining and power generation
This seat broadly represents the industrial, manufacturing, commercial, mining and power generation sectors that use water and make a significant contribution to the economy of the WMA. They include the bulk industrial users such as paper & pulp and sugar milling, as well as the manufacturing sector obtaining water from municipal supplies. While mining in the Komati River Catchment does not abstract much water, the water quality impacts of the mines are significant. Although the power stations are located outside of the WMA (implying a direct inter-basin transfer) this interest should be reflected by this seat.

6. Tourism and recreation
This seat represents the interests of tourism and recreation associated with the water resource, including fishing and aquaculture. This would range from the trout industry in the escarpment area, through both formal and informal recreation on rivers and dams, to tourism activities dependent upon the water resource. The important element of this seat's representation is an understanding of this economic sector and its needs and impacts on the resource.

7. Conservation
This seat represents the formally established national and provincial parks, as well as conservancies and community conservation initiatives. The seat reflects the importance of this WMA for nature conservation and biodiversity, and their dependence upon adequate water resources.

8. Productive use of water by the poor
This seat represents the potential productive use of water in local enterprise by poor and marginalised rural households (focusing on women) to improve their livelihoods, including but not limited to Schedule 1 use. There are two related but distinct elements of this type of water use – the use of water to support local enterprise development and the use of water to support rural household livelihoods. This seat reflects the need to represent this type of water use and its associated support requirements, and the opportunities and constraints on productive water use to address poverty.

9. Civil Society - Resource Protection and Sustainable Development
This seat represents civil society environmental interests in the protection of water resources, both for ecological sustainability and for the sustainable use of water and water resources by local communities. It reflects the use of local resources and products for productive, subsistence and social activities.

10. Local Government - Integrated Planning
This seat represents the local government mandate for integrated planning and development, particularly the Integrated Development Plan process and associated plans. This is primarily a district municipality competency.

11. Local Government - Water Services Authority
This seat represents the local government mandate for water services planning and service delivery for which local municipalities are authorised in Mpumalanga (except for the cross-border Bohlabela District Municipality).

12. Traditional leaders
This seat represents traditional leaders as an institution of local governance, recognising their role in the management of communal land in the former homeland areas.

13. Mpumalanga Provincial Government
This represents relevant Mpumalanga government interests in the majority of the WMA, including agricultural, environmental management and development planning responsibilities.

14. Limpopo Provincial Government
This seat represents Limpopo Government interests in the northern part of the WMA, including agricultural, environmental management and planning responsibilities.

In addition to these 14 members, it is proposed that at least the following three observers be present at every Governing Board meeting for the first year or two.

a. Independent IWRM specialist
It is proposed that an independent specialist advisor is appointed by DWAF as an observer to support the Governing Board (and particularly the chair), at least in the first year of the board's operation. This specialist should have a broad perspective on water resources management issues and approaches, with knowledge in water resources development, allocation planning, sustainable

development and conflict resolution.

b. DWAF Regional Office Representative
DWAF has a direct interest in the functioning of the CMA and Governing Board, and should be present to observe the decision making process and provide support where necessary. This should be a Regional Office representative as there is significant coordination required between the CMA and DWAF regional officer until the CMA is fully functional.

c. CEO
The Chief Executive Officer of the CMA should also be an observer once s/he is appointed, unless the Governing Board deems it necessary to recommend to the Minister that the CEO be appointed as an executive member of the Governing Board.

SUMMARY OF KEY ISSUES TO EMERGE FROM THE ESTABLISHMENT OF THE INKOMATI CMA

- DWAF regional staff members intially felt uncertain as to how they would proceed with the implemention of new practices.

- Redressing the inequalities of the past was a major concern facing the Advisory Committee. The objectives of equity and sustainability therefore underpinned their recommendations for the Governing Board.

- The Advisory Committee emphasised that all functions, roles and responsibilities of the CMA Governing Board should be focused on achieving integrated water resources management in the Inkomati WMA and not on representing narrow sector interests.

- Sectoral representatives should bring the broader social, economic, water resource and environmental perspectives of their respective sectors rather than think of themselves as sector lobbyists. Representation on the Governing Board should cover the diverse conditions and interests of all stakeholders.

- Public participation varied from catchment to catchment, depending on the number of stakeholders present in each particular catchment. The involvement of various NGOs, organisations and institutions played an important role in the public participation processes in each catchment. The Association for Water and Rural Development (AWARD) was active in the Sand River Catchment, mobilising previously disadvantaged groups in the processes. This aspect of the work was absent from the other catchments, as became evident in the poor or confused participation of previously disadvantaged groups from the remaining catchments.

- Involvement of previously disadvantaged groups is challenging and complex, since it is new and unfamiliar to both the participants and facilitators.

- Issues of diversity – in language, culture, practice and economic background – raise considerable challenges for public participation processes.

- Communities lacking in self-directedness, and unfamiliar with the democratic process and the form of democracy required by the NWA, are in the majority in the Inkomati. Their unfamiliarity with negotiating and participating in public forums and community development programmes presents these groups with tremendous challenges.

- The processes of preparing people for participation to date have shown that it is not only previously disadvantaged groups that require support and information about IWRM practices. Even highly organised sectors have requested opportunities to learn more about WRM and to be kept abreast of the latest developments. Some of these groups have felt left out of capacity development programmes.

- The need for sound administration and comprehensive data-based records has been raised by stakeholders. Some expressed concern about the method and manner in which people are involved in consultative processes. Claims were made that key groups were omitted from consultative forums. Another claim was that the time allowed for responding to invitations and agendas was unacceptably short for proper public participation.

- Logistical support to involve poorer people in participation processes is a problem. Financial support was requested for transport to attend meetings. It was noted that poorer catchment inhabitants were often the ones who incurred the highest costs of transport. Lack of finances reduced the number of these participants.

- Participants called for more visibility of people from DWAF. They called on DWAF to interact and participate in community activities and engage with stakeholder groups. Participants claimed that the DWAF structures were too distant and inaccessible.

- Considerable concern was noted about area representation. Participants felt that the CMA did not provide adequately for area representivity. It was noted that although nearly half the population of the WMA resides in the Sabie Sand Catchment, few of the user groups (commercial farming, industry, power generation) represented by seats on the CMA were active

in this catchment. This could lead to a situation where this catchment could be grossly under-represented on the Board.

- The Inkomati is not a homogenous WMA, which means that participatory processes are complex. There are power gradients and feelings of mistrust and suspicion between different groups.

52. DWAF. 2004. *ISP Inkomati WMA*. Pretoria

53. MBB Consulting Engineers (Africa) Environmental Consultants and Association for Water and Rural Development (AWARD), 2001: *Proposal for the Establishmnet of a Catchment Management Agency for the Inkomati Basin*. October 2001

11. CASE STUDY TWO: ESTABLISHING A CMA FOR THE MVOTI-MZIMKULU WMA

Establishing the Catchment Management Agency (CMA) in the Mvoti-Mzimkulu WMA is ongoing. It will probably be the second CMA to be established in South Africa. As it was South Africa's first formally constituted CMA, it was a groundbreaking experience. This account was written by social researcher, David Neves, formerly of the University of KwaZulu-Natal and now with the PLAAS Research Programme, University of the Western Cape.

GEOGRAPHICAL AND SOCIAL CONTEXT

The Mvoti-Mzimkulu WMA is one of three designated water management areas (WMAs) within KwaZulu Natal. This catchment, which also incorporates a small part of the Eastern Cape in the south, stretches from the Drakensberg in the west, falling rapidly to sea level over about 250 kilometres. It consists of ten tertiary catchments including two large rivers (the Mzimkulu and Mkomazi) which have their headwaters in the Drakensberg; two medium-sized rivers arising in the Natal Midlands (the Mgeni and Mvoti); and a number of smaller costal zone rivers including the Mzumbe, Mdloti, Tongaat, Ifafa and Lovu.

The WMA is densely populated (about 5.2 million people) with a wide range of land use patterns, economic activities and income levels. Because the Mgeni sub-catchment includes greater Durban and Pietermaritzburg, two thirds of the WMA's population is urban. Despite its urban wealth, the WMA is marked by high levels of rural poverty.

The water needs of the WMA are (in order of demand): ecological reserve, urban use, irrigation, other bulk water supply, forestry, dry-land sugar cane farming and alien vegetation. The 'working rivers' of the Mgeni and Mvoti have been extensively modified by human activities – agriculture, forestry and urban use. Dams have been built on most of these rivers.

Water quality problems are evident in several parts of the catchment. The Mgeni and Mlaas rivers in particular are adversely affected by poorly developed residential sites, heavy industry, poor agricultural practices and too much wastewater discharge. Despite the relative abundance of water in the catchment, drought-related stress is likely to become significant, while the Mvoti and Mkomazi are already highly stressed because of water demand.

There are a number of well established institutions dealing with water

resource management within KwaZulu-Natal Province. Umgeni Water and the Ethekwini Metropolitan municipality (Durban) have traditionally operated over large sectors of the WMA.

THE CMA ESTABLISHMENT PROCESS

The CMA establishment process, which began in 2000, was largely driven by consultants. The public participation process was initiated and carried out through by a consultant engaged by DWAF, while another consultant completed the Situational Analysis document. The brief of the public participation consultant was to establish a Proposal Development Working Group (PDWG) to facilitate the development of the CMA proposal to the Minister. The consultant also worked with the PDWG, identifying stakeholders and documenting stakeholder interactions.

A preliminary registration of interested and affected people was compiled by different methods – using the DWAF database, liaising with water service authorities within the WMA, taking registers at public meetings, and placing media advertisements.

Public meetings were held in September 2000, in three places within the WMA – Pietermaritzburg, Port Shepstone and Underberg. The meetings discussed the National Water Act, the role of CMAs, the anticipated functions of the Mvoti-Mzimkulu CMA, and the process required to establish a CMA. The meetings gave an in-principle agreement to develop a CMA proposal and undertake a situational assessment. Attendance by rural communities at the meetings was low. This was a problem that was never transcended as the process proceeded.

During this time DWAF officials were working hard to set up Catchment Forums in the WMA. The intention was that the Catchment Forums would feed into the CMA process. However, many of them rapidly became dormant. (By mid-2003 only five forums out of about 16 could still be described as active.)

LEARNING POINT: WHY DO CATCHMENT FORUMS BECOME DORMANT?

Although much money and effort goes into establishing Catchment Forums, many become dormant. Some reasons are:

- Lack of incentive. People always need some incentive to participate. This incentive does not always have to be economic, but people have to identify with what the CF stands for.

- Catchment Forum members do not always have the resources to get to meetings.

- Catchment Forums are sometimes formed to address a particular issue, and once the issue is addressed the forum may dissolve.

- Some stakeholders may not be convinced that the participatory process is genuine. Because Catchment Forums are informal bodies, their voice tends to have less impact than that of legally constituted bodies. This may lead to disillusionment.

- Practitioners may withdraw too soon. If Catchment Forums are established by an outside body, that body is responsible for supporting the CF towards sustainability. This normally takes more than six months – the Kat CF in the Kat River Valley, has been working with Rhodes University practitioners for over seven years! Applying this experience to other catchments would suggest that either long-term relationships need to be set up with practitioners and consultants, or DWAF staff need to become more involved in long-term participatory processes. Work of this kind needs practitioners who are motivated by other things besides remuneration (especially) short-term consultancy fees).

If CFs are to be sustainable, a number of criteria must be met:

- Long-term involvement of practitioners/consultants
- Strong focus on capacity building
- Shared vision of members
- Strong catchment identity
- Reliable funding
- Clarity about the roles and responsibilities of the CF in WRM

The next step in the CMA establishment process was a public meeting held in Pietermaritzburg in February 2001. This was to be a plenary meeting emanating from the three regional workshops. In this meeting the situational assessment was reviewed and a Proposal Development Working Group was elected to oversee the development of the CMA proposal. The working group structure was chosen as a middle course between setting up a plenary group of stakeholders and setting up a small group of specialists. It was made up of 24 people, most of them associated with large institutions within the WMA. Three of them were DWAF officials, and there were two academics, two forestry representatives, five municipal officials, two Umgeni Water officials, and others who were representatives of agribusiness, farmers, conservancies and irrigation associations. Only two members of the PDWG came from non-governmental organisations (NGOs) or community based organisations (CBOs).

It was agreed at this meeting that "representatives should be knowledgeable about their respective sectors", they ought to be "able to read English" and need to be "easily contactable, with access to a telephone and/or fax machine". One can deduce from this that the CMA proposal development process excluded certain stakeholders.

The working group was tasked with holding technical working sessions, making comments and recommendations, reviewing drafts of the proposal, and reporting back to their various constituencies. The group met 11 times from mid 2001 to late 2002. Over these 18 months, several members became inactive. Nevertheless the minutes document robust discussion, particularly in the technical working groups, even though much of the synthesis was done by the facilitating consultant. Among the topics discussed were the functions of the CMA, its financing and sustainability, aspects of CMA governance, and the CMA's anticipated relationship with other institutions.

There was also the question of public participation. Minutes of meetings and interviews with participants reveal that levels of public participation in the process were inadequate. At one meeting the question was posed: "How do we know when public participation is sufficient and who evaluates what is sufficient?" The PDWG put this question to DWAF national office but failed to resolve the issue, as no such criteria had been developed. In the absence of firm criteria from DWAF, the PDWG opted for a "non-exclusive" approach – meaning that anyone can be part of the process if they so desire. The problem with this approach is that it does not require a proactive identification of stakeholders or any special effort to ensure that the process is inclusive.

A number of representatives later expressed concerns that the process was largely driven by the consultants under the auspices of DWAF, and that stakeholders were only invited to give limited input. A representative of Umgeni Water lamented that Umgeni Water had "so much capacity" but that very little of it was used in the process.

Despite these limitations and reservations, the CMA proposal gradually took shape. After three drafts, the final draft proposal was presented to stakeholders at meetings in Pietermaritzburg and Port Shepstone in mid 2002. The public participation process report notes: "Unfortunately the meeting in Port Shepstone was very poorly attended, with no members of the public present." One DWAF official viewed the absence of public participation in the meeting rather optimistically, as proof that the process was free of contestation. A more realistic interpretation would be that it reflected the fact that capacity was not built up in the proposal drafting process, with public meetings being too "formal", as one stakeholder put it.

The proposal was opened to comments, and written submissions were received from DWAF (Directorate Hydrology, Chief Director Scientific Services, KZN regional office), Ethekwini Municipality, and Umgeni Water.

The final draft of the proposal recommended a CMA governance structure as follows:

1. Member of provincial government (preferably the Premier's office)
2. Representatives of six district municipalities
3. Representative from Ethekwini municipality
4. A number of representatives from user and interest sectors
5. A number of experts (finance, legal, environmental, water quality)
6. A representative from the NGO sector
7. A DWAF representative

In the interests of manageability it was decided that the ideal number of participants would be between nine and 15, which meant that some would have to be multiple-constituency representatives. It was explicitly stated that the composition of the Board should be informed by the general principles of equity and representivity.

The proposal was sent to DWAF national for review in May 2004, but it was rejected. The reason given was primarily that the budget was too high. The proposal envisaged purchasing rather than renting a building, and the proposed charges that would be levied were considered by DWAF national to be too high.

PDWG members responded that the requirements for CMAs were unclear. The policy for evaluating CMA financial arrangements was still being devised at the time, so it is not surprising that different visions of the CMA were being articulated. The working group initially estimated that the CMA could function with a staff of 35. This was a very "lean" institution compared to the reported estimates by some DWAF officials of nearly 200 staff members. The eventual proposed staff number was 80. This example illustrates how widely visions of a CMA can differ, even among those closely involved.

The proposal was reworked and resubmitted, and this time it was accepted by DWAF.

In late 2004, after a delay of several months, the Mvoti-Mzimkulu CMA was gazetted, meaning that it was open to public comment. English and Zulu versions were sent to libraries, district municipalities and traditional authorities. There were fewer than 10 comments, but the PDWG said these were "generally positive". The comments were predominantly from institutional stakeholders such as the Department of Environmental Affairs and Tourism (DEAT), Umgeni Water, and DWAF.

By December 2004 the PDWG had made six nominations for the Advisory Committee. The Minister will appoint two or three people from these nominations. Other Advisory Committee members will be elected by the National Water Advisory Council, the National Water Portfolio Committee of Parliament, SALGA (South African Local Government Association) and the Office of the Premier of KwaZulu-Natal. DWAF regional and national will have observers on the Advisory Committee to give input on policy issues. The Advisory Committee was still being constituted at the time of writing (May 2005).

PARTICIPATION IN THE CMA PROCESS

Despite the upbeat tone of the PDWG process report many of the stakeholders interviewed freely acknowledged that public participation has been problematic. Some even used the word 'failure' to characterise the participatory aspects. The report itself notes the 'under-representation' of a rural subsistence constituency. There was also hardly any local government input and representation – only the Ethekwini Metro, Umgungundlovu, and Ugu district municipalities participated. Traditional authorities were barely included in the process.

LEARNING POINT: NEVER TOO LATE FOR PARTICIPATION

Despite the poor level of participation by marginalised groups, municipalities and traditional authorities, there are still opportunities for the Mvoti-Mzimkulu WMA to draw in additional stakeholders. The next step, which is the Governing Board establishment process, is one such opportunity for the Advisory Committee. Considering how different stakeholders can be informed and approached for nominations can itself be an inclusive and learning process. The experience of the Inkomati WMA, although a very different context, could be valuable in this respect.

The reasons given by the PDWG for the low levels of public participation and non-inclusion of important role players are the familiar pragmatic constraints of time, capacity and resources. The proposal notes: "Operating with a restricted budget, the amount of work that could have been undertaken with previously marginalised groups has been limited … particularly in a populous WMA with many previously disadvantaged inhabitants." The proposal notes further that the initial meetings were relatively well attended, but says this good attendance was not sustained, in part because community leaders had other commitments, but also because of the slow pace of the whole CMA establishment process. The reasons for the marginalisation of some groups of stakeholders may become more intelligible if we look more closely at the workings of the PDWG. The group dynamics and fault-lines were freely discussed by several of the people interviewed.

The CMA proposal[54] is frank about the potential risks for CMAs, and lists a number of risk factors:

- The establishment process may lack credibility.

- There may be a perception of a lack of added value.
  (The proposal notes that there is some scepticism toward new government institutions, and some concerns from local government about CMAs overlapping with their areas of responsibility.)

- There may be a perception that the CMA is a kind of empire-building initiative on the part of DWAF.
  (Several Umgeni Water and municipal officials were concerned that DWAF might entrench itself through the CMA process.)

- Payment of levies by local authorities may be a source of contention.
  (Historically this has been a source of contention between local government and Umgeni Water. The proposal notes the need for transparency, efficiency and the avoidance of duplication of services.)

- There may be a failure of co-operative governance.
  (The proposal notes that co-operative governance is often affirmed in principle but not practically implemented.)

- There may be a perception of the CMA being too distant from stakeholders.
  (Particularly in a large WMA with 5 million residents.)

Some of these issues, and their implications for public participation, are discussed in more detail below.

CONSTRAINTS ON PARTICIPATION

Accessing civil society

The Mvoti-Mzimkulu CMA establishment process hardly involved any Catchment Forums, mainly because of the relative weaknesses of these Forums within the Water Management Area, but also because the PDWG did not make enough effort to access Catchment Forums.

Community and environmental projects engaged in water resource management were not accessed either. One catchment mentor, trained by a DANIDA-funded project, identified a number of problems. He said that no preparatory work was done with communities, that there were problems of continuity, and that there were no incentives for public participation (such as stipends for transport costs). He said the CMA process was based on the idea of voluntarism, and commented that “voluntarism has its limits when you have to eat.” He described how the proposal was left at the offices of the Umgungundlovu District Municipality for public comment. After two weeks

that generated only three comments. He ascribed this to public ignorance, apathy and alienation from the process.

LEARNING POINT: THE LIMITS TO VOLUNTEERING

The burden of volunteering falls most heavily on marginalised people who are expected to come to meetings and workshops for a host of different reasons. Even if poor people are without jobs, this does not mean they have time at their disposal. Women in particular tend to have very little time to spare. In addition, poor people do not usually have the resources to cover their own transport to meetings, which means that even if there is a desire to participate, they may not be able to.

How the working group saw public participation
Several members of the PDWG believed that they should first establish the CMA and then build up participation. One member said: "The CMA will latch people on as we go along." A similar view was expressed about specialist technical tasks. It was argued that complex functions like hydrological work will probably take place at a later stage, once the basic administrative entity is defined and functional.

Other WMAs have decided on the opposite sequence – first to develop strong Catchment Forums, and then to have them feeding into the CMA process.

Institutional constraints within DWAF
It is widely acknowledged that the DWAF regional office in KwaZulu-Natal is understaffed. The Mvoti-Mzimkulu WMA is one of three in the province, which means that DWAF staff efforts have to be divided across WMAs. There also appears to be a problem of continuity among the staff members who are seeing the process through.

Lack of staffing may not be a major constraint in the planning phase of a CMA, but once implementation starts there is a need for a solid base of staff members on the ground. A regional office staff member reported feeling caught between the day-to-day demands of his normal work and the relative slowness and thoroughness of the CMA's passage through DWAF national office. He described this as "hurry up and wait". The extended time periods between each stage reached by the PDWG could well be one reason why

public participation diminished over time.

Another challenge faced by DWAF regional office staff was the fact that the CMA establishment process was a learning process for them too. There was no template for CMAs, and no existing CMAs to emulate, so the process needed constant dialogue with the PDWG and the national office.

The rejection of the initial proposal caused the process to falter. Another stumbling block concerned the vastly differing visions of the size of the proposed CMA. Despite the phrase 'lean and mean' being cited often, some stakeholders reported that DWAF representatives anticipated that 180 employees were required, whereas members of the PDWG envisaged a staff of 30 with extensive outsourcing. The number was revised to about 80 after consultation with DWAF national.

Some of the delays and changes happened because the policy environment had not yet crystallised. A senior member of DWAF national staff confirmed this, and described the debates which had to take place – for example how a nationally mandated competency such as hydrological monitoring was to be reconciled with the more decentralised authority of the CMA.

Constraints of local government

Almost from the start, the PDWG identified the very low involvement of local government as a shortcoming within the public participation process. This was attributed to the limited capacity of the newly formed district municipalities, especially the local governments which incorporated areas of the former KwaZulu homeland. Municipal officials and councillors ascribed the relatively poor levels of involvement to:

- Participation fatigue on the part of officials (several officials complained about the high number of areas they had to engage with, including local economic development, forestry, water services, and land use).
- Lack of time and resources, in particular lack of physical resources like telephones and transport.
- Apathy and lack of interest.
- Not understanding what water resource management really meant.
- The service and sanitation aspects of water being more important than water resource management. In the words of one official "municipalities are only concerned about what is in the tap".

One local government official suggested that local government participation would be improved if there was more alignment between the Integrated

Development Plan (IDP) process and the CMA process, particularly as IDPs include water services development plans.

Institutional dynamics between water service authorities
In contrast to the relatively new institutions of local government, there are a number of well established and powerful institutions within the Mvoti-Mzimkulu WMA. Some of these institutions, like the Ethekwini Metro Municipality and Umgeni Water, have been involved in water resource management for a long time. These institutions actually facilitated much of the development of the CMA. The long-standing experience of these institutions has generated its own set of specific dynamics. The Mvoti-Mzimkulu WMA proposal noted: "There does seem to be broad consensus around the philosophy of catchment management, even though there is some concern with respect to the precise role and functions of the new institutions."

Certain tensions are evident in the relationship between these water management authorities and DWAF. Within the PDWG several respondents feared that DWAF was entrenching itself through the CMA process. There were fears that the CMA could become, to quote one interviewee, "a DWAF mega-bureaucracy". There were fears that the role of DWAF would extend beyond core oversight, policy, guidance, auditing and monitoring functions. Some respondents said they couldn't see how DWAF could reconcile its stakeholder role with its role of watchdog or oversight body.

Tensions were also apparent in the relationships between water service authorities. Umgeni Water has on occasion had acrimonious relationships with its customers, especially with regard to tariff increases. Ethekwini Metro has in the past been opposed to Umgeni Water's attempts at cross subsidisation. These issues intruded into the CMA establishment process. Much of Ethekwini Metro's ambivalence about the CMA stems from its reluctance to support an institution that would add increased tariffs to water provision. With the emergence of a CMA, the Metro's own role would have to change. The Metro is in the habit of interacting directly with DWAF and liaising with Umgeni Water, particularly on planning issues. These are precisely the circuits of interaction that the CMA would have to be part of.

Against the backdrop of an ascending CMA, Umgeni Water is experiencing reduced influence and responsibility. Umgeni Water was originally established to manage the competing demands for water from different local authorities. It now finds itself in a difficult position, with its hold over water resource management having been weakening over the past few years – for example,

several of its monitoring and evaluation activities have been dropped.

Clearly the CMA establishment process has created or revived tensions. This goes a long way to explaining why so much of the CMA establishment process has been dominated by large, institutional stakeholders at the expense of newly established local government entities and grassroots communities.

Institutional dynamics involving traditional authorities
Those involved with the CMA establishment process admit that traditional authorities were not properly consulted and included, although the DWAF regional office maintains that the proposal was sent to several traditional authorities. In a WMA like the Mvoti-Mzimkulu traditional authorities do much of the allocating, managing and adjudicating of disputes around natural resources, so they will need to be consulted by the CMA. Local government has complex relationships with traditional authority, so it would be better if the CMA consults traditional authorities independently. The CMA's requirements of public participation will make for interesting dynamics here.

Institutional dynamics with other bodies
If the decentralisation of WRM is not managed appropriately, it may serve to strengthen the hand of big business and commercial agriculture. The voice of forestry and organised irrigation farmers was heard throughout the PDWG. With moves afoot to declare sugarcane farming a stream flow reduction activity (SFRA) this may generate other dynamics, especially since many emergent farmers are small cane growers.

Other dynamics relate to expertise. The area is relatively poorly modelled hydrologically. There have been problems in modelling the ecological Reserve, and there have been differing views on the effects of forestation, erosion and alien plant infestation. One of the challenges in decentralising water resource management is that certain stakeholders may gain 'knowledge power' by drawing on their national affiliations and allegiances to buy in expertise, for instance in hydrology. Some people believe that outsourcing could erode intellectual capital, institutional memory and even information systems expertise.

LEARNING POINT: BUILDING AND RETAINING LOCAL CAPACITY

Loss of capacity in a WMA, and in the institutions within it, presents a challenge for all parties concerned. Both the Inkomati and the Mvoti-Mzimkulu WMA found that staff changes within DWAF created delays and other problems for the CMA establishment process. A related problem is reliance on consultants who are not based within the WMA, which may mean that expertise within the WMA is not being developed. It may be more useful to use consultants who are based within the WMA, even if this means building their capacity. At least skills and institutional knowledge would be retained within the area.

54. Wilson, A.J.& Associates International. 2002. *Proposal to establish the Mvoti to Mzimkulu Catchment Management Agency*, final - November

12. CONCLUDING REMARKS

THE IMPORTANCE OF CONTEXT

As we have seen, the Inkomati and Mvoti-Mzimkulu WMA had markedly different approaches to participation in establishing their CMAs. In both WMAs involving marginalised people was very difficult, but they differed in their response to the challenge. The two case studies demonstrate that the context of a WMA needs to be well understood if participation is to be effective and meaningful. It was apparent in our research interviews at both national and regional DWAF offices that generic guidelines have their place, but there is a greater need for resources and guidelines that are specific to individual WMAs.

TENSION BETWEEN DWAF NATIONAL AND DWAF REGIONAL

Tension within DWAF was felt by people working in both the Inkomati and the Mvoti-Mzimkulu WMAs. DWAF national staff tended to be more enthusiastic and confident about policy and legislation, whereas regional offices tended to be more uncertain. In both cases, regional DWAF officials felt that policy and legislation was not backed up with enough support from the national office, especially in the area of social processes. One way to start addressing this would be to stregthen dialogue between DWAF national and regional DWAF to acknowledge that regional officials can contribute valuable knowledge about the local context. Inviting and welcoming this knowledge would allow the policy to be formulated and applied by national officials in ways that are more practical and contextually relevant for regional officials. Regional officials could also use this opportunity to develop more confidence with regard to policy implementation.

INSTITUTIONAL DEVELOPMENT

Catchment Forums and Water User Associations are the foundations through which DWAF envisages that participation will take place. However it is one thing to initiate a CF or a WUA and another to make it sustainable. These institutions may need to be more formally institutionalised if they are to function within the system of WRM. Each WMA needs to be clear on how it envisages these institutions evolving so as to fit into the CMA structure.

CAPACITY BUILDING

Capacity building is an ongoing concern. The challenges of water resource

management will be with us into the future. Written material, including a book like this one, will become outdated and new materials will need to be produced. Ongoing learning needs to be built in. The work done by AWARD in the Save the Sand Project shows how continual learning processes can be set up, which remain responsive to the current context.

COSTS OF PARTICIPATION

Cost is definitely a factor in effective participation, but there have been cases where participation has taken place within very reasonable budgets. In the Kat River sub-catchment, setting up a Catchment Forum and Water User Association cost very little. This was largely because practitioners were highly motivated and committed. In the Sand Catchment a public awareness programme was initiated with very limited funding. Although a lot more could no doubt have been done in both the Kat and the Sand, it remains true that the mere availability of a substantial budget is no substitute for genuine motivation.

THE PARAMETERS OF PARTICIPATION

Practitioners and stakeholders expressed a need for institutionalised parameters for participation to be put in place. Practitioners were asking: “When is participation enough?” Stakeholders asked: “How must we participate, and when?” Our suggestion, after consulting people at all levels of water resource management, is that participation parameters should be determined by the task at hand. It is the task at hand that provides the incentive for participating. In Book 2 we look at practical ways to achieve this.

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