



For Discussion; Input encouraged
**SITUATION ASSESSMENT OF PARTICIPATION
OF CIVIL SOCIETY IN ENVIRONMENTAL
ASSESSMENT IN SOUTHERN AFRICA**

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SUMMARY

1. A suitable African name for the Project is “People’s Participation in Environmental Assessments in Southern Africa”. No common African name could be reached for the project because of the wide diversity of the languages in southern Africa, whose meaning would not be understood by everyone. Had there been one bonding language like Swahili in east Africa, then a consensus could have been reached.
2. The study has also revealed that the governance systems in the majority of the SADC countries are based on popular representation done through an electoral process, which is conducted through secret ballot. Furthermore, the governance systems in most of these SADC countries recognise the presence of traditional administration by ensuring that they are part of governance system. However, in cases like Swaziland, one observes that the royal family is vested with a lot of power and influence, which is evident through their system of Inkhudla. However, irrespective of the difference in the adopted governance system by the national governments, generally speaking, one can conclude that environmental assessment has, to a great extent, enhanced public participation. In most SADC countries EIA systems there is a specific clause dealing with stakeholder consultation and public participation.
3. Key environmental policy areas requiring support are: (a) Environmental Information and Education; (b) New partnerships for sustainable development; (c) Environmental law and sustainable development; (d) Environmental monitoring, assessment and reporting; (e) Economics of sustainable development; and (f) Institutional strengthening and capacity building. Under the Economics of sustainable development programme, priority areas are to carry out economic, equity and environmental assessments. In meeting the requirements of this component, SADC ELMS prepared a project proposal entitled, “Capacity Building for EIA in the Southern African Development Community”. It was expected to be implemented between 1995 and 1999, but was not due to lack of funding.

There are five protocols related to sectors under review in this report, namely CBNRM, Water- and HIV/AIDS-related, out of which only one has an article dedicated to community participation. This is the Protocol on Forestry. Protocols on Wildlife Conservation and Law Enforcement, Health (HIV/AIDS), Revised Shared Watercourses and Fisheries do make mention of public participation but are not as explicit as the Forestry protocol.

4. African countries have the option to accede to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, but there is reluctance to do so in favour of a home-grown convention, with inputs from a wide spectrum of stakeholders.

There are intentions by NEPAD to strengthen capacities within Member States in promoting public participation and decision-making. Statements of intent need to be translated into actions in line with the pronouncements made at the WSSD. This

SAIEA-supported project, therefore, comes in at an opportune time to activate that process, though it has been observed that NEPAD has not yet filtered through to other levels beyond Heads of State.

5. Based on the study findings, 25.5 % of the respondents regard key objective to public participation as involvement of communities from the initial planning stages of the projects right through the post-implementation stages, as awareness raising to change perceptions at the community level, whilst 16.2% respondents regard it as empowerment and promoting local initiatives. The 23.0% of the respondents also involve the public in their projects with the aim of ensuring ownership by communities.

All of the above mentioned objectives make it possible for the community members to actively participate in conceptualisation, implementation of projects and maintenance. As they are empowered to play an active role, they subsequently get a sense of ownership, thereby leading to sustainability of projects.

6. It became apparent from the responses, in the survey and the literature, that community participation practitioners are already employing most of the international approaches, especially Participatory Rural Appraisal (PRA), Participatory Learning and Action (PLA), and various workshop methods to identify problems, resource constraints, insufficiencies and unfulfilled basic needs. These approaches undoubtedly attain the following: a) promote participation, b) stress the significance of local knowledge and c) deal with existing problems. On the other hand, the responses reveal that the appreciative approaches are not widely used or known. However, the proponents of the appreciative approaches claim otherwise. They claim that traditional approaches like PRA, PLA and others “often fail to sustain community participation after the implementing organisation withdraws” as expressed on the following statement which advocates for the extension of the traditional approaches into the appreciative approach.

Most African communities have, throughout the centuries, been working as communities, and are used to volunteering towards several communal activities. This history is a characteristic that will, however, require incentives so that it can be strengthened. There are community forums, which are used for decision-making processes like public gatherings or communal festivals. For instance, there are communities in most countries where elderly and married men meet daily to advise the local chief on important community issues. Some of these can be tapped to engage citizens in the decision-making processes.

Since African communities are not homogeneous and have their own various ways of engaging citizens in decision-making, these public participation processes are commonly characterised by male dominance. Being predominantly patrilineal, women especially in rural areas are regarded as perpetual minors in decision-making, the same for youth. Women are in most cases implementers instead of decision-makers. Men primarily occupy key positions within the community-based decision-

making structures. Furthermore, the most important decisions are taken during the community discussion fora which, in most cases, exclude women and youth. Knowledge of this state of affairs provides the context from which EA and public participation practitioners could adopt traditional approaches. Respect and knowledge of complexities within the communities' social fabric is an entry point for sustainable environmental decision-making. Also, other mechanisms have to be devised to involve those sectors of the public that are traditionally marginalized members during decision-making. The issue of dominance is not confined to male versus female but also adults versus youth within the same gender and can be driven by the rich and most influential community members. In most traditional contexts, the more affluent members of the community tend to be more vocal and overshadow the relatively poor. These are some of the issues, which have to be considered when adapting traditional involvement mechanisms into EA.

Knowledge that has been gained in gender related studies and other social analysis research could provide relevant lessons on the relevant approaches as well as best and worst practices to be considered when using traditional methods and so as to avoid inherent pitfalls.

The strong points of traditional methods are threatened by poverty in most countries. The traditionally strong community networks and collaboration mechanisms are continually being eroded by socio-economic conditions because people now concentrate on the immediate nuclear family needs at the expense of family requirements and community.

7. Of the methods mentioned (meetings, workshops, PRA, livelihood analysis, participatory monitoring and evaluation, baseline surveys, needs assessment studies, focused groups, transects and trend analysis) the majority of public participation used is part of the Participatory Rural Appraisal (PRA) package. The relevance of, specifically, needs assessment study, baseline surveys and livelihood analysis to the EA is based on the terms of reference for the EA/SEA. An example of how a needs assessment study can be used for EA/SEA is during the identification of options for compensation or mitigation measures so that these are in line with the needs or aspirations of interested and affected parties. Livelihood analysis and baseline studies provide pre-development information that can be used to make decisions on the socio-economic impacts of a project. The three methods are similar in that their key advantage is generating information with variables, which provide explicit indicators for monitoring the socio-economic impacts. However, they are very expensive in terms of time, and they also require a higher level of technical expertise for analysis of findings. Most research institutions such as the NGOs, universities and other institutes of higher learning employ these methods in their research activities.
8. In the HIV/AIDS arena, in countries that participated in the survey, civil society involvement in decision-making is welcomed and viewed as one aspect that is vital in the advocacy for HIV/AIDS. According to the respondents (66%) within the HIV/AIDS organisations, the involvement of other stakeholders and members of the

public is very high particularly among the poor, urban, churches, business people, women, government and other NGO's and CBO's.

9. The rate of public participation by the poor, women, rural churches, political parties and the grassroots in CBNRM is very low compared to the other sectors. This is also true for Namibia and Lesotho, contrary to the positive findings in South Africa. This may be because churches and political parties are crisis oriented. They become visible and active only when there is a state of emergency. The other factor maybe that CBNRM is viewed as a responsibility of certain sections of society, and political parties and churches have other areas of interest.
10. Civil society that is in the form of CBOs and NGOs plays a vital role in development planning within the water management sector. They are most prevalent in the following areas: lobbying, sanitation, and relief issues. They lobby the governments and other organisations to recognise and play a substantial role in the management of water. According to most of the respondents (66.6%), living in a clean and healthy environment ought to be seen, by law and the world at large, as a fundamental human right. Any one who pollutes the environment ought to be regarded as an abuser of human rights deserving serious punishment. Therefore, conservation of natural resources should be a responsibility that goes hand in hand with the right to live in a clean and healthy environment.
11. There is no doubt that the underlying principles of Environmental Assessment particularly the engagement of civil society in the process are cornerstones of sustainable development. The EA through public participation calls for a two-way communication in terms of recognition that the civil society and the public have information that can affect development adversely or positively. On another hand, the proponents have information which at time is technical and is required by the public to make informed decisions; and therefore both parties have to identify a middle ground as partners in development and exchange information as equal partners in the process. As a result, this process calls for a political environment, which is conducive requiring political commitment to provide space for the civil society to partner with governments and donors. At the moment in some countries, this process of citizen engagement is quite advanced with appropriate institutions and support mechanisms in place, whilst in others the process is still at its embryonic stage. Through this project, countries that are lagging behind can be brought up to speed by engaging in intensive consultative process with SADC Member States at different levels; and based on the outcome, design guidelines that can be adopted to fit local conditions while at the same time elaborating *modus operandi* on issues of environmental assessment and public participation.

ACRONYMS

CAMPFIRE	Communal Areas Management Programme for Indigenous Resources
CBNRM	Community Based Natural Resource Management
CBO	Community-Based Organization
CMP	Comprehensive Mitigation Plan
CPRM	Common Property Resource Management
DEAT	Department of Environmental Affairs and Tourism (South Africa)
DWAF	Department of Water and Forestry
EA	Environmental Assessment
EIA	Environmental Impact Assessment
EIS	Environment Impact Statement
ELMS	Environment and Land Management Sector
GDP	Gross Domestic Product
HIV/AIDS	Human Immuno Virus/ Acute Immune Deficiency Syndrome
IAP2	International Association for Public Participation
I&AP	Interested and Affected Parties
IEE	Initial Environmental Evaluation
IWSD	Institute of Water and Sanitation
IWSD	Institute of Water and Sanitation
KZN	KwaZulu-Natal
LHDA	Lesotho Highlands Development Authority
LHWP	Lesotho Highlands Water Project
NEPAD	New Partnership for African Development
NES	National Environment Secretariat
NGO	Non-Governmental Organization
PB	Project Brief
PPRM	Private Property Resource Management
PRA	Participatory Rural Appraisal
SADC	Southern African Development Community
SAfAIDS	Southern African Aids Information Dissemination Service
SEA	Strategic Environmental Assessment
UN	United Nations
UNCED	United Nations Conference on Environmental and Development
UNICEF	United Nations Children's Fund
UNRISD	United Nations Research Institute for Social Development
WHO	World Health Organization
WSSD	World Summit on Sustainable Development
WTO	World Trade Organisation

1.0 INTRODUCTION

This report provides a situation assessment of civil society participation in Environmental Assessment. The Southern African Institute for Environmental Assessment commissioned this study as part of a 2-year project on developing strategies for public participation (PP) in Environmental Assessment in southern Africa.

The study is an acknowledgement of the fact that environmental assessment is one of the tools, which promotes sustainable development because its fundamental principles are founded on good governance and engagement of stakeholders in the decision-making process in development programmes. Sustainable development in this context is defined as development, which satisfies the needs of today's generations without sacrificing those of future generations.

1.1 Study Objectives

1.1.1 Objectives

The key objectives of the Situation Assessment work, as instructions to the Consultant, entails: -

- Identification of a suitable African name for a 2-year initiative, which captures the spirit of the project.
- Providing SAIEA with a concise situation assessment analysis with respect to current status of civil society participation in decision-making in the Southern Africa Development Community (SADC) region.
- Ensuring that the report provides SAIEA with suitable situation analysis and recommendations to allow it to progress to the next phase of the project, which will be to develop and operationalise a civil society participation strategy.

1.1.2 Project assumptions

- Democratic reform and good governance allows and respects civil society participation in decision-making;
- Serious development challenges in Africa warrant accelerated involvement of civil society;
- EA/SEA are strategic planning tools to advance democratic reform and good governance;
- Initiatives in the HIV/AIDS, Water, and Community Based Natural Resource Management “sectors” could provide key lessons that will assist SAIEA in developing a strategy to improve the role of civil society in decision-making processes, using EA/SEA as a vehicle;
- Communities currently lack the ability to properly assess environmental effects of projects or to effectively engage government and private sector proponents in decision-making that directly affects them.

- How a government engages civil society in decision-making through the EA/SEA window is a measure of the progress a government is making in the NEPAD peer review process with respect to democratic reform.

1.1.3 Report outline

The first section of the report introduces the study, by outlining its objectives and project assumptions. Section two provides international and regional perspectives on public participation with regard to governance, community-based natural resources management, environmental concerns and public participation methods. Section three outlines the major findings regarding management of natural resources, EIA procedures within the SADC countries and presents the findings of the questionnaire survey, whilst section four is the conclusion and recommendations therein.

The annexes contain an implementation plan of the “People’s Participation in Environmental Assessments in Southern Africa Project”, summary of international methods of public participation, opinions on the role of civil society, case studies, publications of manuals, handbooks and guidelines; some websites related to public participation, some key institutions in SADC, list of persons interviewed and scope of work.

1.2 Methodology of the study

This section provides a description of study methods and approaches employed in order to meet the desired outputs and the objectives of the study per the Terms of Reference.

The nature of the study called for the use of multiple research techniques to collect the primary and secondary data.

In collecting the primary data, a questionnaire was designed. It aimed at guiding interviews held with key informants from Lesotho, Namibia, South Africa, Swaziland and Zimbabwe. The questionnaire addressed issues of governance in the SADC countries, public participation, particularly in the fields of natural resources management, water sector and HIV and AIDS. The extent to which environmental assessment has enhanced public participation, and ultimately democratic reform in the SADC region, was also addressed in the questionnaire.

Regarding collection of secondary data, information was sourced from documentation centres (libraries) and on websites. It included policies, legal documents, constitutions, environmental procedures, monitoring and evaluation reports, where they existed.

1.2.1 Selection of the study areas

In selecting the countries in which the questionnaire interviews were conducted, a purposive sampling technique was used, where the study elements (countries) were consciously selected. On this basis, the countries that were easily accessible and had substantial amount of documented information were evaluated in more detail. South Africa comprised about half of the required information because of the well documented and extensive work done there. The other countries contributed the rest, in terms of environmental assessment, development and application of environmental assessment policies and procedures. Therefore, Lesotho, Namibia, South Africa, Swaziland and Zimbabwe were evaluated.

In the selected countries, key informants were identified. These were people from government and non-governmental organisations occupying strategic positions and who in one way or another are involved either with governance issues, environmental assessment, community-based natural resources management, water resources management and HIV and AIDS. Where possible, field trips to some of these countries were undertaken to selected projects. They formed some of the cases for the study. Secondary sources of information from websites and libraries were also obtained.

1.2.2 Logistical arrangements

Appointments were made with key informants in the countries that have been selected in the sample. This entailed use of e-mails and telephone calls to countries, which were to be visited, although this proved to be a difficult exercise for some of them as outlined in paragraph 2.4 below.

1.2.3 Data Analysis

Collected information has been written into descriptive reports using Microsoft version 2000. Some of the data collected through the questionnaire have been presented in text and tables. In presenting the information, relational and structural analyses have been used to portray variations in the occupation, gender and the governance model that depict the various structures existing at the different levels which facilitate public participation and decision-making processes.

1.2.4 Constraints and limitations

- In making appointments, particularly in the Republic of South Africa, it was difficult to get people in their offices. This problem also existed for Namibia.
- In Zimbabwe, the problem was lack of petrol due to political sanctions imposed on Zimbabwe by the international community. Therefore, travelling in the country was extremely restricted;
- Allocated resources for the Situation Analysis were limited, hence very little time could be spent in some countries, particularly for data collection in the SADC region;

- Some of the countries did not have relevant information for this assignment on the web, because their information technology infrastructure was not so well developed, or in some cases, information was not posted onto the websites.
- Non-responsiveness to the questionnaire e-mailed to key stakeholders who could not be reached through person-to-person interviews.

2.0 INTERNATIONAL AND REGIONAL PERSPECTIVES OF PUBLIC PARTICIPATION

2.1 Governance

In pursuit of betterment of mankind, sustainable development strategies have been created with a view to alleviate social and economic catastrophes, which face mankind today. It has always been recognised that effective political systems or governance are key to achieving betterment of life. Governance can be understood from different perspectives, however, in this report it has been defined as follows: -

2.1.1 Interest groups perspective which recognises that there are many interest groups with their own agendas, their human rights and basic freedoms still needing to be protected through institutions which are fair, transparent and accountable. The proponents of this view believe that limited political freedoms result in the dysfunctional politics that eventually become a breeding ground for violent conflict.

2.1.2 Authoritarian or populist perspective opines that limiting civil liberties and political freedoms will accelerate social progress and stability, and that democracy has to be sacrificed for economic growth and social progress. This has proven to the contrary in that, where freedom and democracy development have become a natural phenomenon and is not pushed down people's throats, this has resulted in accelerated economic development than under repressive regimes. A good example in SADC region is Botswana. For three decades it has been a very democratic and stable country and hence has the strongest economy.

Both of these perspectives determine the type of governance system a country adopts. In spite of the above, democracy is believed to be the only political model that guarantees political and civil freedoms and the right to participate. It is a system of governance which is based on: -

- Enjoyment of political freedom by all sectors of society participating in the decision-making process, particularly on issues that affect their quality of life. This takes a pluralistic view that all sectors of the society (individuals or groups) should have a say in policies or activities that may ultimately affect or alter their way of living.
- The belief that people should have a say on issues that affect them through a process of accountability and transparency to avoid anarchy, conflict and demonstrations.
- The political systems that empower people to make a choice, for instance, on policies that expand their social and economic opportunities and publicly debating them, are evolving in Africa. An example is South Africa where activists for people living with HIV and AIDS actually won

a case of having retroviral tablets contrary to the government's will. The government did not advocate for their use on medical grounds.

As a result, for democratic governance to work effectively, certain key institutions are required to be in place. They are: -

- A system of representation with well functioning political parties and interest association(s);
- An electoral system that guarantees free and fair elections as well as universal suffrage;
- A system of checks and balances based on separation of powers with independent judicial and legislative branches;
- A vibrant civil society which can monitor government and private business and provide alternative forms of political participation;
- A free and independent media;
- Effective civilian control over the military and security forces. (United Nations Development Programme, 2002).

African states, particularly in sub-Saharan Africa, have initiated democratisation processes amidst the ever-escalating poverty levels, political strife and pervasive social and economic forces, with varying degree of success. For example, Angola and Democratic Republic of Congo, has just come out of many years of strife, with the previously opposing forces now able to sit together and resolve problems of national interest. Africa's most populous nation, Nigeria only recently became democratic after many years of military rule; South Africa shed off its apartheid yoke less than a decade ago; and Lesotho also only became democratic about a decade ago, and is now poised to tackle a backlog of many years of neglect due political strife since it attained independence in 1966. The list could be longer.

In some countries, these democratic institutions have been established and in some cases, for instance in Zimbabwe, Lesotho and South Africa, the strategic positions are occupied by the supporters of the ruling party. This has its pros and cons: it may be good on one hand because this ensures that ideologies and policies of the ruling party are realised; but it can also be a weakness since other resourceful, experienced brains may go to waste amidst a country's meagre resources incurred to acquire such a manpower calibre. As a result, views of the minority groups also tend to be sidelined, and this then defeats the principles of democracy which is the cornerstone of people's participation in decision-making processes. Even though some of the people at the grassroots feel powerless to influence national policies, or feel marginalised to make inputs into such policies which ultimately affect their lives.

Understanding governance from a global context, it is believed that developed countries, especially the industrialised G8 countries, normally set the global agenda. This is partly so because, in most cases, they provide international aid in the form of grants or loans. As a result, some of the African leaders themselves feel powerless and regard their contribution to be meaningless with respect to their contribution to the formulation of

international policies. Hence they feel subjected to international forces which they have little capacity to influence.

However, through civil society, there have been pockets of success in providing alternative means to developing countries in terms of ensuring that international institutions become more democratic, inclusive and are responsive to the problems of the World's poorest people through increasing pluralisation in global and local decision-making. This is exemplified in the new approach of the World Trade Organisation (WTO) which emphasizes provision of opportunities to poor countries in the international market with a view to ensuring economic growth while simultaneously targeting poverty reduction, though a consensus has not been reached on this issue. This was also discussed during the Johannesburg Summit 2002 and is described in details within the World Bank's Outreach Journal (June 2003). This is an example where civil society is putting pressure on the multi-lateral institutions such as the WTO so that developing countries can be given a stronger voice, and is more accountable for policies and actions in institutions such as World Bank and WTO.

Africa, through the African Union, is repositioning itself by setting up its own agenda on economic advancement. and by forming a partnerships like NEPAD, as well as the New African initiative aimed at eradicating poverty on the continent, and at the same time promoting economic growth in the region. These initiatives are fully supported by sub-regional structures like the Southern African Development Community (SADC).

2.2 Community-Based Natural Resource Management

SADC has various protocols on the conservation, development and sustainable use of natural resources. These protocols address water, wildlife and health (HIV/AIDS included; also see section 2.4.3) by emphasising sustainable development of natural resources, and management of the HIV and AIDS scourge through engagement of stakeholders in the decision-making process. There are two different property management resources which can contribute to sustainable development. These are private property resource management (PPRM) regime (Box 1) and common property resource management (CPRM) regime (Box 2). Hardin (1968) advanced the thesis that common property resource management regimes were not ideal for sustainable resource utilisation because they tended to encourage over-exploitation by individuals who wanted the maximization of their economic returns without putting back enough efforts to rehabilitate them. This resulted in the tragedy of the commons typified by resource over-exploitation and depletion. Hardin (1968) therefore, argued that private property resource management regimes were the best for sustainable resource management because they encourage private ownership and proprietorship, which encouraged individuals to maximize profits through efficient natural resource management.

The advantages of private property resource management, as advocated by Hardin (1968), are that it entrusts decision-making, planning and management to the individual or corporate proprietor. This minimises conflicts in decision-making, which wastes time in terms of reaching consensus. Moreover, since the private proprietor aims at the

creation of maximum profit, they work and invest as best as they can, and these results in efficiency and sustainable resource utilisation. But in some instances, some companies make a profit quickly and then collapse their operations. Below is the summary of pros and cons of private property management.

Box 1: Private property management regime

1. Characteristics

- Private ownership of a resource by individual or corporate body
- Absolute rights of ownership and use
- One unit of decision-making by proprietor
- Marketability/mobility of resources.

2. Advantages

- One unit decision-making and planning
 - minimises conflicts and split-decisions
 - saves time in planning
- Pursuit of profit maximisations leads to higher levels of financial, time, labour and management resource utilisation and efficiency.
- Enhances market value of a resource
- Facilitates resource mobility in search of most efficient uses.

3. Disadvantages:

- Concentrates resources in one or few hands of capitalists.
- Creates social inequalities - marginalisation, exclusion - no social and political sustainability
- The single unit i.e. proprietor may have split decision internally and promote multiple use and inefficiency specialisation or even resource hoarding - inefficiency of utilisation and sustainability
- Might promote indebtedness by proprietor - creditors for resource development and no financial sustainability.

However, those who advocated for community-based resource management, such as Ostrom (1990), Gibbs and Brombey (1989), Ciriacy-Wantrup and Bishop (1975) felt that private property resources management promoted inequalities in that it accords access to and utilisation of resources only to community members who have access to capital, while condemning those without capital to deprivation and poverty. Furthermore, the same proprietor might have multiple and conflicting objectives for the resource which might promote lack of sustainable utilisation. Moreover, the proponents of private property management criticise Hardin (1968) and his tragedy of the commons proposition as applicable only within the context of complete common property resource regimes with **open access**, in which case there would be no sustainable management because the resources under open access regimes become a “free for all”.

Furthermore, these proponents maintain that common property resources which fall under **regulated access** regimes, as is the case in the context of community-based resource management, are subject to control and ownership by a group, kinship, clan or community with defined territorial limits/boundaries and rules of inclusion, access,

withdrawal, sanctions and exclusion. Members of the community are regulated by these rules in the exercise of their rights to and claims over community resources. Therefore, these rules ensure the equity and efficiency of resource management and utilisation in a sustainable manner (Cousins, 1996). Moreover, they facilitate a higher level of community participation in resource management, and guarantee community members equal opportunities of access to the resources. Therefore, community-based property resource management is advocated as the most ideal form of sustainable resource management, especially within the context of sub-Saharan Africa where most resources are communally owned (Cousins, 1996).

Box 2: Common property resource management regime

1. Characteristics

- Group ownership/proprietorship of the resource (i.e. community)
- Individual/group in the community only have use rights
- Community rules determine/regulate access, inclusion, withdrawal, sanctions and exclusion rights.
- Community-based decision-making and planning
- Transferability of resources from person to person and/or its marketability approved by community first... not the individual/interest/user group.

2. Advantages

- Ensures equitable access to resources
- Facilitates community participation
- Empowerment of the community
- Equitable sharing of benefits among community members.

3. Disadvantages

- Community composed of heterogeneity instead of homogeneity
- Conflict interests among community members
- Split-decision-making delays efficiency.
- Multiple interests and users, lack of consensus

Notwithstanding its advantages, community-based resource management has encountered problems as well. The biggest problem is that it is based on an idealistic perception of the community being harmonious and homogeneous entity, where individuals share the same ideals, needs and perceptions on consensus. This is called the consensus model of community-based resource management (Leach *et al.*, 1997). Community-based resource management projects based on the consensus model are often implemented community-wide with the expectation that all community members will participate in and benefit equally. This is not the case in reality. Some members benefit, while others are either excluded from, or at worst marginalised, by the projects because of heterogeneity and social difference due to factors such as age, politics, gender, ethnicity, capital resources and land access.

The conflict model in community-based resource management provides a critique of the consensus model. The conflict model argues that the community is made up of members with different attributes such as age, gender, politics and resource endowments, which constitutes heterogeneity. Depending on their attributes, members of the community have differential multiple needs and demands upon resources, which precipitate conflict rather than consensus due to overlapping claims and rights. These overlapping rights and claims need to be ironed out thoroughly to ensure sustainable resource management (Cousins, 1996). Resolving these issues follows: The differential attributes need to be used to create groups and user groups. An interest group consists of members with the same interest, while a user group consists of members who use the same resource. Different interest and user groups from multiple interest and user groups in the community, and their differential resource needs constitute multiple uses and needs for the resources (Cousins, 1996). Often these multiple uses and claims conflict and demand the promotion of a process of collective decision-making and choice so as to achieve negotiated consensus by all the interested and user groups necessary for sustainable resource management (Cousins, 1996).

Sometimes even the negotiated consensus achieved by user groups in the community fails to promote sustainable resource utilisation because of lack of adequate resources at the disposal of the user groups. This situation necessitates the introduction of a third type of resource management regime called co-management, or joint partnership which is created by the user groups and an external party, which might be a private/corporate proprietor, the government, NGOs or user groups from other communities.

The advantage of co-management is that it increases the availability of scarce resources among the constituent parties facilitating sustainable resource management. However, the disadvantage is that some times disagreement and conflicts arise in the course of the implementation of management decisions among the constituent parties, which stifle sustainable resource management as reflected in Box 3 below.

Box 3: Co-management resource management regime

1. Characteristics

- Joint partnership.
- Community ownership
- Community by user groups have resource use rights.
- Capital/or technical management input and/or control by the ex-user group or ex-community partner i.e. user group from other communities, private sector, NGOs, government.
- Negotiated consensus between user group/community with ex-user group/ex-community partner on the rules of operation and sharing formulae.

2. Advantages

- Allows community to retain ownership and control of the resource.
- Allows community to facilitate equitable access to and distribution of benefits from resource utilization.
- Enables access to capital and/or technical management expertise from outside to induce efficiency.

3. Disadvantages

- Failure to achieve negotiated consensus among the community and the user groups on the necessity for joint-partnership.
- Failure to achieve sustainable negotiated consensus between the two parties often lead to the collapse of joint-partnerships.
- Problem in creating the sharing formulae in a sustainable manner – one partner often demands a bigger share as soon as the returns seem good.

2.3 Environmental concerns: international perspective

A global concern about the deteriorating environment was raised at the United Nations Conference on Environment and Development in Stockholm in 1972. In 1987 the World Commission on Environment and Development alerted the World community that steps needed to be taken for concerted action towards a new global framework for development, namely, sustainable development (National Environment Secretariat, 1999).

Developed and developing countries reached a consensus: that they have shared responsibilities in the protection of the environment and in the concerted action to promote sustainable development. The United Nations Conference on Environment and Development (UNCED), which was held in June 1992 in Rio de Janeiro, Brazil, addressed these concerns. It was at this Conference that Agenda 21 was conceived (ibid).

The Conference was the first assembly of world leaders, international organisations, Non-Governmental Organisations, the scientific and technological community and other major groups to pronounce their visions on the future of the planet. Developed and developing countries agreed that poverty was the major factor in the loss of environmental resources and land degradation. Secondly, economic growth was envisioned as a key factor in fostering job creation by directly benefiting the poor.

It was also recognised that the state of the physical and natural environment was influenced by the pattern of developmental activities of developed and developing countries. In this regard, all governments committed themselves in 1992 to pursue national and international sustainable development objectives that would protect the atmosphere, prevent climate change, safeguard natural resources such as land, soil and water and channel development assistance towards poverty reduction and improvement of economic growth.

The commitments by governments during the Rio Conference in 1992 focussed on the following issues: -

- Social and economic dimension; and
- Bio-physical issues

As a result, sustainable development instruments needed to be identified and designed to ensure that all UN Member States attained sustainable development. Two such instruments are Environmental Assessment (EA) and, Strategic Environmental Assessment (SEA) and how public participation is integral part of the instruments forms the crux of this study.

2.4 Contextualisation of Public Participation within EA - Sustainable Development

2.4.1 Overview

The emergence of public participation as a theory is regarded as a coherent approach to social development and is a direct consequence of the United Nations popular participation programme (Midgley *et al.*, 1986). Popular participation was not only conceived as requiring creation of political space for public involvement, but also the adoption of measures that would enable ordinary people to share fully in the development process.

In the 1970's the emphasis of popular participation in United Nation's thinking was formalised by the publication of two major documents, namely, Popular Participation in Development, 1971, and Development, 1975. The former reviewed the emergence of the idea with reference to community development in the Third World, while the latter offered a formal definition of the concept with reference to its implementation.

“The publication of these documents was followed by the creation of a major research programme into popular participation by the United Nations Research Institute for Social Development (URISD) in Geneva” (Ibid). Furthermore, reinforcement of the idea of public participation came from the resolution adopted at the World Conference on International Women's year, which was held in Mexico in 1975. Later on in the 1990's, public participation was emphasised at the Rio Summit in 1992, and the World Summit on Sustainable Development (WSSD) held in Johannesburg in 2002. Public participation was to become one of the major components of economic and social development

programmes in order to realise social development outcomes that can be enjoyed by all sectors of society, now and in the future.

Through the influence of international agencies such as UNICEF and WHO, the governments of many developing countries have acknowledged the need for greater emphasis on community-based development strategies through different structures/tools such as local government policies, Environmental Assessment and social policies. Some governments have also established their own participation programmes based on indigenous practices and beliefs. NGOs have also been major promoters of community participation ideals. Other active parties include international voluntary agencies and academic institutions.

A distinction has to be made between the concept of popular participation and community participation. The former is concerned with broad issues of social development and the creation of opportunities for involvement of people in the social, political and economic life of a nation, while the latter connotes the direct involvement of ordinary, local people in their community-based programmes. The United Nations (1981) defines community participation as: -

“ The creation of opportunities to enable all members of a community and the larger society to actively contribute to and influence the development process and to share equitably in the fruits of development”.

2.4.2 Aarhus Convention

Principle 10 of the Rio Declaration on Environment and Development advocates for participation of all citizens in environmental issues. It mentions that at the national level, individuals should have the right of access to information on environmental issues and be accorded the opportunity to participate in decision-making processes, and access to judicial procedures and remedies. On the basis of this principle, under the auspices of the United Nations Economic Commission for Europe (UNECE), the 39 European countries adopted the Aarhus Convention (Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters) in Denmark in June 1998. It came into force on 30 October 2001. This is a binding convention that establishes minimum legal and institutional requirements to ensure that citizens are accorded an opportunity to obtain environmental information, participate in decision-making processes, and have access to judicial and administrative redress to protect the environment. The Secretary General of the United Nations suggested that the WSSD should consider the Aarhus as a possible model for strengthening the application of principle 10 in other regions of the world (UNEP, 2002).

Article 19.3 of the Convention gives provision for any other States to accede to it. However, various quarters in Africa within the realm of environment protection have expressed sentiments of opposition to accession by African countries (Bruch, 2002). They prefer a broad-based consultative process that could derive some pertinent elements from the Aarhus Convention and the Inter-American Strategy for the Promotion of Public

Participation in Decision-making for Sustainable Development (ISP), a regional initiative by the Organisation of American States (OAS).

The Environmental Law Institute (2003) has prepared a discussion paper on the opportunities and challenges in the African context associated with an environmental governance initiative. The paper is entitled “African Environmental Governance: Opportunities at the Regional, Sub-regional and National Levels”, and will appear in a book on African Environmental Law and Policy to be published by Kluwer in 2003.

Momentum is building up in Africa towards formulation of an African perspectives on environmental governance and access to information as evidenced by the latest gathering at UNEP held in Nairobi, Kenya in June 2003: African Expert Meeting on Enhancing Application of Principle 10 of the 1992 Rio Declaration. According to Tjela¹ (Pers. Comm., 2003), this meeting made recommendations to the effect that UNEP should compile and make available best practices on access to information, justice and public participation; awareness of principle 10 be increased at the national level; and that governments should establish national focal points relating to implementation of principle 10.

2.4.3 SADC Policy, Strategy and Protocols

Policy and Strategy

The southern African countries adopted a new approach in tackling the environmental problems of the region that is in line with the ethos of the 1992 Earth Summit programme of action. The new SADC policy and strategy for Environmental and Natural Resource Management is geared towards achieving equitable and sustainable development in support of the overall goals of achieving development that is economically, socially and economically sustainable (SADC ELMS, 1996).

Key environmental policy areas requiring support are: (a) Environmental Information and Education; (b) New partnerships for sustainable development; (c) Environmental law and sustainable development; (d) Environmental monitoring, assessment and reporting; (e) Economics of sustainable development; and (f) Institutional strengthening and capacity building. Under the Economics of sustainable development programme, priority areas are to carry out economic, equity and environmental assessments. In meeting the requirements of this component, SADC ELMS prepared a project proposal entitled, “Capacity Building for EIA in the Southern African Development Community”. It was expected to be implemented between 1995 and 1999, but did not take off due to lack of funding. The objectives of the Project were to: -

- Improve capacities and competence in EIA nationally and regionally; and
- Increase the use of EIA in the SADC Members States.

¹ Ms M.Tjela, Principal Environment Officer (Legal), Ministry of Tourism, Environment and Culture, Lesotho.

The Project was expected to achieve the following out: -

- EIA status and needs [of the time] established;
- EIA training of a specified nature implemented;
- EIA network established;
- EIA guidelines developed and used;
- Modalities of cooperation between Member States established; and
- EIA awareness and acceptance as an effective environmental management tool in both the public and private sectors of the SADC region.

Individual countries have made some inroads on the above, but will need coordination and harmonisation in carrying them out further. SAIEA is well poised to plug the gaps in existing inadequacies. To this end an outcome of a workshop on EIA held by SAIEA in May 2003 indicates that attention should be given to: -

- Establishment of a conducive regulatory framework;
- Obtaining political commitment;
- Capacity development;
- Quality assurance in EIA in southern Africa;
- Marketing EIA;
- Screening EIA; and
- Community involvement

It is the elaboration of the community involvement activities that this report, and action plan thereof, should address. It is an opportune time for SAIEA, having been established in 2001, to plan accordingly and spearhead attainment of the goal of achieving sustainable development through integration of environmental assessments into policies and development programmes. The majority of countries in the region have environmental policies and laws in place; only four out of the fourteen are in the process of preparing their environmental bills (Tarr, 2003). These laws and bills provide for the implementation environmental assessments, within which public participation is an integral part.

Protocols

SADC Protocols that pertain to the areas covered by the report are CBNRM-related: Protocol on Wildlife Conservation and Law Enforcement, Protocol on Forestry Protocol on Fisheries; Water-related: Revised Protocol on Shared Watercourses; HIV/AIDS: Protocol on Health. All of these Protocols have not as yet come into force pending the ratification by at least nine Member States, which is the required two thirds of the 14 States (Table 1).

Based on a recommendation by the Ministers of Environment, SADC adopted an approach to prepare an environmental protocol. The purview of such a protocol, when it is developed, would best ensure that environmental assessments and strategic environmental assessment strategies straddle across all other SADC protocols in as far as

environmental requirements would be concerned. Principles of public participation could then be embedded in this kind of a protocol. This activity is in abeyance, pending the end of transfers of coordinating function of all sectors from Member States to the SADC Secretariat in Botswana.

Table 1. Status of SADC Protocols Related to CBNRM, Water and HIV/AIDS

Protocol	Status			
	Signatures	Ratifications	Accession	Remarks
Forestry	10	-	-	Not in force
Wildlife Conservation and Law Enforcement	14	7	-	Not in force
Health (HIV/AIDS)	14	8	-	Not in force
Revised Shared Watercourses	13	6	-	Not in force
Fisheries	14	8	-	Not in force

Source: SADC Secretariat (2003)

These show varying degrees of the need for community-based and public participation. However, it is incumbent upon each state, at the national level downwards, to ensure that this is entrenched in programmes of implementation in order to be successful. If guidelines were developed it would make the task much easier. So, SAIEA's input in this regard has come at the right time.

CBNRM-related:

Protocol on Wildlife Conservation and Law Enforcement. Under the objectives, among others, there is to be facilitation of community-based natural resources management practices for management of wildlife resources. Article 7, Wildlife Management and Conservation Programmes states that parties shall establish or introduce mechanisms for community-based wildlife management and integrate principles derived from indigenous knowledge systems into national wildlife management and law enforcement policies and procedures. The public is also to be empowered through awareness raising and educational programmes on the conservation and sustainable use of natural resources.

Protocol on Forestry. Article 12 of the Protocol is dedicated to community-based forest management and reads as follows:

“States Parties shall:

- a). Adopt policies and mechanisms to enable local people and communities benefit collectively from the use of forest resources and to ensure their effective participation in forest management activities, including affirmative steps to seek and encourage such participation;
- b). Develop regional guidelines and share information and expertise related to

community-based forest management; and

- c. Encourage local people and communities to grow and conserve trees and to integrate them into existing farming systems.”

Article 13 goes further to encourage States Parties to involve women in of the recognition that, in Africa, they are responsible for gathering fuelwood resources for household use. It is expected that State Parties shall develop regional guidelines related to participation of women in sustainable management of forests.

Protocol on Fisheries. It recognises that the importance of the role of fisheries in the social well-being and livelihood of the people of the region, as well as the need to ensure participation of all stakeholders in decision-making processes at appropriate levels.

Water-related:

Revised Protocol on Shared Watercourses. It is the major transboundary projects and bodies such as the Orange/Senqu Commission that are at the forefront of implementation of this protocol. Mobilisation of communities on the ground is, of necessity, an integral part of it.

HIV/AIDS-related:

Protocol on Health. The Protocol entails a principle of broad participation which includes that of communities in implementing it.

The SADC Strategic Framework Programme (2000-2004) and (2003-2007) adopted in July 2003 the need for building partnership with all stakeholders which include civil society, cultural and faith-based organisations, tripartite social partners, Non-Governmental Organisations, traditional healers, the private sector, international institutions, cooperating partners and the media.

2.4.4 NEPAD and WSSD

Unlike the mandate of the Organisation of the Organisation of African Unity (OAU), that of its successor, the African Union (AU) has been provided with more teeth to make it more effective. The creation of AU was modelled along the same principles as the European Union (Bruch, 2002), with one of the pillars as the entrenchment of good governance in the Constitutive Act of the AU. A conducive environment has been created to stimulate some discussions and development of a plan that will lead to Africa’s home-grown multi-lateral agreement on public participation in decision-making on environmental matters, access to information and access to justice. AMCEN’s² Kampala Declaration on the Environment for Development, approved in Uganda in July 2002, captures the importance of environmental governance, and recognises that “ success in achieving global sustainable development will ultimately depend upon development and

² African Ministerial Conference on the Environment

implementation of sound and cost-effective national response policies and measures; good environmental governance, effective participation by civil society and collection and exchange of quality data and information on the environment for use by national decision-makers". The Declaration also endorsed a proposal to establish a comprehensive information network to promote access and harmonisation of data in Africa and to act as a basis for tracking environmental changes using quantitative indicators focusing on national needs (Bruch, 2002).

There are intentions by NEPAD to strengthen capacities within Member States in promoting public participation and decision-making. Statements of intent still need to be translated into actions. This SAIEA-supported project, therefore, comes in at an opportune time to activate this process, though it has been observed that NEPAD has not yet filtered through to other levels beyond Heads of State.

2.5 Public Participation Methods

2.5.1 Best suited international public participation methods

Development practitioners in the region employ several participation methods/techniques used internationally for various context-specific tasks and situations. Some methods are workshop-based while others are community-based; and are designed to address specific objectives of citizen engagement. These different types of public participation are relevant for particular situations, objectives and stakeholders. Thus there are specific methods used to i) inform stakeholders and gather information which form the basis for decision-making; ii) consult interested and affected parties (I&AP) and thereby get questions and feedback, iii) involve stakeholders in the decision-making process as well as the implementation of the decisions taken; iv) collaborate or partner with stakeholders and share decisions in such a way that stakeholders take part in the evaluation of situations and also develop action plans. This includes capacity building which is achieved by either strengthening the existing local institutions or forming new ones where they do not exist; and empower or place the final decision-making to be responsibility of the citizens such that citizens are enabled to change plans or policies without external assistance. The World Bank participation sourcebook describes ten of these methods and these are summarised in (Annex 2). International methods such as the Appreciative Participatory Planning and Action (APPA) and Appreciative Inquiry (AI) are briefly described below. The summaries provide a basis to show how they are best suited to the southern African context.

Appreciative Inquiry

Paradigm change - strengths as opposed to problems

Description: “Appreciative inquiry is a way of seeing that it is selectively attentive to — and affirming of — the best and highest qualities in a system, a situation or another human being. It involves an appreciation for the mystery of being and a reverence for life. The appreciative approach involves collaborative inquiry, based on interviews and affirmative questioning, to collect and celebrate the good news stories of a community—those stories that enhance cultural identity, spirit and vision.”

This approach is premised on community's/organisation's accomplishments instead of its problems. It seeks to go beyond participation to foster inspiration at the grass-roots level. It was developed in the 1980s by David Cooperrider at Case Western Reserve University, mainly to help organisations polish their competitive advantage. It is based on the premise that ‘organisations or communities change in the direction in which they inquire.’ Meaning that an organisation that inquires into problems will keep finding problems, while one that tries to appreciate what is best in itself will discover more and more of what is good, and can then pursue these discoveries to build a new future where the best outcomes are common.

Operation or process: There are four steps to the appreciative approach as depicted by the diagram below.

Stage 1: The discovery phase – appreciating what exists in terms of “peak moments of community or organisation excellence—when people experienced the community in its most alive and effective state.”

Stage 2: The dream phase - the current state of affairs is confronted by visualising the preferred and required prospects.

Stage 3: The design phase – construction of a strategy to carry out proposals resulting from stage 2.

Stage 4: The destiny phase – entails the delivery of new imageries of the future and is a time of non-stop learning, modifications and creativeness in the service of joint organisation/community standards.

“Appreciative inquiry is a continual cycle. The destiny phase leads naturally to new discoveries of community strengths, beginning the process anew.”

Success attributes: “Practitioners of appreciative inquiry believe this approach is true to human nature because it integrates different ways of knowing as it allows room for emotional response as well as intellectual analysis, imagination as well as rational thought. The approach is described as being: appreciative, applicable, provocative and collaborative and is founded on the following principles:

- Constructionist principle - hypothesises that inter-linkages exist between social knowledge and community/organisation destiny.

- Principle of simultaneity - “recognises that inquiry and change are not separate moments, but occur together.”
- Poetic principle - human organisations, including communities, are an open book that tells a story that is constantly being co-written.
- Anticipatory principle - current behaviour is guided by images of the future.
- Positive principle - momentum for change requires positive thinking and social Bonding - qualities like hope, inspiration and joy in creating with one another.

Application: The International Institute for Sustainable Development (IISD) and its partners apply this approach in its pilot projects to share lessons learned with the development community at conferences, workshops, and through their website. IISD “believes that the appreciative approach has the potential to transform development from an act of charity—giving training or material to those less fortunate than us—to an act of empowerment—helping local people identify their strengths, imagine a better future based on their current capacities, and then move toward that future.

IISD is of the opinion that emphasising community strengths has the greatest potential to advance sustainable development at the community level. Through nearly a decade of fieldwork in five African countries, IISD has developed a sustainable livelihoods model that builds on local strengths by identifying and reinforcing the adaptive strategies that local people often develop to maintain their livelihoods in adverse circumstances. To enhance its livelihoods approach, the institute is now testing a new community development method called appreciative inquiry.”

Source: IISD (2000); New Paradigm Consulting (2003).

Appreciative Participatory Planning and Action (APPA) is an extension of AI and is described below.

Appreciative Participatory Planning and Action (APPA)

Background: APPA builds upon the following participatory approaches: a) Participatory Rural Appraisal (PRA), b) Participatory Learning and Action (PLA) and 3) Appreciative Inquiry (AI). It is undertaken through a planning and management process which has four levels/stages as in AI. These participatory learning stages are in such way that people are empowered by acquiring and affirming knowledge and also by building ownership of actions that have been designed in cooperation.

Operation: APPA operates on two basic, complimentary premises: 1) What you look for in a community, organisation, or individual is what you find. If you seek problems, you will find problems, or conversely, if you seek success, you will find success; and 2) What you believe is what matters most. If you have faith in your objectives and goals, and if these are believable, you can achieve substantial progress. APPA is practiced through a 4-phase iterative process (the 4 Ds), in which participants or communities: 1) Discover strengths, valued resources, and

characteristics; 2) Dream, or envision, what could be possible within a certain time period if resources were mobilised; 3) Design a plan for guiding action towards future goals and objectives; and 4) Deliver by implementing the action plan.”

Application: The Mountain Institutes applies APPA as a community planning and organisational development tool and has come up with positive outcomes. “Community organisations in India, Nepal, and China have used APPA to develop community plans that they are now implementing with their own resources, even after the conclusion of project support. In communities where APPA was used, villagers report significant changes in local peoples’ understanding, attitudes and behaviour toward conservation and community development: e.g., villages and trails are cleaner, lodge operators use kerosene in place firewood and donate a portion of their profits for conservation activities, poaching and predation are controlled, and marginalised ethnic groups and women are more confident and have a stronger voice in community affairs. Based on their successful work, communities have received financial and technical assistance from local government, national park, and international and national NGOs to help them implement village tourism plans.”

Success attributes: The success of using APPA in community planning and implementation is attributed to:

1. Stakeholder participation ;
2. A Community-based Approach;
3. Sustainability through Community Empowerment and Capacity Building.

Source: New Paradigm Consulting 2003.

2.5.2 Adopting international methods to local conditions:

It became apparent from the responses of the survey and the literature that community participation practitioners are already employing most of the international approaches, especially Participatory Rural Appraisal (PRA), Participatory Learning and Action (PLA), and various workshop methods to identify problems, resource constraints, insufficiencies and unfulfilled basic needs. As mentioned earlier, these approaches undoubtedly attain the following: (a) promote participation, (b) stress the significance of local knowledge, and (c) deal with existent problems. On the other hand, the responses reveal that the appreciative approaches are not widely used or known in spite of the fact that proponents of the appreciative approaches claim that traditional approaches like PRA, PLA and others “often fail to sustain community participation after the implementing organisation withdraws” as expressed on the following statement which advocates for the extension of the traditional approaches into the appreciative approach:

“Generally, development agencies use these approaches (PRA, PLA, etc) to search for and identify community problems. They generate volumes of data that provide great detail on the origins and consequences of local needs and resource constraints. Interventions to address the problems are then developed, usually by consulting with the local community. But at the end of such an approach local people, not surprisingly, often view their community as a place full of problems and needs, most of which require the help of outsiders to overcome. By creating and reinforcing this identity through ongoing exercises during the project cycle, these approaches could have a dis-empowering effect that contributes to the development workers being viewed as the agents of change in the community, rather than the community members themselves. This viewpoint establishes and entrenches a sense of dependency in the community that the agency must then work to overcome. These unintended consequences illustrate the need for a shift away from the problem-oriented methods toward processes that build on community achievements, existing strengths and local skills. Development organisations need better methods for engaging local people, so that they can help communities create a shared vision of an equitable and sustainable future and then move toward it through locally initiated and managed project activities. Such methods need to be complemented through capacity-building initiatives at the village level so that community members are able to measure progress toward their vision and to modify their strategies as local circumstances change.” IISD 2000.

The fact that respondents did not mention the use of the appreciative approaches might not mean that these approaches are not best suited to the African context. The debate for these approaches warrants their introduction and piloting in southern Africa.

2.5.3 Adopting traditional African methods for EA and public participation

The importance of employing appropriate approaches is emphasised in the literature (Department of Environmental Affairs and Tourism, 2002) and from the discussions with the stakeholders, especially for the engagement of citizens living in remote areas or minority groups. Traditional citizen engagement approaches could be regarded as being appropriate within this context. However, the practitioners need to be aware of some key issues as described below.

- 1) Most African communities have throughout the centuries been working as communities and are used to volunteering towards further communal activities. This history is a strength that will, however, require incentives so that it can be strengthened. There are community fora, which are used for decision-making processes like public gatherings or communal festivals. For instance, there are communities in most countries where elderly and married men meet daily to advise the local chief on important community issues. Some of these can be tapped on to engage citizens in the decision-making processes, albeit to the exclusion of women.

- 2) African communities are not homogeneous and have their own various ways of engaging citizens in decision-making. These public participation processes are commonly characterised by male dominance. Being predominantly patrilineal, women especially in rural areas are regarded as perpetual minors in decision-making, the same for youth. Women are in most cases implementers instead of decision-makers. Key positions within the community based decision-making structures are primarily occupied by men. Furthermore, the most important decisions are taken during the community discussion fora that, in most cases, exclude women and youth. Knowledge of this state of affairs provides the context from which EA and public participation practitioners could adopt traditional approaches. Respect and knowledge of complexities within the communities' social fabric is an entry point for sustainable environmental decision-making. Also, other mechanisms have to be devised to involve those sectors of the public that are traditionally marginalised members during decision-making. The issue of dominance is not confined to male versus female but also adults versus youth within the same gender and can be driven by the rich and most influential community members. In most traditional contexts, the more affluent members of the community tend to be more vocal and overshadow the relatively poor. These are some of the issues that have to be considered when adapting traditional involvement mechanisms into EA.
- 3) Knowledge that has been gained in gender related studies and other social analysis research could provide relevant lessons on the relevant approaches as well as best and worst practices to be considered when using traditional methods and so as to avoid inherent pitfalls.
- 4) The strong points of traditional methods are threatened by poverty in most countries. The traditionally strong community networks and collaborations mechanisms are continually being eroded by socio-economic conditions because people now concentrate on the immediate nuclear family needs and at the expense of family requirements and community.

3.0 MAIN DISCUSSIONS ON THE STUDY FINDINGS

3.1 An Overview of Land and Natural Resources Management: Literature review

Community-Based Natural Resources Management is about the ways in which local people use resources. Information contained in this section is based on the best available information to the consultant at the time of research. Historically, this is based on informal resource use as well as formal resource use. The informal resource use is more flexible. The reason for this variation is not far fetched. The informal sector is regulated by the traditional norms while state laws regulate the formal sector.

Alden (2003) wrote on democratising the commonage: the changing legal framework for natural resource management in eastern and southern Africa with particular reference to forests. He opined that the traditional African land tenure system has been held with low regard in favour of European modes of entitlement. He also held that increasingly valuable local properties are being acquired by the state as government lands on the assumption that “the state is the only legal guardian of such estate and rightful primary beneficiary of their values (timber, wildlife and tourism) (Alden and Mbaya – in Press). This land acquisition by the state (as landlords and not mere trustees) has grown from strength to strength. Claussens (2000) summed these observations by comparing some southern African countries thus: at independence neither Malawi, Namibia, Uganda nor Zimbabwe were able to liberate their lands from state ownership to communal lands.

It has been observed that instead of a shift towards traditional land ownership, the post independence era witnessed a further shift by endorsing more of state ownership as opposed to the original communal land ownership (Alden, 1998). The need for a change towards community ownership of land is gathering “momentum” through new laws and land policies. Nonetheless, the realisation of this change seems to be far from reality in the near future. A drastic move towards land allocation on the basis of statutory and customary spheres was proposed in Zimbabwe (Government of Zimbabwe, 1998). The law stipulates “all are equal in status, and interests under each of them, enjoying adequate security of tenure under law”.

Alden (1998) indicates that in Uganda, Mozambique and Tanzania the customary tenure gives the community free hand of operation but opposes the laws whether customary or conventional which deny women, children and the disabled their rights. To advance more towards community-based tenure, Tanzania has gone to the extent of embedding a community-based tenure strategy in the state machinery (Government of Tanzania, 1994). This approach led to adoption of village governments in the form of councils headed by elders, who are charged with administering land in the village on the basis of customary norms. The South African draft Land Rights bill of 1999 also propose a shift from individualistic land ownership to more of community land ownership that will enable decision-making by community members.

3.1.1 Land Laws and Community Forest Rights

The emergence of communal land laws across the sub-region seems to suggest a lesser involvement of the state over land and more of community participation. Hence, there has been an increased involvement of the private sector, non-governmental agencies, and local communities in the management of the forest and forest resources. It is now possible for communities to create and manage their own forest reserves through the new forest laws that have been promulgated by some countries such as Tanzania, Namibia and Lesotho. In each of these countries, new laws and policies declare creation of forest reserves as a new “class” of reserves. These laws, in principle, are also supported in Malawi, which has a clause for village forest areas. Mozambique supports only forests created for socio-cultural purposes (see Government of Tanzania, Government of Namibia, Government of Lesotho, Government of Mozambique).

3.1.2 The Power Conferred for Land Management

Different countries in the region propose structures for land management that they deem appropriate. Some countries shape their land laws around power sharing. For instance, the local resource management council in Mozambique forms management committees; in Zambia there are management authorities; in Namibia there are resource management committees and in Zimbabwe all have the responsibility of allocating access rights among local community members.

In the above structures, the management of land resources are vested in the committees. Whereas some of the countries have clearly defined manners and mode of operations for the land management, others do not. For instance, the Tanzania bill stipulates the roles and responsibilities of village forest management committees. The committees are created by election and are fully empowered in land matters. They can determine, on their own, who accesses the forest and the purposes for which they can be used. This power is to a large extent functional in Lesotho, though all land belongs to the King and administered by the Chiefs. The village development committee elected by the community, and responsible to the Chief, examines requests for land on the basis of an application form and measures out the size of the land to the beneficiaries.

It is to be expected that the power to manage land and natural resources will gradually and more increasingly be handed over to the local communities. This is not to a complete and absolute extent, but to a degree that will give a sense of ownership and commitment for the communities. It is also to be expected that state acquisition of land and natural resources will continue for the ultimate good of the community.

a) Lesotho experience in land management

The Government endorsed the 1972 Stockholm Declaration, 1992 Rio Declaration, Convention on the Protection of Fauna and Flora; Convention on Fishing and Conservation of the Living Resources of the High seas, Convention on Climate Change, Convention Biological Diversity; Montreal Protocol and, the Environment principles

contained in the SADC policy and strategy for environment and sustainable development (Ministry of Environment, Gender and Youth Affairs, 1999).

Lesotho has developed an environment policy, which has the overall goal to achieve sustainable livelihoods and development for Lesotho. The policy sets out laudable development priorities which include, among others, combating poverty, managing demographic dynamics for sustainability, protecting and promoting good health, a good and healthy working environment, promoting sustainable development of human settlements and integrating environment and development into decision-making process.

The sustainable initiatives meant to bring about positive changes were geared towards such programmes as land resources management, agriculture and food security, sustainable rangeland and mountain development, conservation of biological diversity, prevention of climate change, fighting against drought and desertification, energy resources, deforestation and water resources management.

The policy further emphasises that in implementing the environment policy, participation of stakeholders will be encouraged through women empowerment, NGOs, the business sector, science and technology development; public participation in decision-making and programme implementation processes. To ensure the implementation of this policy, it was backed up by legal framework where one guiding principle was to promulgate laws for enhancing principles for sustainable development that take into account the political, social, cultural and economic dimensions prevailing in the country.

Furthermore, a periodic policy monitoring and evaluation procedure was initiated. One of the functions of the monitoring and evaluation (M&E) unit was to ensure a linkage between poverty and environment, with a view to ensuring sustainable development. Also, the monitoring and evaluation is to ensure that all sectors of society, especially the disadvantaged and vulnerable groups such as the poor, women, old, children and others, are integrated in the policy implementation plan.

Lesotho also endorsed Agenda 21, which emanated from the World Summit in Rio in 1992, and Johannesburg Summit in 2002. In particular, the Johannesburg Summit produced the Johannesburg Plan of Implementation (JPI) that seeks to eradicate poverty and, change unsustainable patterns of economic and social development. Lesotho's working document on this is the Sustainable Development Action Plan.

In promoting the need for sustainable development, the Principal Secretary of the Ministry of Tourism, Environment and Culture reiterated the Lesotho environment status thus:

“ Lesotho's environment is characterised by poor management, large portions of land have been taken over by gullies and the top soil has been eroded. The problem of landlessness is on the increase and encroachment into agricultural lands is continuing. There is a problem of overgrazing, loss of important ecosystems, and species, over reliance on biomass fuel for household energy” (National Environment Secretariat, 2003).

With respect to community or public participation in resource management, it should be emphasised that Lesotho is a democratic country. Suffice to say that like any other African nation, the traditional informal land management system is fast being eroded away while the formal, government system is gaining ground. Most of the traditions, norms and practices are being transformed to modernised formal system. More interestingly, it could be observed that the formal system in Lesotho seems to be adopting a parastatal approach in order to incorporate the informal traditional system. The informal system is constantly being reconstructed by the newer formal system. Hence, the government is seen as decentralising powers to local government level by providing a system of laws and regulations to govern operations at the local level.

Before the advent of the colonial rulers, the Basotho traditional system of government existed. The King was the overall Head of State who was supported by the Chiefs who headed the villages, and were directly accountable to the King. The King is the custodian of the land, and the chiefs are “support staff” in matters relating to the political administration and land management. However, land is vested in the Basotho Nation. Hence, land can neither be sold nor bought. Similar to other SADC nations, such as in the Barotse land in Zambia, land for agriculture, housing and other purposes are assigned by the chiefs on behalf of the King. Land can be inherited but can also be reallocated if not utilised for up to a period of three years in Lesotho. Government, through legislation which draws its powers from the Constitution, has authority to intervene in administration of natural resources and land matters. For example, the Land Husbandry Act of 1969 and Land Act of 1979, and their respective regulations. Whereas in the past in the rural areas, land allocation was done solely by chiefs, they now have to work within the purview of a land allocating authority which comprises elected members and a chief as an *ex-officio* member.

This land tenure system has been seriously influenced by the greed of chiefs who use their position to amass land for themselves or to allocate land to their loved ones. Through the process of inheritance (usually in favour of first born son), a good portion of land remained unutilised by those who inherited them but lacked land management skills and experience. Such land is either converted from farmland to residential land, allowed to become fallow or even reallocated.

In redressing issues outlined above, through the formal, legal and political systems, the government of Lesotho has recently adopted a system of good governance, which entails exercising economic, political and administrative authority in a manner that is transparent, accountable and participatory. To this end Lesotho has committed itself to the principles of transparency, accountability and public participation (United Nations, 2000).

Lesotho has gradually moved towards the establishment of an effective and well-resources local government system. It is believed that local government systems can increase the capacity of public agencies and their responsiveness to help build local committees (UN 2000). It is also hoped that it will be building local capacities for the people’s management of their own affairs.

b) Namibian experience in land management

Corbett and Jones (2003) assert that the economy of Namibia is heavily dependent on natural resources. Over 65 percent of the population lives in rural areas and they are dependent on land for a living. Namibia, like most traditional African societies, has a system of customary law, which relates to the governance of the community in general. However, the Communal Land Reform Act of 2002 seems to have ultimately transferred authority over, and rights to, the allocation of communal land from traditional leaders to communal land boards. This does not exclude the traditional leaders. The powers of the traditional leaders are subject to the approval of the board. The board is elected by the community and hence is responsible to the community. This method enables and guarantees that communally generated income is used and distributed in an equitable manner.

Blackie (1999) opined that CBNRM bodies would be the lowest and most democratic government level. He felt that these bodies would be able to influence the government substantially on the behalf of their respective communities.

Corbett and Jones (2003) reiterated that Namibia seems to be progressing in the formation of community based institutions through the management of CBNRM. Sibanda (2001) and Ntsebeta (2001) investigated the experience of traditional leadership in CBNRM in South Africa. They observed that the natural resource management success is hindered because traditional authorities were not sufficiently empowered due to the past political legacy, though the state of affairs after 1994 elections is steadily changing for the better, and this applies for Namibia as well.

However, it has been observed that there is still a wide gap between policy and implementation in Namibia, which has made the effectiveness of the policy instrument volatile. The Namibian government recognised the fact that the ownership of the natural resources belongs to the people who have lived with them over the years. The government is in support of community empowerment and there is need to have the ownership of limitable game, forest and water resources through community leadership. Such transfer of ownership to the traditional leadership is a key to solidifying the concept of democratic governance at the grassroots. In such situations, communities are able to rise to the challenge of able, mature and accountable leadership. There are successes, problems and gaps in the Namibian CBNRM experience which provide valuable lessons (both positive and negative).

c) Zambian experience in land management

According to Munalula (2003) the western province areas of Zambia (Barotse) has a system of government, which was established as far back as 1600. In this system, the King has the overall power over land. Although repealed at independence because of the strong centralised traditional laws and court system, it is still very much rooted in the system of land administration. The King has a Cabinet, which oversees the administration

through land allocating authorities, and chiefs who act as *ex-officio* members of the land issues and other communal matters. The community is divided into “chiefdoms” each headed by a chief with the support of a number of assistants. Within each chiefdom, there are a number of administrative areas subdivided into a number of villages, made up of households. The household is the smallest arm of the government.

In each household, each person (male or female) has allocated land from a very early age for farming, or other socio-economic use. Inheritance of land is strictly within the household membership. According to Munalula (2003), a homestead community is the second level of government after the family. This government level has its own administrative structure with a set of advisors who allocate land and resources. However, unlike the family, the community has land and natural resources that are jointly owned, and the usage by such are strictly based on consultation and consensus.

The regional government is the next level of government. There is a council consisting of a group of communities. The head is a chief appointed by the King. The government has three houses of Parliament representing the citizens and making decisions on their behalf. There are five cornerstones of the Barotse legal system. These are the laws, rights, right of particular position or social status, methods or ways of doing things and an offences or wrongdoings. There are laws in relation to acquisition use and disposal of natural resources. The custodianship of land and natural resources is vested in the King who is the overall Head of State. However, he cannot find, act or behave in any obnoxious manner. Hence, there is a check and balance in this respect.

In terms of land matters, the King is obligated to provide land for all his citizens for building and collecting wild fruits not grown in cultivated gardens. He has the right to distribute land previously allocated but abandoned, and to allocate previously unallocated land to subjects and new comers. In turn, every citizen has the duty to manage, use and protect the land and resources allocated to him/her. In summary, land resources are controlled for the people and by the people with the support of the Constitution.

Munalula (2003) concludes that the best method of natural resources conservation is community-based, which will ensure that the benefits accrue to the people. He states that the current practice in Zambia places much emphasis on the state. Hence, the community develops attitude of indifference. He indicated that there is need for strengthening the traditional system in order to face the present challenges of high poverty levels, population increase, poor economy, knowledge gap and modernisation.

3.2 Issues of governance, participation and EA legislation in SADC Countries

This section deals with issues of governance and environmental legislation with a view to bringing out how far each country is on the issue of democratisation process, which is one of its key fundamental principles in conferring decision-making power unto the people; and how the Environmental Assessment has further entrenched the power of people to make decisions through public participation process. However, as stated in the methodology section, the Consultant sampled and visited five countries in the SADC

region; namely Lesotho, Namibia, South Africa, Swaziland and Zimbabwe. Thus more information was obtained from the “sampled” countries than other countries. The information on the EIA systems for those that were not included in the sample was obtained from the SAIEA publication (2003) - “Environmental Impact Assessment in southern Africa”. Hence the disparity in terms of the amount of literature (information) available for analysis because some of the information from other countries especially on governance and constitution were not on the web, so each country report as will be seen below is based on the best available information during the time of data collection.

3.2.1 Angola

(From V. Russo, P. Roque & H Kruggmann – In SAIEA 2003)

a) Legal framework

The Constitution

Articles 12 and 24 of the Constitution is the basis for the Environmental Framework Act No.5), which was approved in 1998 by Parliament. Article 12 states that “the State shall promote the protection and conservation of natural resources guiding the exploitation and use thereof for the community as a whole; and Article 24 declares that: “All citizens shall have the right to live a healthy and unpolluted environment; the State shall take the requisite measures to protect the environment and national species of flora and fauna throughout the national territory and maintain ecological balance; acts that damage or directly or indirectly jeopardise conservation of the environment shall be punished by law.”

The Environmental legislation

The Environmental Framework Act is not the only legislation governing environmental issues; it is accompanied by a variety of sectoral legislation, most of which embrace the requirement to execute environmental impact assessments (EIAs) for new projects likely to affect the environment.

b) The EIA process

Article 16 of the Environmental Framework Act proposes seven steps that should be carry out in the EIA process, which can change depending on the situation and project. These steps are as follows:

Box 4. The steps within the EIA process for Angola

- A non-technical summary of the project;
- A description of the activities;
- A general description of the state of the environment of the chosen locations for the project;
- **A summary of the options and criticisms resulting from public consultations;**
- A description of possible environmental and social change caused by the project;
- An indication of the measures foreseen to eliminate or minimise negative social and environmental effects; and
- An indication of the systems foreseen to control and follow up project implementation.

Article 17 deals with the issue of licensing and Article 18 with environmental auditing.

Citizen engagement

Projects that require an EIA have to adhere to stakeholder engagement process, which starts by communicating the more important likely impacts of the project to the public. The public is given a period of 20 to 60 days to comment and the comments are compiled into a summary report. However, the majority of the EIAs demonstrate a very narrow involvement of interested and affected parties. Furthermore, the part played by the local media in the EIA is minor. “The media in Angola typically focuses on covering daily events and activities rather than exploring environmental issues, due to the lack of skills and interest shown at management level. A noteworthy exception is the *Juvenlude Ecologica Angolana* (Ecological Youth of Angola), an environmental NGO, which has for the last seven years been using radio programmes to report on EIA processes, raise public awareness of environmental issues, and inform people about the progress and outcome of projects affecting their lives and environmental.”

Moreover, the majority of information on EIAs in Angola has been published by the international media and foreign organisations instead of local media.

3.2.2 Botswana

(From M. Mpotokwane and K. Keatimilwe: In SAIEA 2003)

a) Legal Framework

Botswana does not have EIA legislation or any constitutional clauses for the protection of the environment, but EIA legislation is being developed and should be considered by Parliament during 2003. This legislation is expected to strengthen the effect of EIA in decision-making by providing for the assessment of policies, programmes and projects before their approval. The legislation will include a list of mandatory projects to be screened, and a definition of ecologically sensitive areas, scoping, assessing impacts and alternatives, and monitoring for compliance with prescribed mitigation measures. The legislation will also include the right of appeal. Under the proposed legislation Category A projects will require a full EIA, Category B projects will require a partial EIA, and the projects falling in Category C will not require any EIA.”

Current environmental legislation is found within a wide range of sectoral Acts which recommends that EIAs should be undertaken, however this is just a recommendation it is not mandatory. The current environmental law does not make stipulations for interested parties to ask for rectification in cases of any environmental damage except if they are directly affected.

b) Citizen engagement

Citizens are commonly engaged in development issues through public meetings conducted within some communities in the project vicinity. The rationale for these meetings is to get hold of the public’s position on significant issues. Most of these consultative meetings do not have record keeping mechanisms about the populace consulted and the issues tackled, thus it is difficult to determine how effective public participation has been.

3.2.3 Lesotho

a) Legal Framework

The Constitution and Governance

Lesotho gained its independence as a British Protectorate in 1966, with the adoption of a new Constitution in 1993. There was a parliament for five years, which was followed by political turmoil resulting in the suspension of that Constitution in 1970. In 1986 the military took over the reigns of government, and instituted an Interim Constituent Assembly that then prepared another Constitution leading to new elections in 1993. A new parliament and a new democratic government were installed under this Constitution, which is being used to govern the country today. Another political uprising occurred following the 1998 general elections because the opposition expressed dissatisfaction with the outcome of the elections. This resulted in the intervention by SADC, and an Interim Political Authority was set up to prepare for fresh elections. It was during this period when the Constitution was amended to change the electoral system from “first-passed-the-post” or “winner-takes-all” to a mixture of this with proportional representation. There are now eighty seats in parliament comprising members elected from the constituencies, that being the first-passed-the-post. In addition there are forty seats for members from the proportional representation of the political parties that contested the elections. This makes a total of 120 parliamentary seats.

All these disturbances have impinged on the democratic rights (freedom of activity) of the citizens that are so well embedded within the Constitution. Citizens are now impeded from effective participation in development programmes. While Lesotho was regarded as one of the fastest growing economies in Africa in the late 1990s, it has regressed considerably. For example, Lesotho’s gross domestic product (GDP) averaged 8 percent between 1991 and 1996, but dropped to –4.6 percent in 1998 as a consequence of the political unrest in 1998. It grew to 1.3 percent in 1999, 2.7 in 2000 and was projected reach 4.3 percent in 2002 (Minister of Finance 2003).

The Constitution provides for a governance structure that has the Parliament, Executive and the Judiciary at the central level. It stipulates that local authorities shall be established by an act of Parliament in line with the Constitution. The structure of local government has four tiers – Community Council, Rural Council, Urban Council and Municipal Council. Elections, soon to be held (no date yet, arrangements advanced) will be conducted by the Independent Electoral Commission to ensure transparency, secret balloting, freedom and fairness. Up to now, previous elections stemming from the old structures now in transition have lacked these attributes. These did not allow for true democracy to take root to ensure that the public is fully engaged in decision-making in the affairs that would improve their quality of life.

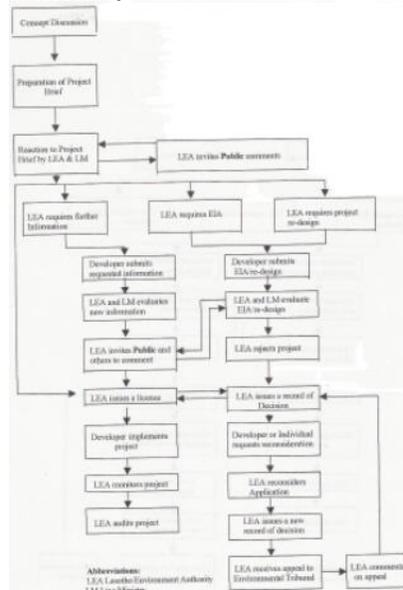
According to the Constitution, under the chapter on Principles of State Policy, clause 36 on Protection of Environment reads:

“Lesotho shall adopt policies designed to protect and enhance the natural and cultural environment of Lesotho for the benefit of both present and future generations and shall endeavour to assure to all citizens a sound and safe environment adequate for their health and well-being.”

Environmental Legislation

The Environment Act No.15 of 2001 was passed by Parliament but has not yet been given commencement date in a gazette. The Act makes mention that the developer shall, for the first step, prepare a project brief (Figure 1) which should, among others (here showing only as far the people which are affected), state the number of people that will gain employment from the project. The Act then stipulates that once environmental studies have been carried out, the environmental impact statement shall be open for public inspection, and may be reviewed by any person. The responsible authority is then expected to review the environmental impact statement, and in so doing at its discretion shall:

Figure 1. Procedural Steps for Environment Impact Assessment in Lesotho



- Invite the public to make comments on the environmental impact statement in general;
- Invite those persons who are most likely to be affected by the proposed development;
- Require the holding of a public hearing for persons most likely to be affected by the proposed project or activity, only if deemed necessary;

To assist in the implementation of the Act, general guidelines for environmental impact assessment have been designed. In the first step of preparing a project brief, it is required that preliminary consultations are made with all the interested and affected parties. The guideline defines this as “individuals or groups concerned with an activity and its consequence”.

Interested and affected parties (I & AP). In Lesotho, these may be determined from established lists and groups networking in the area. In certain proposals there may not be clearly definable groups in which case the public may be notified through the media, but there must be caution in doing so. For instance, it is often said that though Lesotho has one of the highest literacy rates in Africa, and the fact that there a number of newspaper in the language (Sesotho) understood by the majority, the people nevertheless lack a culture of reading. So, advertisements in newspapers will not be sufficient. Most people do listen to radio; it may, therefore, be the best way of reaching a large number of “publics”. The methods for notifying rural and disadvantaged communities about proposals and opportunities for their public involvement need special consideration. The onus is on the developer to ensure that all interested and affected parties have been informed about the proposal and their input sought. It is recognised that notification does not mean seeking permission from the interested and affected parties, but that failure to involve them early may jeopardise the project’s implementation success later.

Publication of Project Brief (PB) or Environmental Impact Statement (EIS). Upon receipt of the project brief, the authority will (1) publish it in at least three newspapers circulating in the country, giving a summary of the contents of the brief; (2) provide copies of the summary to the communities; where the project will be situated or on which it will have significant impact, and such other information as may be deemed necessary for them to understand and make informed input; and (3) consult with those communities and consider their views and information. The project brief will be made available for public inspection and copying at a time and location determined by the authority.

Public Hearing: a democratic way to information. Depending on whether the authority deems it necessary, a public hearing to invite all interested and affected parties shall be held within the vicinity of the proposed project. The developer may decide, in any case, to hold a public meeting to enable the interested and affected parties to bring forward their opinions on the proposed project. People of Lesotho are used to these kinds of meetings in Lesotho, traditionally referred to as “*pitso’s*”. Many consultations are carried this way; amongst the most important were the current 1993 Constitution of Lesotho and the Land Policy Review Commission of 2000.

The developer shall then inform the authority about the intention to hold a public hearing, place and venue, date and time, invited stakeholders and how the I & AP are to be invited. The developer shall further invite the authority and relevant line ministry to such a hearing. The developer is required to appoint a facilitator who shall compile all relevant questions and requests presented at the meeting and submit written conclusions.

A description of the intended public participation process shall be forwarded to the authority as part of the Project Brief.

3.2.4 Malawi

(From P.J. Spong and B. Walmsley: In SAIEA 2003)

a) Legal Framework

Environmental Legislation

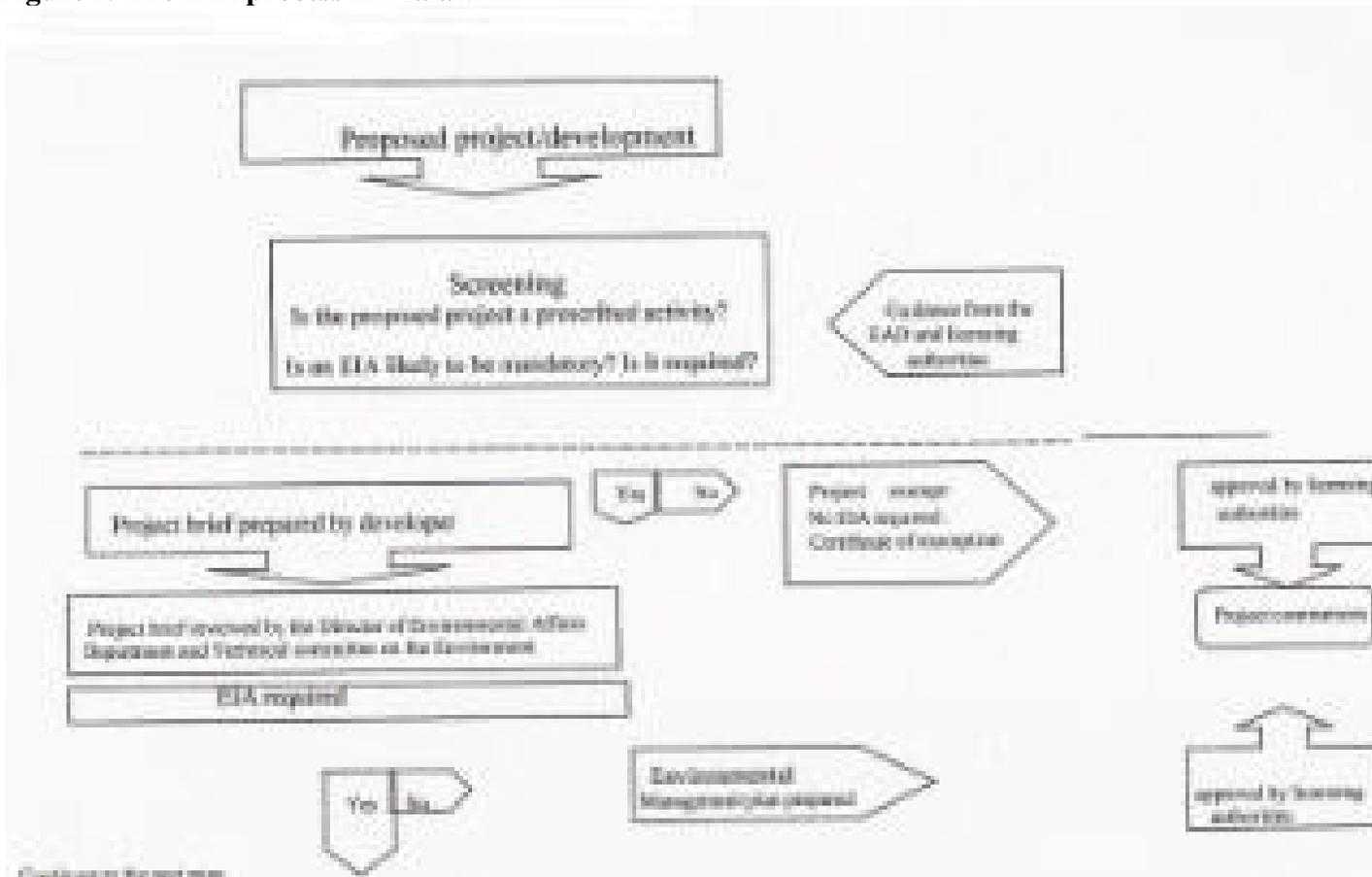
The administration of the environmental impact assessment (EIA) process and granting approval of EIAs is facilitated by the Environment Management Act, No. 23 of 1996 (EMA), which is an umbrella legislation and consequently supersedes all other environment and natural resource legislation. The Malawi EIA process is provided in figure 2 below. EMA is supported by the Constitution that acknowledges and supports accountable environmental management as a major input in ensuring that all development initiatives are sustainable.

b) Citizen engagement and Media coverage

Stakeholder engagement is mandatory within the EIA as per the stipulations of EMA. However, public participation is biased towards key stakeholders and places less emphasis to the local communities that are likely to be affected by the project. On the other hand “Media coverage of environmental issues in Malawi is well established” as it is acknowledged that:

- “The Malawi Broadcasting Corporation airs 14 environmental radio programmes per week, four in English and the rest in local languages. An evaluation of these indicates that they have played a significant role in creating public awareness on environmental issues;
- The forum for Environmental Communication, established in 1999, is a forum where journalists report on environmental issues, including EIA;
- A column on environment issues appears weekly in the print media.”

Figure 2. The EIA process in Malawi



3.2.5 Mauritius

(From P. de Boucherville Baissac: In SAIEA 2003)

a) Legal Framework

The Constitution

The 1968 Constitution of Mauritius has no section that exclusively addresses environmental protection, thus there is no jurisprudence on which the Supreme Court can base its decisions and take action. However, the Environment Protection Act, No. 19 of 2002 deals with issues of environmental management.

Environmental Protection Act

The Environmental Protection Act (EPA), No.19 of 2002 provides for a licensing system that calls for either preliminary environmental approval or an EIA license for a range of activities such as minor activities as well as strategic developments. Minor activities require a preliminary environmental report and major ones require a full impact assessment and an EIA license. Other activities and projects not on the list are exempt from the EIA process.

Strategic environmental assessments (SEAs) are also included within Schedule 1 of the Act that lists activities that require an SEA such as major plans and programmes (master plans, solid-waste management plans, water management plans and the National Physical Development Plan).

b) The EIA process

The EIA procedure as per the requirements of the legislation, the EPA entails the following:

- Inception stage - The project developer has to inform the Director of the Department of Environment at least three months before submitting the application for an EIA license.
- Ministries likely to be involved in evaluating the project are given a copy of the project document.
- A joint site visit by the EIA committee, the consultants and the project developers is undertaken.
- The terms of reference for the EIA report, the fields of study to be covered, and the levels of expertise and the qualifications of the consultants to sign the report are enforced by the Director.
- Submission of the EIA to the Department of Environment where the public is invited to make comments. The EIA Committee reviews the documents and advises the Minister on whether or not give an EIA license and also outlines the conditions to impose.
- The Minister grants or refuses with the license – this decision can be appealed.

c) Citizen engagement

Generally, public participation has been found to be very unsatisfactory as per the following statement: “The procedure for reviewing EIAs and granting EIA licenses lacks transparency and accountability. In particular, in deciding whether to grant an EIA license there is no requirement to take into account the views of those consulted, and no requirement to publish the final decision, or to make public the reason or factors on which it was based. There is also sometimes a lack of consistency in decisions. Although the public is invited to examine the EIA report and make objectives in writing within a certain deadline, public involvement is low.”

Factors contributing to this ineffective public participation include: the time frame for commenting on the report is short; the report may only be viewed at the Department and may not be copied or taken away; EIA reports are very technical and not in a language easily understandable by laypersons, the public may find difficulty in reviewing them; a large proportion of Mauritians do not know what an EIA is, or what purpose it serves.

Considerable efforts are being made by the Ministry of Environment to inform and sensitise the public. However, regular radio or TV programmes dedicated to environmental issues are not available, also, the press hardly gets involved in because the environmental news are not regarded as being “newsworthy.”

3.2.6 Mozambique

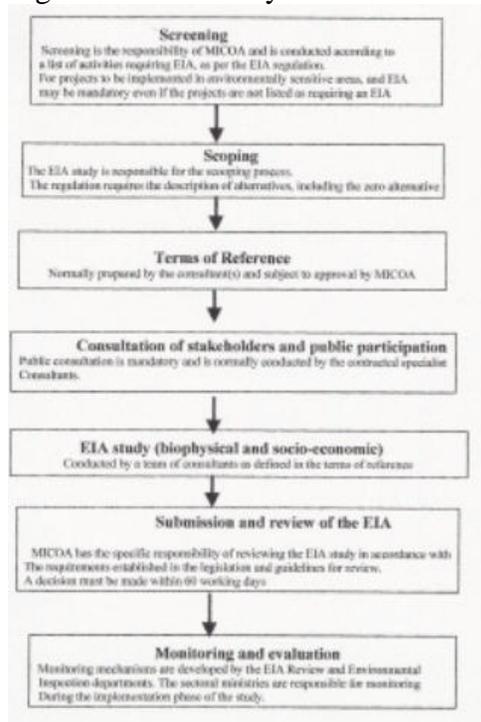
(From J. Hatton, S. Telford and H. Krugmann: In SAIEA 2003)

a) Legal Framework

Mozambique a legal framework for environmental management entails the following: National Environment Management Programme (MICOA 1996), Framework Environmental Act (No. 20 of 1997), EIA Regulations (Decree No. 76 of 1998), EIA guidelines and other sectoral legislation

b) The EIA process:

Figure 3. A summary of EIA in Mozambique.



c) Public Participation

Public participation is entrenched in the EIA process as stated within Article 7(2) of the EIA Regulations which describes the purpose as public participation: to provide information to the public and to receive petitions. The limitation of the public participation process include factors regarding the conflict between stakeholders which is a consequence of inadequate definition regarding the purpose of public participation, the not clearly defined roles, responsibilities and duties of the various stakeholders or the lack of minimum performance standards.

3.2.7 Namibia

a) Governance

Namibia attained its independence in 1990, thus shedding off many years of colonialism and apartheid. Under these systems, freedom of expression was suppressed. It could not be expected, therefore, that civil society would take part in decision-making processes in aspects of development that affected them. Independence brought with it democratic dispensation; a re-arrangement of the structure of governance through a new constitution, which has been embraced in these words:

“...*Whereas* we the people of Namibia: -...

- Will strive to achieve national reconciliation and foster peace, unity and common loyalty to a single state;
- Committed to these principles, have resolved to constitute the Republic of Namibia as a sovereign, secular, democratic and unitary State securing to all our citizens justice, liberty, equality and fraternity,

Now, therefore, we the people of Namibia accept and adopt this Constitution as the fundamental law of our Sovereign and Independent Republic” (Government of the Republic of Namibia, 1990).

The democratic structure comprises the President, the Cabinet, the National Assembly, whose composition shall be seventy two (72) members elected by registered voters by general, direct and secret ballot; the National Council consisting of twenty six members elected from each of the thirteen Regional Councils; the Administration of Justice, and the Ombudsman at the central government level. The administration is decentralised to Regional and Local Government structures each of which has a council of members elected in accordance with provisions of the Constitution. Local Authority includes all municipalities, communities, village councils and other organs of local government. In addition, in terms of the Constitution, there shall be Council of Traditional Leaders to advise the President on the control and utilisation of communal land and other matters.

Afrobarometer (2002) undertakes regular surveys to measure public opinion in countries, which have a measure of democratic and market reforms; Namibia is one of twelve sampled countries in Africa. The report carried out by Afrobarometer in 2001 shows that there is a wide variation of popular support for democracy among the countries. At that time, Botswana ranked highest at 85 percent, whereas Lesotho was the lowest at 40 percent. Namibia ranked second lowest at 58 percent, lower than the average of 69 percent. However, in terms of how satisfied Namibians were with the performance of their democracy, the score was 64 percent, which was higher than average of 58 percent. Compared to most African countries, which have had independence for three decades or more, Namibia’s performance on institutionalisation of democracy in the last one decade is commendable.

“ Namibia has one of the most favourable, media friendly constitutions in the region. It has established freedom of the press as a fundamental human right. Even the government

owned newspaper, the New Era, exhibits objectivity not seen in most government owned publications in southern African region. There have been, however, reported instances of government interference with the media particularly in relation to the national broadcasting station.... Certain government officials have suggested legislation in favour of media control, but this has thus far remained a talk show topic only” (Media Institute of Southern Africa 2000). Daniels (2001) expresses concern that citizens of Namibia should be able to express their democratic right by voicing their opinions and contribute to development of the country: “There is a need to create an environment where any idea is welcome irrespective of its origin, and its merits should be debated without fear”(ibid). This would form one of the important ingredients for implementation of true democratic dispensation, and by so doing propel the carriers of sustainable development, one of them being participation of the civil society in decision-making.

b) Legal Framework

Environmental Legislation

The process of preparing environmental policy was a lengthy one involving many stakeholders. It began in 1992 and the environmental assessment (EA) policy was approved by Cabinet in 1994 paving a way for drafting legislation, the Environment Management Bill, which started in 1996. The process is said to have been locally driven and highly consultative (Anonymous 2002), but it cannot be ascertained in detail that the stakeholders were and how the consultation was done. Information available does not show whether the often forgotten most important stakeholders, the grassroots communities, were consulted or not, and if so, how that was carried out. It was noted, however, that the environmental assessment policy has gone further to show that the EA procedure will, among other things, “...strive for a high degree of public participation and involvement by all sectors of the Namibian community in the EA process” (Anonymous, 2002).

The EIA Process

During the stage of developing a proposal, it is required that neighbours in the vicinity of the proposed project and other interested parties be notified. Initial discussions should be held with them in order to come up with issues identifying, more fully, the affected parties and their interests, potential impacts of the proposed project, alternatives and mitigation measures (Tarr 1993).

The next stage is the scoping exercise by which investigations are done to identify the key environmental issues in consultation with interested and affected parties. It is expected that the scoping process should, among other things, show that: -

- The authorities and public that could most likely be the concerned and affected have been taken into account;
- Methods to be used informing and involving the concerned affected parties are spelled out;
- Opportunities for the public to make inputs are provided;

- Specific reference to the disadvantaged communities is made in the report;
- Mention is made of the use of advisory groups and specialists.

In cases where development is likely to affect people, the proponent is expected to follow the guidelines on: -

- The location of the development in relation to interested and affected parties, communities or individuals;
- The number of people likely to be involved;
- The reliance of such people on the resources likely to be affected;
- The resources, time and expertise available for scoping;
- The level of education and literacy of the parties to be consulted;
- The socio-economic status of the affected parties;
- The level of organisation of affected parties;
- The degree of homogeneity of the public involved;
- History of any previous conflict or lack of consultation
- Social, cultural or traditional norms within the community;
- The preferred language used within the community.

Detailed Environmental Assessment Guidelines (Namibia Resource Consultants 2001) have been prepared with the intention of complementing the Environmental Assessment Policy and the Environmental Management Bill. These guidelines provide an example that pertains to a project that involves water infrastructure in Namibia. This Report zeros in only in as far as public participation is concerned. The environmental assessment guidelines contain the following broad elements:

- A. Brief overview of environmental assessment in Namibia;
- B. Water in Namibia;
- C. Checklist for an initial project application;
- D. Checklist for an environmental assessment report pertaining to water infrastructure (procurement, storage, and transfer) projects;
- E. Useful baseline information sources.

Among the things to be done in the checklist for the initial environmental review process is for the proponent to inform oneself about the affected community and other interested and affected parties, and then to invite appropriate public participation.

The proponent is expected to visit the project sites to try to form an idea of the lifestyle of the communities and to commit to an informed and participatory approach in establishing and operating the proposed project. The proponent must also ascertain the perceptions and opinions of the people in the area:

In urban areas, Namibian communities are likely to raise the following issues of concern: -

- Possible reduction in standards of living and overall quality of life;

- Negative impacts on the value of their properties;
- Personal safety, including hazards to their children or their elderly;
- Increased crime;
- Potential health hazards;
- Atmospheric emissions – dust, smells, vibrations;
- Pollution – visual impairment, noise, waste, litter;
- Increased traffic volumes;
- General appearance of the infrastructure – ugliness minimised;
- Loss or disturbance to values such as landscape and vegetation;
- What happens when the project ends?

Rural Namibian communities may add to the above list of issues as follows: -

- Livestock well-being and loss of grazing areas;
- Loss or disruption to traditional means of livelihood;
- Possibility of being employed in the project;
- Probability of the project increasing the area's development;
- Need for water;
- Limitation on access to formerly open areas;
- Damage to valued traditional, spiritual or historical places;
- Problems associated with an influx of workers, crime, AIDS etc
- Loss of culture.

The proponent in Namibia must also provide information on the project, alternative scenarios for it, and request the community for its comments through any or all of the following:

- Notices in the local newspapers;
- Notices over the Namibian Broadcasting Corporation, including local vernacular and language services;
- Flyers distributed on-site to community residents;
- Informal discussions with community representatives;
- Discussions with any other stakeholders identified in the process;
- A background information document distributed to a list of stakeholders, which also invites comments or concerns;
- A public open house display;
- A well advertised public meeting at an easily accessible venue, on a day and time which suits the community's general lifestyle, to give information on the project and to hear concerns and comments;
- Feedback mechanism such as another meeting, a newsletter, notices in the media;
- Visits to similar projects.

Further consultations are then carried out to report back to the interested and affected parties based on the information obtained during the preceding stages of the environmental review above. These are: -

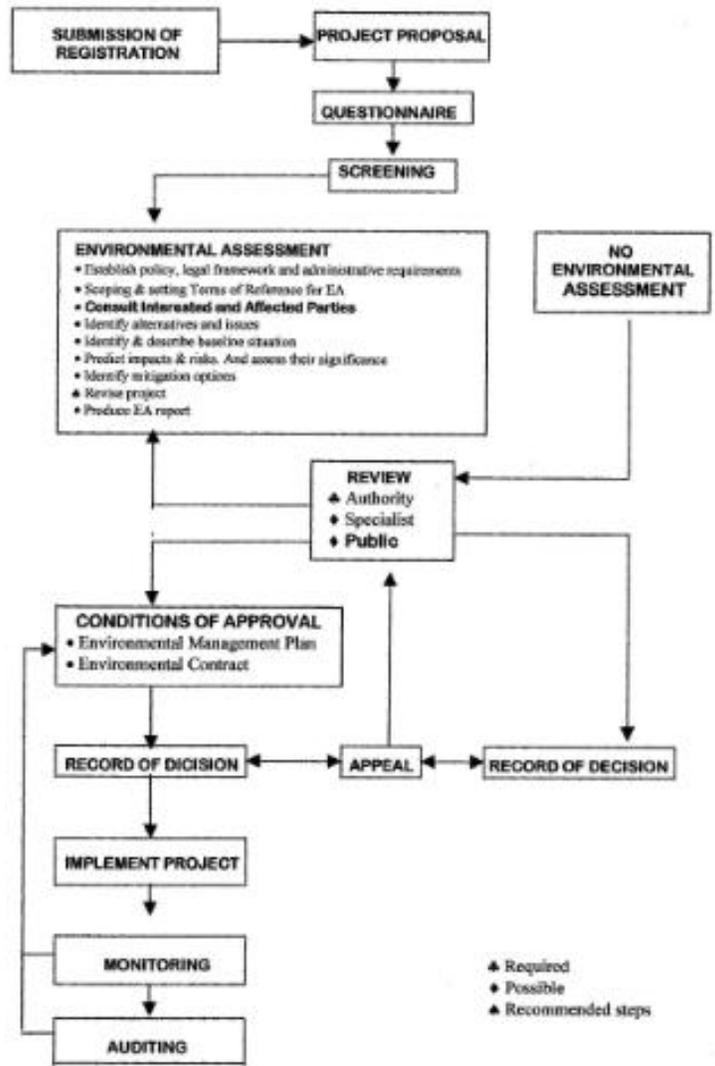
- Report on initial consultation process with the relevant authorities, the affected community, and other interested parties;
- Summarise the issues which emerged.

The overall Environmental Assessment Report must then be written using the format below:

1. Executive summary;
2. Table of contents;
3. Glossary;
4. Introduction;
5. Terms of reference;
6. Approach to the study;
7. A description of the proposed project and its purpose;
8. A Description of the environment likely to be significantly affected by the project and its alternatives;
9. A description of the potential environmental impact of the proposed project and its alternatives, and an estimation of its significance;
10. A description of effects on cultural heritage and also of major impacts or socio-economic resulting from alternatives to those factors;
11. A Description of mitigation measures to keep adverse environmental impacts to a minimum;
12. An explicit indication of predictive assumptions as well as the relevant environmental data;
13. An indication of gaps in knowledge and uncertainties encountered in compiling the required information;
14. A description of the steps taken to consult with and solicit comments from interested and affected;
15. Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis.

The next step is to subject the Report to a review process by the authority in concert with specialists in various fields and the general public. Figure 4 provides the overall perspective.

Figure 4. The Environmental Assessment process for projects in Namibia



3.2.8 Seychelles

(From V. King and B. Walmsley: SAIEA 2003)

a) Legal framework

The Seychelles Charter of Fundamental Human Rights and Freedoms, Article 38 provides for environmental protection and states that:

“The State recognises the right of every person to live in and enjoy a clean, healthy and ecologically balanced environment and with a view to ensuring the effective realisation of this right the state undertakes:

- i) To take measures to promote protection, preservation and improvement of the environment*
- ii) To ensure sustainable socio-economic development of the Seychelles by judicious use and management of the resources of the Seychelles.*
- iii) To promote public awareness of the need to protect, preserve and improve the environment.*

Furthermore, the Constitution, Article 40 (e), also allows for every citizen to protect, preserve and improve the environment. The fact that the highest law in the Seychelles, the Constitution, provides for the protection of the environment is very positive.

The Environment Protection Act

There are numerous laws dealing with environmental issues. Of these, EIA is entrenched within the Environment Protection Act No. 9 of 1994 whose aim is to *“provide for the protection, improvement and preservation of the environment and for the prevention, control and abatement of environmental pollution.”*

The essential issues on the EIA regulations are outlined in part within the Environmental Protection Act. These regulations (Impact Assessment Regulations) are established through Sections 15 and 40 of the Environmental Protection Act. The projects or activities outlined below require an EIA:

- An activity listed in the Schedule 1 to the regulations;
- A project in protected area or ecologically sensitive area listed in Schedule 2 to the regulations;
- Any other project or activity likely to have a significant impact on the environment.

b) EIA Process

Information of governance and legal setting for Seychelles could not be obtained. Only the EIA process is depicted in Figure 5 below.

Figure 5. The EIA process in Seychelles



b) Public participation

Public involvement in the EIA Regulations is confined to the two-week public review period for the final EIA report (Class 1 EIA only). Public participation is not provided for in the EIA guideline documents prepared by the Ministry of Environment. However, the typical terms of reference prepared for undertaking the EIA makes provision for the involvement of interested and affected parties. The terms of reference makes reference to the involvement of civil society and NGOs. The EA process is regarded as being deficient in the area of public participation, and the following limitations have been acknowledged:

- The commenting period (two-weeks) is inadequate;
- Lack of understanding of the EIA process which results in lack of interest;
- The public which does not read newspapers do not notice the advertisements notice on the availability of the report;
- The EIA report is in most cases accessible at a fixed location (Botanical Gardens in Victoria) and a fixed time (between 08:00 and 15:00, Monday to Friday). Except for the projects from other islands;
- The report is finalized before any public involvement;
- No feedback to the public on the impact of their comments;
- Lack of empowered to comment on technical reports which intimidates the public;
- Fear of speaking out against Government;
- Inadequate capacity of NGOs to effectively participate in environmental decision-making. Especially because the legislations does not make provisions regarding their participation;
- No feed back mechanisms to the agencies consulted.

Media coverage

Of the four main newspapers, two of these are government-controlled while the opposition party produces the other two. Environmental coverage in all these newspapers can be regarded as being satisfactory. However, as much as government newspapers are objective, there is a bias towards the good news. On the other hand the opposition papers specialise in criticising governments' environment-related activities and thus a balanced view of issues is difficult to obtain. The one government-owned TV station and the two radio stations also provide extensive environmental coverage.

3.2.9 South Africa

a) Governance

South Africa's history is marked by the apartheid legacy of colonialism, racism, sexism, violence and repressive laws. As a result, poverty and degradation stand side by side with modern cities, developed mining, and commercial infrastructure. Indians, Africans and 'Coloureds' were prevented from free involvement in the political, social and economic life of the country even before the apartheid era. After pressure from mass democratic movements led by political parties, trade unions, students, religious, international and other civic bodies, a negotiated political settlement was arrived at in 1988/89. Despite almost a decade of democracy, the situation of extreme disparity in socio-economic status of different groups still exists in the majority of the communities.

The history of South Africa's governance was termed "white-ruled" from as early as the 16th century during the early colonial era by the Europeans (predominantly Dutch). This was followed by the British colonial era in 1795 and the subsequent mineral revolution when minerals such as diamonds were discovered. The major result of this era was conquest, land dispossession, taxation and pass laws which were designed to force black people from the land and channel them into pockets of labour markets to meet the needs of the mines by the white people. Black people, during this period, were denied basic rights and were regarded as not belong to the "white South Africa" but to the tribal societies. They were confined to segregated locations. These policies facilitated the development of segregationist ideology and later apartheid. The mineral revolution was followed by the Anglo-Boer war that resulted in the British creating a white-ruled dominion whose most important priority was to establish white supremacy over South Africa and force the blacks into wage labour. "In virtually every sphere, from housing to education to healthcare, central government took control over black people's lives with view to reinforcing their allotted role as "temporary sojourners" welcome in 'white South Africa' solely to serve the needs of the employers of labour.

South Africa's first democratic election under an interim Constitution in April 1994 marked the birth of a democratic dispensation. This was a major turning point after decades of segregation policies and white domination, and culminated in South Africa being divided into nine new provinces in the place of the four provinces and 10 'homelands' that existed previously under the apartheid regime. The new ANC-led government embarked on a programme to promote the reconstruction and development of the country and its institutions. This called for the simultaneous pursuit of democratisation and socio-economic change, as well as reconciliation and the building of a consensus founded on the commitment to improve the lives of all South Africans, in particular the poor. Converting democratic ideals into practice required, among other things, initiating a radical overhaul of the previous government machinery of oppression to that of openness, and a culture of caring for human rights. A significant milestone of democratisation was the exemplary constitution-making process, which delivered a document that is the envy of the democratic world. So, too were the local government elections that gave the country its first democratically elected municipal authorities? The

Truth and Reconciliation Commission, helped to inculcate a commitment to accountability and transparency in South Africa's public life, at the same time helping to heal wounds inflicted by inhumanity of the apartheid era.

The present administration is committed to the African Renaissance based on democracy and economic development, and a co-operative approach to resolving the emerging political challenges across the continent. The African Renaissance ideal found manifestation in the New Partnership for Africa's Development (NEPAD).

b) Legal Framework

In accordance with the Constitution, the Government of South Africa has separate national, provincial and local levels that are mutually dependent and interconnected. All the three areas of government have legislative and administrative functions and thus have responsibility the management of the environment.

Bill of Rights (Chapter 2 of the Constitution of South Africa Act (No. 108 of 1996)) makes provisions for environmental issues and declares that:

“Everyone has the right -

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

Furthermore, the Bill of Rights also make provisions on issues such as the right to information; the right to freedom of expression; the right to participate in political activity; the right to administrative justice, the right to engage in public initiatives and processes on an ongoing basis; and fundamental science, cultural, legal, economic and environmental rights. The Constitution is also explicit in that it requires that all governing bodies to promote public involvement in the lawmaking and other policy development procedures.

EIA Legislation

1. Environmental Conservation Act (No.73 of 1989

Identification of activities necessitating an environmental impact assessment (EIA) process is provided in section 21 (1) of the Environmental Conservation Act No.73 of 1989. The same Act provides for the dissemination of regulations which give measures to be adhered to when conducting an EIA in sections 26 and 28).

2. *National Environment Management Act (No.107 of 1998)*

The National Environment Management Act (No.107 of 1998) repealed a large part of the Environment Conservation Act (No. 73 of 1989). The National Environment Management Act also makes provisions for EIA, however, the sections on the subject of EIA within the Environment Conservation Act have not been repealed. The Act is very clear on citizen engagement in environmental decision-making as provided in the box below.

Some of the principles within the National Environment Management Act on citizens and their participation

1. Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interest equitably.
2. Development must be socially, environmentally and economically sustainable.
3. Sustainable development requires the consideration of all relevant factors including the following: -
 - (a) Environmental management must be integrated, acknowledged that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the pursuing the selection of the best practicable environment option.
 - (b) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.
 - (c) Equitable access to environmental resources, benefits and services to meet basis human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.
 - (f) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, services or activity exists throughout its life cycle.
 - (e) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.
 - (f) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge and experience and ordinary knowledge.
 - (g) Community well-being and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.

- (h) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.
- (i) The right of workers to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected.
- (j) Decisions must be taken in an open and transparent manner, and access to information must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.
- (k) There must be inter-governmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.
- (l) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.
- (m) Global and international responsibilities relating to the environment must be discharged in the national interest.
- (n) The environment is held in public trust for the people, the beneficial use of environment resources must serve the public interest and the environment must be protected as the people's common heritage.

3. Environmental Management Policy

South Africa has developed its national environmental policy through a process of consultation called Consultative National Environmental Policy Process (CONEPP). CONEPP gave all stakeholders in South Africa an opportunity to contribute ideas in the development of the environmental policy. The White paper on the policy makes provisions for the public participation in throughout the document. The following are some of the extracts on public participation:

“The government must encourage the inclusion of all people and groups who are interested in environmental governance, or affected by it, so that it can make sure that participation is fair and effective.”

Goal 4 Participation and partnerships in Environmental Governance

To establish mechanisms and processes to ensure effective public participation in environmental governance.

Supporting Objectives

- Participation structures, mechanisms and processes
- To establish multi-sectoral advisory structures in all spheres of government so that all interested and affected parties can participate in environmental governance.
- To develop public participation mechanisms and processes that are fair,

transparent and effective, and that will promote the participation of marginalised sectors of society.

- To allocate government resources (financial and human) to build institutional capacity in national, provincial and local government, so that there will be effective participation in environmental governance.

Goal 5 Empowerment and Environmental Education

To promote the environmental education and empowerment of South Africa’s people. To increase their awareness of, and concern for, environmental issues and to assist them to develop the knowledge skills, values, and commitment that we need to achieve sustainable development.

Communication and participation

- To ensure that communication strategies in all spheres of government encourage effective public participation.

Strategic alliances

- To encourage alliances between government and interested and affected parties in implementing this policy

EIA practice: History

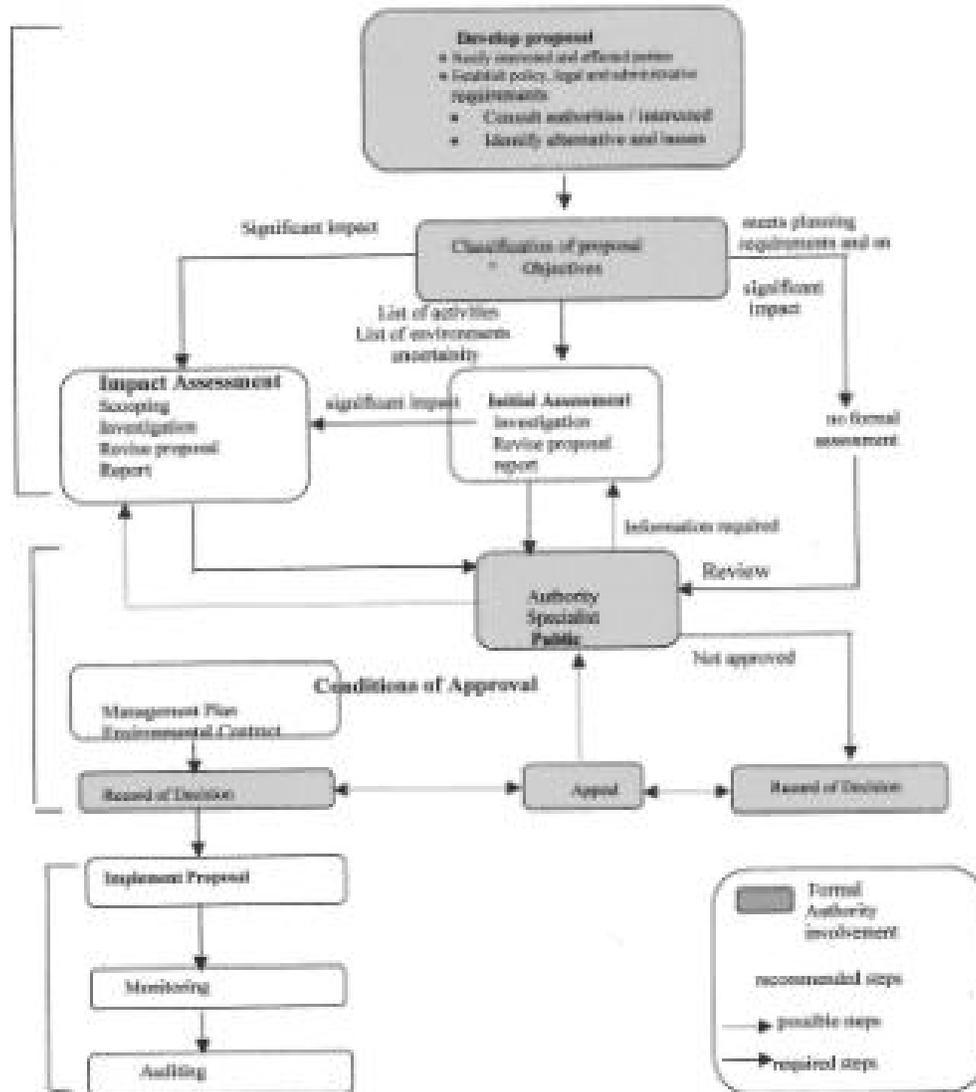
South Africa’s EIA practice dates as far as the 1970s and operated through the integrated environmental management (IEM) procedure. IEM has six guideline documents that are still commonly used and were utilised to guide the implementation of some hundreds of EIAs that were voluntary.

The IEM decision-making process makes provisions for citizen engagement in decision-making also as evidenced by the table and diagram below.

Examples of opportunities for stakeholder engagement in IEM (Adopted from DEAT 2002)		
	Planning and Assessment	Implementation and Management
International Governance	➔ Involvement in international agreements e.g. Kyoto protocol – intergovernmental Panel on Climate Change (IPCC).	➔ Joint implementation, Clean Development Mechanisms and carbon trading opportunities as provided for in the Kyoto protocol.

National & Regional Governance	<ul style="list-style-type: none"> ➔ Development of policy, legislation and regulations at national, provincial and local government level. ➔ Negotiation of voluntary agreements between government and industry. ➔ Allocation of natural resource extraction quotas and licences. 	<ul style="list-style-type: none"> ➔ Implementation and review of environmental management co-operation agreements (EMCAs). ➔ Water allocation and licensing through catchment management agencies.
Programmes	<ul style="list-style-type: none"> ➔ Development of natural resource management strategies. ➔ Strategic environmental assessment. ➔ Sectoral multi-stakeholder reviews e.g. Mining, minerals and Sustainable Development (MMSD) project, World Commission on Dams (WCD). 	<ul style="list-style-type: none"> ➔ Implementation and review of the Reconstruction and Development Programme. ➔ Partnerships between government, business and civil society.
Plans	<ul style="list-style-type: none"> ➔ Development planning (e.g. integrated development plans). ➔ Strategic environmental assessment. ➔ Sector planning (e.g. energy planning, integrated catchment management plans) ➔ Town and regional planning. ➔ Community-based planning. 	<ul style="list-style-type: none"> ➔ Implementation and review of strategic environmental management plans. ➔ Implementation and review of integrated catchment management plans.
Projects	<ul style="list-style-type: none"> ➔ Environmental impact assessment. ➔ Risk assessment ➔ Development of project-level environmental management policies. ➔ Development of project-level resettlement action plans. ➔ Socially responsible investment (investment screening). 	<ul style="list-style-type: none"> ➔ Risk management ➔ Waste management ➔ Community-based natural resource management ➔ Implementation and review of environmental management plans/programmes/policies. ➔ Environmental monitoring committees. ➔ Socially responsible investment (shareholder activism) ➔ Partnership between government, business and civil society.

Figure 6. 1. South Africa Integrated Environmental Management procedure (Fuggle and Rabie 1999)

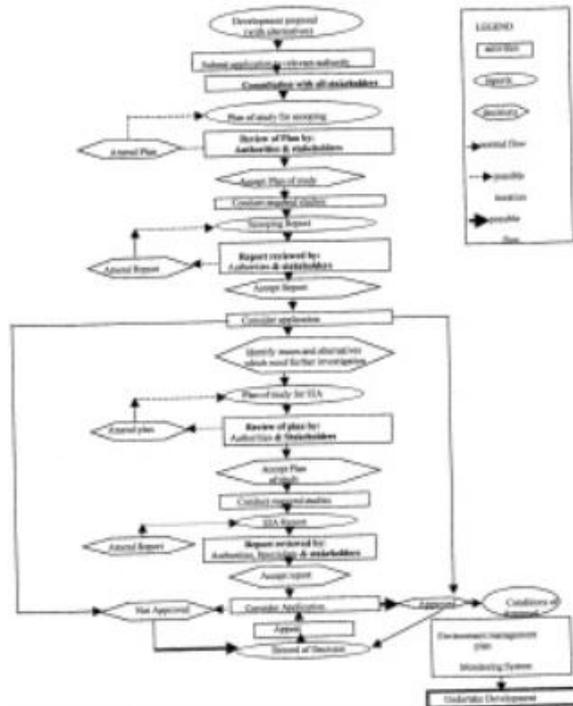


The EIA process

The current EIA process consists of the following tasks (in the box below and the diagram):

- Pre-application consultation with the applicant;
- Decision for either exemption or to conduct scoping procedure;
- Development a plan for a scoping study;
- Evaluation of the plan for a scoping study;
- Evaluation of the scoping report;
- Issuing a record of the decision as to whether applications are (1) approved with conditions (i.e. no EIA required), (2) not approved, or (3) accepted (i.e. as the basis for the EIA);
- Developing a plan for an EIA study;
- Evaluating the plan for an EIA study;
- Evaluating the EIA report;
- Issuing a record of the decision (based on the information in the EIA report) as to whether the development application is (1) authorized with or without conditions, or (2) rejected; and
- Handling appeals against the decision.

Figure 6.2 South African EIA Process (DEAT 1997)



The SEA process

There is no legislative requirement for the SEA as such, however several SEAs have been undertaken in South Africa and guidelines to guide the SEA process have been developed. Public participation is one of the seven procedural principles of the SEA process as stated thus:

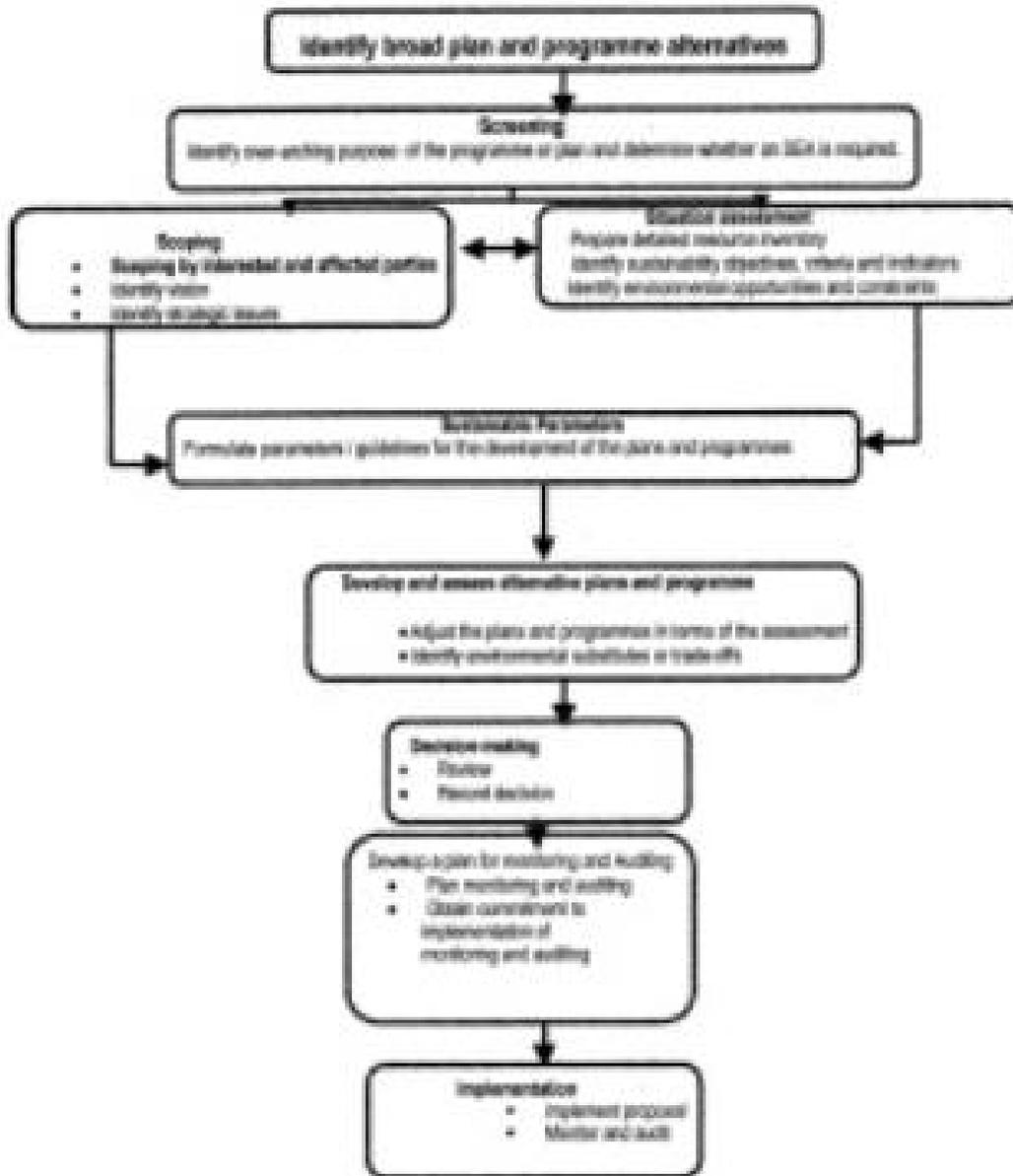
“SEA is a participative process...participative processes are adapted to the specific socio-political context of the plan or programme. The public participation process should inform and enhance the entire SEA process, in particular the scope and objectives of the SEA.”

The main components of the South African SEA process are shown the box below and are also indicated in Figure 6.3 below.

Adopted from: DEAT 2000 - SEA Guideline Document

- Identify broad plan and programme alternatives;
- Screening;
- Scoping;
- Situation Assessment;
- Formulation of sustainability parameters for the development of the plan or the programme;
- Development and assessment of alternative plans and programmes
- Decision-making;
- Development of a plan of implementation, monitoring and auditing;
- Implementation.

Figure 6.3 South African SEA process (DEAT 2000)



3.2.10 Swaziland

a) Governance

Swaziland attained its independence from Britain in 1968, and adopted a Westminster type of a constitution in 1973. The Westminster model was replaced by the *Tinkhundla*³ system to facilitate the practice of traditional and the western styles of government. This system also allowed for the election of parliamentary representatives from specific constituencies. After its inception, through the King's Order-in-Council of 1978, the *Tinkhundla* electoral system was later revised in 1992/93 when its members were elected into parliament through a three-stage electoral system. As a result, a bicameral Parliament exists consisting of the House of Assembly and the Senate. The Assembly is elected through the *Tinkhundla* (constituency/local councils) electoral system, which involves nomination within an *Inkhundla* and primary and secondary elections by secret ballot. The King has power over the executive and legislature. He appoints the Prime Minister, who in turn chooses members of his Cabinet, subject to approved by the King. A Swazi National Council, composed of the *Ngwenyama* (King), the *Ndlovukazi* (Queen Mother), *Bantfwabenhosi* (Princes and Princesses), Chiefs and nominated adult Swazis, acts as an advisory body to the King.

The local government structure has over 200 chiefs, who have control and jurisdiction over the Swazi Nation Land. There are four administrative regions, namely: Hhohho, Lubombo, Manzini and Shiselweni, each of which is governed by a Regional Administrator and his Secretary who is charged with the overall development programme. There also exist town councils and town boards, which are municipal governments responsible for urban development.

b) Legal Framework

The Environment Management Act No. 5 was passed into law in November 2002 and replaces the Swaziland Environment Authority Act of 1992. Regulations gazetted under the SEA Act, namely the Environmental Audit, Assessment and Review Regulations (2000) and Waste Regulations (2000) remain in force under the Environment Management Act. Air and water pollution regulations are currently in draft form.

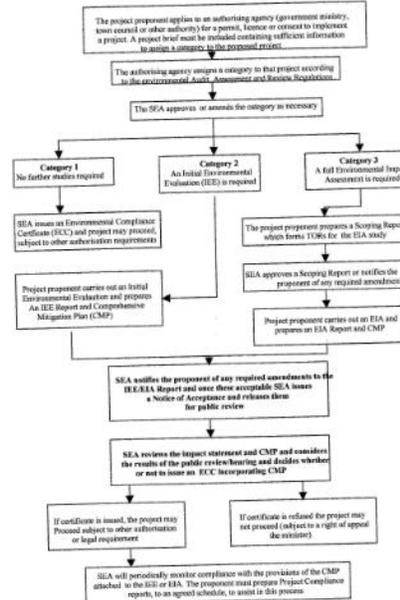
Part VIII of the Act is dedicated to public participation. It requires that the authority should create and maintain an environmental information registry in the form of documents that are accessible to the public. However, facilities for photocopying for people on demand do not exist, though the new act does allow such to be done at cost of copying. The vast majority of 'old' and on occasion current EIAs can be taken out upon signing out the document leaving contact details and name. EIAs under review as part of the public review process are usually not allowed to be removed, though it discretionary depending who you are and if you are known by the SEA. The Act also provides for carrying out of public reviews or environmental impact reports, public hearings in the event that a publicly reviewed report receives 10 or more 'substantive' comments or

³ The term *tinkhundla* (singular *inkhundla*) means an area outside of a cattle kraal where men traditionally sit to discuss matters related to governance; women are excluded in the process.

objections [no definition of ‘substantive’ exists so it’s a judgmental opinion of the SEA] and public participation in licensing decisions. The public can also initiate prosecutions by writing to the authority to carry out investigation on their concerns, and process prosecution if any such a concern is in the interest of protecting and enhancing quality of the environment.

The Environmental Audit, Assessment and Review Guidelines (1999) indicate that consultation and public participation are an integral part of the EIA process. (See Figure 7).

Figure 7. Swaziland Environmental Assessment procedure



The categories in Figure 7 above are defined as follows:

- Category 1: Projects that are not expected to result in any significant negative environmental impacts, and which do not require any additional environmental assessment.
- Category 2: Projects which may cause a limited number of significant negative environmental impacts, but impacts and relevant mitigation measures are well known. These can be implemented after a limited environmental study called Initial Environmental Evaluation (IEE) and the production of an IEE Report and Comprehensive Mitigation Plan (CMP).
- Category 3: Projects which are likely to cause a range of significant negative environmental impacts whose extent and magnitude cannot be determined without a detailed study. Appropriate mitigation measures cannot only be devised until the results of this study have been obtained. These projects cannot only be implemented after a full EIA (EIA) study, and production of an EIA Report and Comprehensive Mitigation Plan (CMP).

Consultation and public participation form, on paper, an integral part of the EIA process for as categories 2 and 3. Those affected by a proposed development, often referred to as “Interested and Affected Parties (I&AP)”, are expected to be involved throughout the EIA process. Their involvement, on paper, starts during the initial design phase and continues through construction, implementation and monitoring for compliance.

3.2.11 Tanzania

(From V. Booth, K. Chapman and B. Walmsley: In SAIEA 2003)

a) Governance

Article 27 of the Constitution, provides for the every citizen to ascertain proper management of the country's natural resources and states that:

- (1) *Every person is obliged to safeguard and protect the natural resources of the United Republic, State properly jointly owned by the people...*
- (2) *All persons shall by law be required to safeguard State and communal property, to combat all forms of misappropriation and wastage and to run the economy of the nation assiduously, with the attitude of people who are masters of the fate of their nation. (GURT 1998).*

b) Legal Framework

The National Environmental Management Act (No.19of 1993) and a number of sectoral polices advocate the use of environmental impact assessment (EIA) in project planning. There is a National Environment Policy, the National Conservation strategy for sustainable Development, the National Environmental Action plan and specific sectoral policies e.g. land, mining, energy, water, agriculture, population and fisheries which acknowledges EIA as an approach to guarantee proper management of natural and thus avoiding irreversible damage and social costs.

EIA Guidelines

The EIA guidelines are in five volumes and comprise the following:

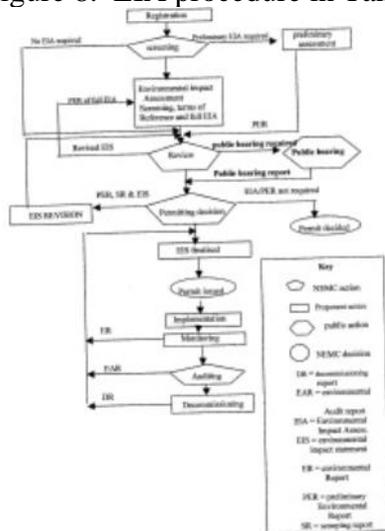
- Volume 1: The main document that elaborates the proposed EIA procedure
- Volume 2: Screening and scoping guidelines
- Volume 3: Guidelines of report-writing
- Volume 4: Guidelines for EIA review and monitoring
- Volume 5: A checklist of environmental characteristics (i.e. physical, ecological, land use, cultural and socio-economic characteristics)

The EIA procedure involves the following:

- Registering a project;
- Screening: the project is classified to determine the level of environmental assessment to be conducted;
- Conducting an EIA: entails three main stages (Scoping, preparing terms of reference and preparing an environmental impact statement). At this stage the decision is made whether to conduct the EIA or not;
- Reviewing the EIA: a technical Review Committee reviews the EIA and makes decisions

- on the acceptability of the EIA;
- Issuing the relevant permits: In the case of approval an environmental permit that confirms the EIA has been satisfactory is issued and the project is allowed to proceed;
- Decision making: a decision is made as to whether a proposal is approved or not, a record of decision explains how environmental issues were taken into consideration;
- Monitoring project implementation: preparation and execution of an appropriate monitoring programme;
- Auditing the completed project: periodic independent audits of the project are undertaken and culminate in an Environmental Auditing Report depending on the findings;
- Decommissioning the project upon its completion: A decommissioning report which outlines the restoration/rehabilitation activities to be undertaken is prepared at the end of the project life.

Figure 8. EIA procedure in Tanzania



c) Public participation

Tanzania has an extensive number of environmental NGOs and community-based organisations (CBOs) whose activities are coordinated by the Office of the Vice-President. These operate under an umbrella organisation known as Tanzania Association of Non-governmental Organisation. The activities of the CBOs and NGOs as far as the environmental sphere is concerned are focused on among other things: environmental education, tree-planting, soil and water conservation, improved use of energy and the utilisation of solar energy to rural communities.

The public participation process is mentioned to be having the following limitations:

- *Inadequate scoping;*
- *Poor terms of reference;*
- *Insufficient time; and*
- *Socio-cultural factors.*

3.2.12 Zambia

(K. Chapman and B Walmsley: SAIEA 2003)

a) Legal Framework

The Environmental Protection and Pollution Control Act, No. 13 was enacted in 1994. The Zambian National Conservation Strategy was updated by preparing a National Environmental Action Plan, which was completed and adopted in 1994. Environmental impact assessment (EIA) regulations were formulated in 1997 through the provisions of the Environmental Protection Pollution Control Act. The implementation of EIA in Zambia is still in its formative years.

EIA guidelines

Five sets of guidelines currently are available in a draft form for these sectors: energy, fisheries, forestry, social impact assessment and tourism. Guidelines on mining are complete but need to be refined. These guidelines are meant to be used in the reviewing of EIAs. The Zambia Wildlife Authority also has its own EIA guidelines to review developments in protected areas, and the National Heritage Conservation Commission has developed guidelines for developments near heritage sites, furthermore, Ministry of Mines and Mineral Development has also developed regulations for EIAs in the mining sector.

Figure 9. EIA process in Zambia



b) Public participation

EIA regulations specify where public participation is required throughout the EIA process and public views thus to be considered during the following EIA stages.

- 1) Preparation of the terms of reference:- The proponent is compelled to arrange a public consultation process involving government agencies, local authorities, NGOs community based organisations (CBOs) and interested and affected parties, to contribute in deciding on the scope of work when undertaking the EIA.
- 2) Before coming to an end of the EIA and submission of an EIA report, the proponent has to ask for the views of stakeholders via:-
 - The media and meetings to present the information on the project and to acquire the communities' viewpoints and fears;
 - Placing the EIA report in public buildings for comment and review; and/or
 - Public hearing, when significant environmental impacts are anticipated from the proposed development.

A major shortcoming in conducting public participation is the gender inequality because men make most decisions.

3.2.13 Zimbabwe

a) Governance

Zimbabwe's past is not different from most African states. It was colonised by Britain until it gained independence in 1980. Since then, Zimbabwe has adopted the presidential administrative system that is evident in their governance and electoral model of the "first-past-the post".

The Parliament is comprised of the President who is the Head of State and the Head of Government and Commander-in-Chief of the Defence Force. One hundred and twenty members of parliament are elected from the 120 constituencies. The other eight members of parliament are provincial governors appointed by the President. Ten chiefs are elected into Parliament in accordance with the electoral law. The President himself appoints the other twelve members of Parliament, which brings the total of Parliamentarians to one hundred and fifty.

Zimbabwe has adopted the local government structure in an attempt to decentralise services and to make it easy for the central government to concentrate on making laws and policies. The provincial and district levels implement policies and programmes. There are eight provinces established under the local government Act that are vested with the power of administration and the general governing of the provinces at the local level.

The judiciary authority of Zimbabwe consists of: -

- a) The Supreme Court;
- b) The High Court; and
- c) Other courts subordinate to the Supreme Court and the High Court that have been established by or under an Act of Parliament.

The Judiciary consists of the chief justice, who is the head; the judges of the Supreme Court; the Judge President and the other judges of The High Court; and persons presiding over other courts subordinate to the Supreme Court and the High Court.

b) Legal Framework

According to the provisions of the Environment Act of 2002, every person has a right to:

- A clean environment that is not harmful to health; and
- Access to environmental information; and
- Protection of the environment for the benefit of present and future generations and to participate in the implementation of the promulgation of reasonable legislative, policy and other measures that prevent pollution and environmental degradation; and secure ecologically sustainable management and use of natural resources while promoting justifiable economic and social development.

Subject to this Act, the following principles of environmental management apply to the actions of all persons and government agencies, where those actions significantly could affect the environment:

- All elements of the environment are linked and inter-related, therefore environmental management must be integrated and the best practicable environmental option pursued;
- Environmental management must place people and their needs at the forefront of its concern;
- *The participation of all interested and affected parties in environmental governance must be promoted and all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation;*
- *Environmental education, environmental awareness and the sharing of knowledge and experience must be promoted in order to increase the capacity of communities to address environmental issues and engender values, attitudes, skills and behaviour consistent with sustainable environmental management;*
- *Development must be socially, environmentally and economically sustainable;*
- *Anticipated negative impacts on the environment and on people's environmental rights shall be prevented, and, where they cannot be altogether prevented, be minimised and remedied;*
- Any person who causes pollution or environmental degradation and any resultant adverse health effects, as well as the cost of preventing, controlling or minimising further pollution, environmental damage or adverse health effects should pay for. – “polluter pays principle”.
- Global and international responsibilities relating to the environment must be discharged in the national interest;
- Sensitive, vulnerable and highly dynamic or stressed ecosystems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

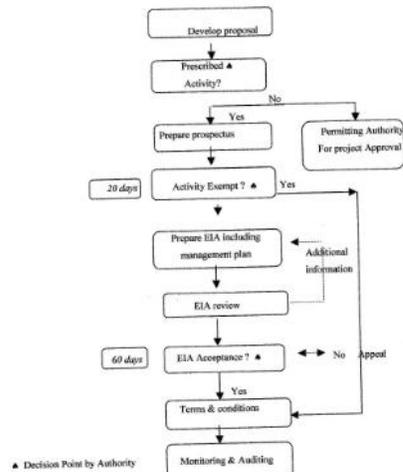
The above outlined environmental rights and principles of environmental management serve as the general framework within which plans for the management of the environment are formulated; and serve as guidelines for the exercise of any function concerning the protection or management of the environment in terms of the Act or any other enactment. These rights also guide the interpretation, administration and implementation of any other laws concerning the protection or management of the environment.

EIA policy outlines and procedures

The EIA Policy outlines an environmental planning process, which contains periodic progress reports to Government. These reports are devised to ensure that consideration of environmental and socio-economic factors becomes an integral part of overall project planning and design. The process is intended to complement established project planning and approval procedures so that EIA studies contribute meaningfully to project design

and do not delay ultimate project approval. Two progress reports are specified in the EIA Policy. They are a prospectus and an EIA Report. Responsibility for producing these reports rests with the developer. A flow chart of the EIA process is given in figure 10 below.

Figure 10. EIA process in Zimbabwe



The EIA procedure of Zimbabwe is based on the following principles:

- Sustainability for future generations is the cornerstone of environmental management;
- Dependency on a complex and diverse ecosystem requires management approaches which integrate economic, social, cultural and natural environments;
- EIA must enhance development by contributing to its environmental sustainability, not inhibit it;
- EIA is a means for project planning, not just evaluation;
- Project impacts must be monitored and managed throughout the life of the development;
- The EIA Policy depends on the normal regulatory functions of permitting authorities to implement EIA results;
- The EIA Policy involves the participation of all government agencies with a mandated interest in the project;
- Particular attention must be given to the distribution of project costs and benefits.

Zimbabwe, like many SADC countries, has adopted the UN Declaration of Human Rights through laws that enable public participation and public involvement in decision-making in the general running of the country and in the implementation of Environmental procedures and policies such as EIAs. According to the Constitution, (Section 11), every person in Zimbabwe is entitled to the fundamental rights and freedoms, that is to say, regardless of his or her race, tribe, place of origin, political opinion, colour creed or set, and must respect for rights and freedoms of others. Due to the latest political environment prevailing in Zimbabwe there is a lot of debate on the actual implementation of the law

that protects the public's rights to actively participate in decision-making, particularly in the general running of the government. However, this debate makes only a small portion of the discussions in this study.

c) Public participation

In line with the EIA policy “ *Public consultation is mandatory when undertaking an EIA. At minimum, the proponent must meet with the principal stakeholders to inform them about the proposed activity and to solicit their views about it. More problematic activities should involve more extensive consultation.*” (Ministry of Mines, Environment and Tourism, Zimbabwe, 1997).

There are no clear guidelines on public participation, but the public participation programme has to be started as early as possible, be continued some time throughout the project cycle and thus has to be taken during:

- Preparation of the EIA terms of reference;
- Preparation of the EIA report;
- Government review of the EIA report;
- Preparation of terms and conditions for EIA acceptance.

3.3 Relevance of Public participation in Environmental Assessments

Environmental Assessment (EA) is an integral part and serves as a tool for sustainable development and is recognised both internationally and within member states in the SADC region and its application is thus in line with the principle of sustainable development (Weaver 2003), whose goal is to “meet the needs of the present generation without compromising the ability of future generations to meet their own needs.”

The crucial intention of the EIA process is to give decision-makers information on the potential consequences of their activities while the intention of the public participation component of the process provides an opportunity for the citizens to identify issues, benefits and non-benefits, concerns and also provide development alternatives and mitigation/avoidance and enhancement options. In this manner citizens are able to have some bearing on development plans, choices and resources. Public participation during the EA promotes the devolving and sharing of power to citizens when making decisions on development initiatives.

As described in the preceding sections on the country reports, the public participation processes within the EIA vary from country to country with other countries offering more opportunities for citizen engagement than others in an effort to promote democratic reform and good governance.

The relevance and input of citizen engagement within the EA process ensures that the basis for decision-making is “best available information” at the time of the study and has among others the following advantages:

- a. Consulting the relevant stakeholders helps to avoid omissions and mistakes;
- b. The public, which is directly affected by the development, is able to provide their values, fears and inclinations;
- c. Local people are sometimes able to furnish the proponent with appropriate pre-development information, both biophysical and socio-economic;
- d. Certain social-economic data required for impact assessment can only be provided by local citizens;
- e. Practical and suitable development alternatives are best determined through consultations with the citizens;
- f. The community participation process enhances support from the citizens and ensures the public's sense of ownership, dedication or backing to a policy or project; this prevents unnecessary delays for project implementation;
- g. Democratic reform and good governance are promoted by devolving the decision-making power to the citizens.

In this way, there is shared control, influence and responsibility between the proponent, authorities and the public. This is ideally required for all phases of the project, i.e. project conceptualisation, planning, construction, operation and decommissioning phases, not only during the preparation of the EA report. Unfortunately, in practice, citizen engagement is confined to the preparation of the EA report. Table 2 below indicates instances where opportunity is provided for public input within the EA processes in the various SADC countries. As mentioned and seen from the different EIA systems, public participation differs from country to country.

Table 2. The public participation processes of various SADC countries within the EA process.

Country	Public participation within EA process – where/when?
Angola	<ul style="list-style-type: none"> ◆ Preparation of EIA report ◆ Review of EIA report
Botswana	<ul style="list-style-type: none"> ◆ Preparation of EIA report ◆ Review of EIA report
Lesotho	<ul style="list-style-type: none"> ◆ Preparation of Project Brief ◆ Review of Project Brief ◆ Preparation and review of Preliminary Impact Assessment Statement (PIES) ◆ Preparation and review of Environmental Impact Assessment Statement (EIS)
Malawi	<ul style="list-style-type: none"> ◆ EIA review by technical committee not other stakeholders
Mauritius	<ul style="list-style-type: none"> ◆ Review EIA report
Mozambique	<ul style="list-style-type: none"> ◆ During the preparation of the EIA report
Namibia	<ul style="list-style-type: none"> ◆ Preparation and review of EIA report
Seychelles	<ul style="list-style-type: none"> ◆ Review of the EIA report
South Africa	<p>EIA</p> <ul style="list-style-type: none"> ◆ Before EIA study commences after the submission of proposal to authorities ◆ Preparation of the scoping report ◆ Review of the plan of study for scoping ◆ Review of the scoping report ◆ Review of the EIA plan of study ◆ Review of EIA report
	<p>Strategic Environmental Assessment (SEA)</p> <ul style="list-style-type: none"> ◆ During scoping
Swaziland	<ul style="list-style-type: none"> ◆ Consultation and public participation form an integral part of the EIA process for categories 2 and 3. Involvement starts during the initial design phase and continues through construction, implementation and monitoring for compliance.
Tanzania	<p>Public hearing is permitted during the review of the following documents:</p> <ul style="list-style-type: none"> ◆ EIS = Environmental Impact Statement ◆ ER = Environmental Report ◆ PER = Preliminary Environmental Report ◆ SR = Scoping Report

3.4 Citizen Engagement in Decision-making: attitudes, perceptions, opinions, views

3.4.1 Objectives of public Participation

Though the legal instruments in the form of constitutions and the environment laws as indicated above have shown that engagement of the public is paramount to any development, the objectives of public participation are construed, in various ways, as shown in Table 3 below.

Table 3. Percent of respondents on the objectives of public participation by countries visited

Responses	South Africa %	Zimbabwe %	Namibia %	Swaziland %	Lesotho %	TOTAL %
Involvement of communities during initial/planning stages of the projects	6.9	4.7	2.3	4.7	6.9	25.5
Ensure ownership by communities	6.9	11.4	-	-	4.7	23.0
Empowerment/promote local initiatives	9.3	2.3	2.3	2.3	-	16.2
Awareness raising and education to change perceptions	13.9	2.3	2.3	4.7	2.3	25.5
Enhance credibility of projects	2.3	-	2.3	2.3	-	6.9
Law enforcement	4.7	-	-	-	-	4.7
Total	44.0	20.7	9.2	14.0	13.9	100

Based on the study findings, 25.5% of the respondents regard key objective to public participation as involvement of communities from the initial planning stages of the projects right through to the post-implementation stage, and as awareness raising to change perceptions at the community level; whilst 16.2% regard it as empowerment and promoting local initiatives. The 23.0% of the respondents also involve the public in their projects with the aim of ensuring ownership by communities.

All of the above mentioned objectives make it possible for the community members to actively participate in conceptualisation, implementation of projects and maintenance. As

they are empowered to play an active role, they subsequently get a sense of ownership thereby leading to sustainability of projects.

3.4.2 Key values and principles

The respondents identified the values and principles that guide public participation as presented in Table 4 below:

Table 4. Percent of respondents on the values and principles of public participation by countries visited.

Responses	South Africa %	Zimbabwe %	Namibia %	Swaziland %	Lesotho %	Total %
Recognition and respect	6.9	4.7	2.3	2.3	4.7	20.9
Fairness / equitability	4.7	2.3	-	1.3	-	9.3
Accountability	2.4	2.4	-	-	-	9.3
Ownership by communities	2.4	2.4	-	9.3	9.3	27.9
Relevance and practicability promoting sustainability	11.6	2.3	-	-	-	13.9
Managing perceptions	2.4	2.3	6.9	-	-	13.9
Learning	2.4	-	-	-	-	4.7
Total	41.7	20.9	9.3	13.9	13.9	100

Ownership by communities is the most important guiding principle/value (27.9%) in public participation initiatives according to the respondents. They further iterated that “external” organisations and specialists should facilitate implementation of activities and not play a leading role; this is usually a common practice in implementation of development projects. 20.9% percent also emphasised the importance of recognition and respect as a value/principle in public participation.

The respondents mentioned that public participation should not only be based on the numbers of public members that attended meetings, but rather on the contributions they make to the actual decisions relating to development projects particularly those that affect their lives. They pointed out that the public/communities have a very rich pool of knowledge that can be tapped if they are treated with respect and recognition. Other

values that were mentioned included fairness and equitability (9.3%), accountability (9.3%), relevance and practicability promoting sustainability of projects (13.9%), learning (4.7%) as well as management of perceptions.

The responses on the value of engaging the civil society in decision-making are relatively similar within the categories above. The responses can be compared to the core values for the Practice of Public Participation by IAP2 (Box 4 below).

Box 5. Core Values for the Practice of Public Participation (IAP2 2003)

1. The public should have a say in decisions about actions that affect their lives.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. The public participation process communicates the interests and meets the process needs of all participants.
4. The public participation process involves participants in defining how they participate.
5. The public participation process provides participants with the information they need to participate in a meaningful way.
6. The public participation process communicates to participants how their input affected the decision.

Core values of Public Participation in HIV and AIDS

The values and principles, for example, that are regarded as fundamental to public participation, with respect to HIV/AIDS are empathy and respect to peoples' opinions. These values are very important since HIV/AIDS is associated with stigmatisation, shame and denial. The other important value in public participation pertaining to HIV/AIDS, according to the respondents, is generation of knowledge. In this era knowledge is power. Knowledge is important in three incidences for HIV/AIDS interventions. Firstly, knowledge can reduce the impact of HIV/AIDS on HIV infected and affected individuals; it can also be positively used "*when one becomes infected and eventually suffers from related illnesses...*" (Southern Africa, HIV/AIDS action news letter, issue 54, December 2002), and lastly when death has resulted, knowledge empowers when people know the result of death, and can anticipate any other problems that result from HIV/AIDS related deaths. According to the fact sheet produced by SAfAIDS, boys and young men are at risk since "*some are not clear on how and why to protect themselves*". It follows logically that they also don't know how to actively participate in decision-making processes in HIV/AIDS related programmes, projects and other related issues. Therefore, dissemination of information and/or knowledge is a very important value for HIV/AIDS advocacy. Through dissemination of knowledge, more and more public members

participate as they become more knowledgeable about the pandemic and how it should be addressed.

Core values of public participation in CBNRM

The values and principles that guide public participation in the CBNRM area are fairness and equality in the decision-making processes; gender equity; community ownership of processes and activities; and reduced facilitation by “external” organisations and specialists who are not part of the community. According to the respondents, public participation should not only be based on the numbers of community members that attended meetings, but rather on the contributions they make to the actual decisions relating to the management of natural resources in their locality. The communities are regarded having a very rich pool of knowledge that needs to be tapped in order to customise natural resources management. This knowledge can only surface if the community members are recognised and valued so that they can have the confidence to take control of CBNRM. Examples of the indigenous (local) techniques that are used by community members to manage natural resources include: by-laws (or taboos) that have descended from generation to generation for prohibiting cutting of certain species of trees due to beliefs that those trees are sacred. Respondents regard this as very useful in natural resource conservation. In collecting fruits from trees, traditionally, it is not right to shake a tree for more fruits, but fruits should be collected from the ground. Traditional leaders also restrict the hunting periods, and hunting is done communally and not individually. Animal totems are used in naming clans within ethnic groups so that the people of these clans do not eat such an animals, and will jealously protect them from being hunted and eaten by others as well. Therefore, natural resources are protected to a certain extent. These examples are useful for the success of CBNRM initiatives. Unlike HIV/AIDS programmes, respondents felt that most traditional sexual practices actually needed to be discouraged as they perpetuated the spread of the virus. For example, in most patrilineal societies in southern Africa, it is socially acceptable for a man to have multiple sexual partners or even engage in polygamous practice.

Core values of Public Participation in Water

According to the respondents from the Institute of Water and Sanitation Development (IWSD), for public participation to achieve desired results the community should be granted the recognition that they deserve:

“There should be a level playing field enabling useful provisions and contribution from the community members.”

IWSD pointed out that most of the time public participation is merely carried out for company image reasons and legitimacy, and not for the sake of making communities owners of the process. For example, the project managers tend to go out to the public with pre-conceived ideas merely to inform and “follow procedure.” The public cannot make substantial changes to the plans of the project managers; consequently, they are just passive participants in the decision-making processes because there is no equality in the

negotiating power of the two parties. Recognition and equality is a very important aspect in public participation.

The respondents were also in agreement that one of the factors that limits the outcome from public participation in water management and other sectors of society is the false belief that public participation is an end in itself. Most programmes/ projects managers have a skewed understanding that once they take the public on board, their job is *fait accompli*, and they can then dedicate their time and efforts to other ventures. However, the IWSD warned that, “*public participation is a process that has to be nurtured*”. When a project manager goes out to the public to make them part of the project team, they should realise that their visits, meetings and workshops are only the beginning of a series of processes that will unfold with time, even long after the project was implemented.

The findings were found to be in line with the concerns raised regarding civil society engagement in the IAIA newsletter (2001) as presented in Box 6 below:

Box 6: Some of the concerns raised regarding civil society engagement in development planning (IAIA Newsletter 2001)

- Compromise of the environment due to lack of capacity to enforce compliance as expressed by the authorities.
- Consultants whose first allegiance is the developer whom they refer to as the “client” - while ethically, the “client” is supposed to be the public and the environment.
- Developers who regard the consultants as their public relations officers to get the project through – thus the “EIA process is seen by some as some necessary hoop to be jumped through in the process of getting approval.”
- Unethical consultants who appoint specialists even before the public is aware of the project – thus no public input is sought beforehand.
- Lack of skills and knowledge and inaccessibility of public participation processes especially for the ordinary person.
- Inadequate resources for training in public participation by NGOs.

The key principles cited for public participation includes transparency among all stakeholders so that decisions are characterised by openness and clear communication. Both positive and negative aspects of the project should be put on the table, with ample time for feedback among all stakeholders.

3.4.3 Myths related to Public Participation

The common myths about public participation as identified by respondents were as follows (Table 5):

Table 5. Myths associated with public participation according to percentage of the respondents

Myths mentioned	Governance %	CBNRM %	EIA %	Water management and Research %	HIV/AIDS %	Total %
The public frustrate, delay projects or even block them	2.3	2.3	4.7	4.7	-	13.6
No response	2.3	9.3	2.3	-	6.9	20.8
False expectations from the public. e.g. handouts, jobs in projects	2.3	9.3	2.3	-	11.4	25.3
Public participation is expensive and time consuming	2.3	-	-	4.7	-	7.0
Public participation is a once-off thing and not continuous	2.3	2.3	4.7	2.3	-	7.0
The public do not know what they want	-	4.7	2.3	-	2.3	6.9
Public participation guarantees all the answers and smooth running of projects	-	2.3	6.9	-	-	11.6
Total	11.4	30.3	25.6	11.4	20.9	100

The long list of myths is an area of focus that should be looked into by the Project because these are a source of potential impediment to inculcation of civil society participation in decision-making, especially in sustainable development programmes in the SADC region.

Even though public participation is so highly valued by different organisations, respondents pointed out that there are myths that have a negative influence on their operations. There is a very high level of the donor dependency syndrome where, in some cases, community members see themselves as latent recipients of development and not initiators of projects (25.8%). This syndrome is rife in the CBNRM (9.3%) and HIV/AIDS (6.9%) spheres as shown by the table above. The public members expect the NGOs and CBOs to give them money and food because they believe that they have a lot of money from the donor agencies. This myth limits the participation level because they just want to receive freely without bearing any costs.

Other myths mentioned by the respondents include the perception from project managers that the public members frustrate and hinder progress in projects (13.0%). The others still associated with project managers are: that public participation is expensive and wastes time and money (7.0%), and that the public members do not know what they want (6.9%). Both public members and project initiators also have false beliefs that public participation guarantees all the answers (11.6%) and also that public participation is a once off thing and not a process to be continuous and nurtured (7.0%). This myth results in both parties losing hope on the significance of the process of public participation because of unrealistic expectations that are difficult to realise.

However, some of these myths can be countered, or put to rest, through a clearly articulated educational strategy which clearly targets specific audience (decision-makers or authorities at different levels within government/NGO/private sectors, public participation practitioners and consultants, donor agencies, grassroots communities and other various stakeholder groups) through well-designed messages for specific groups since they have different myths. But even before that, there has to be a general consensus within the region with regard to certain operational concepts and issues like objectives, myths and misconceptions, underlying principles, values, best and worst practice, approaches and techniques, requirements for technical capacity for public participation practitioners/consultants. Once the consensus is reached, then this will ease follow-up interventions whether in the form of education on the key issues and concepts or design of guidelines which can then be adopted by different stakeholders particularly decision-makers, in each country to suit the local conditions.

3.5 Level of participation of sectors of the public in decision-making

The study's main interest is to understand the process of public participation in the selected countries. Therefore, the respondents were asked to rate the level of public participation process on a scale from very low to very high depicting the various sectors of the public: that is the poor, the wealthy, the educated, and rural people, etc. Table 3 below presents the responses in percentages.

Based on Table 6, the involvement of people who are educated seems to be quite high at 37.2%. This may be because they appreciate the importance of participating in issues that eventually affect their lives. Again, the central government seems to be relatively highly involved in public participation at 37.2%, maybe because usually they initiate

programmes and by the nature of their work their involvement is a necessity. The NGO's seem to be moderately highly involved (41,9%) because they are usually believed to represent the views of the public hence their high participation. Churches (58.1%) and political movements (67.4%) are among the least participating entities in public participation as they make up majority of the very low and low categories respectively. This maybe because churches and political parties are sometimes crisis oriented. They become visible and active in social issues only when there is a state of emergency. It is also interesting to note that participation of the rural vs. urban population is higher among the poor (13.9%) than urban (6.9%) in the very high category. This pattern is considered as positive because rural people are usually sidelined in issues that subsequently affect their lives.

According to the findings, there are more men than women in the high – very high category showing that public participation is skewed towards men than women in different organisations. This maybe due to cultural discrepancies placing more value on men than on women, thereby giving men more confidence in public participation and more power in decision-making. This could also be due to the fact that countries visited a patrilineal societies where decision-making is mostly vested with men.

3.5.1 Attitudes towards civil society participation

HIV/AIDS

In the HIV/AIDS arena in countries that participated in the survey, for example, civil society involvement in decision-making is welcomed and viewed as one aspect that is vital in the advocacy for fight against the spread of HIV/AIDS. Based on the study findings, 66% of the respondents were of the opinion that involvement of other stakeholders and members of the public is very high particularly among the poor, urban, churches, business people, women, government and other NGO's and CBO's.

Civil society is considered to be very active in information dissemination, education and advocacy for HIV/AIDS drugs and the fight against discrimination. SAfAIDS was nominated as an example of organisations actively involved in information dissemination in southern Africa. Their key programme areas are training on HIV/AIDS reporting, dissemination of publication on HIV/AIDS and advocacy for use of information technology. This pattern of civic society involvement is observable at the central and provincial levels. However, at the grassroots level, they seem to be more geared towards income generation and agricultural initiatives.

Table 6. Percent responses on the involvement of various sectors of the public

Ratings	Poor %	Wealthy %	Educated %	Rural %	Urban %	Political Movements %	Business Sector %	Men %	Women %	NGOs %	Churches %	Central Government %	District/ Provincial %	Local government %
Very low	60.5	2.4	-	18.6	13.9	6.9	3.1	11.6	2.6	58.1	60.5	16.3	16.3	16.3
Low	16.3	13.9	15.9	30.3	20.9	62.9	13.9	16.3	25.6	6.9	16.3	2.3	11.6	20.9
Medium	13.9	39.5	23.3	23.3	32.7	13.9	37.2	27.9	29.9	2.2	13.9	16.3	20.9	18.6
High	0	20.9	23.6	13.9	25.6	13.9	38.9	30.3	25.6	4.9	6.9	27.9	23.3	37.3
Very High	9.3	23.3	37.2	13.9	6.9	2.4	6.9	13.9	16.3	27.9	2.4	37.2	27.9	6.9
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Civil society becomes active from the operationalisation and planning stage up until the projects/programmes reach the implementation and maintenance stages where the community members are empowered to an extent that they end up taking total control of projects with limited external influence. This can partly be attributed to the understanding that in the HIV/AIDS organisations/institutions, public participation and civil society involvement is considered to be the key to winning the battle against the wide spread of HIV/AIDS infections. If more and more people on an individual and group basis get involved in various initiatives to fight the pandemic, lesser numbers of people will be infected. Therefore, the economic sector will be able to utilize the skilled human resource with less focus on the problem of losing valued employees to the pandemic. To support this argument, reference can be made to Tanzania, where HIV/AIDS was claiming many lives until the government and civil societies joined hands and declared war against the spread of the pandemic, as a consequence the HIV/AIDS infection rate is dropping.

CBNRM

The rate of public participation by the poor, women, rural churches, political parties and the grassroots in CBNRM is very low compared to the other sectors. This is also true for Namibia and Lesotho, contrary to the positive findings in South Africa. This may be because churches and political parties emerge when there is a crisis. They become visible and active only when there is a state of emergency. The other factor maybe that CBNRM is viewed as a responsibility of certain sections of society, and political parties and churches have other areas of interest.

According to CBNRM organisations, civil society participates in development planning at the central, provincial and grassroots levels. At the central government level, they are prevalent in the environmental management issues, such as advocacy for natural resources management, EIA, sanitation and conservation. They also play an active role in influencing policies and laws. The most quoted example is the establishment of the Zimbabwe Environmental bill that was passed in 2002. The lobbying and consultation process between the government and civic society started in 1982. Throughout the 10 years the NGOs, CBOs, Community members held series of meetings and workshops. The other areas where civic society of Zimbabwe is active according to the CBNRM organisations interviewed are training and capacity building, enterprise building, governance, and civic education. The respondents, however, pointed out that the tense political environment prevailing in the country (at the time of the survey) has placed limitations on the activities of the civic society.

Water Management

For the water sector it was observed that there is a bias towards the involvement of the rural and poor members of society and the NGOs. This is maybe due to the fact water sources are found in the rural areas where most of the poor members of society are found. It makes sense, therefore, that water management would involve the majority and regular users of water from the natural streams and dams. For example, the rural community members can contaminate rivers due to lack of knowledge, but once they know and

understand the danger posed by polluted water, they can stop and even influence others within proximity to these sources.

Civil society that is in the form of CBOs and NGOs play a vital role in development planning within the water management sector. They are most prevalent in the following areas: lobbying, sanitation, and relief issues. They lobby the government and other organisations to recognise and play a substantial role in the management of water. According to most of the respondents (66.6%), living in a clean and healthy environment has to be addressed whether through law or other means, and has to become a concern for the world at large, as a fundamental human right. Any one who pollutes the environment ought to be regarded as an abuser of human rights deserving serious punishment. Therefore, conservation of natural resources should be a responsibility that goes hand in hand with the right to live in a clean and healthy environment. Until laws are passed declaring this right, the civic society of Zimbabwe will continue to lobby and fight for the realisation of their vision.

Gender perspective

There is a gender perspective regarding public participation in HIV/AIDS projects and programmes. According to the respondents there are more women than men involved in the HIV/AIDS advocacy: However, men are dominant in decision-making while women are most prevalent in implementation of programmes. This participatory pattern can be tied to the HIV prevalence statistics in Zimbabwe:

“In 1999, Zimbabwe had an estimated population of approximately 12 million people, of whom 1.5 million (12.5 per cent) were estimated to be living with HIV. Of these approximately 800,000 were women, 600 000 men and 56,000 children (0-14 years old).” Feldman, et al. (2002) Positive Women: Voices and Choices – Zimbabwe Report (p. 7).

The reason for limited numbers of women in decision-making in the HIV/AIDS sphere, which can be traced back to the customary beliefs in societies of Zimbabwe (and Africa in general), is the existence of a patrilineal society where male dominance is still prominent. It is customary for a woman to take orders from a man and to obey his orders without questioning. Therefore, public participation of women in decision-making is still at its infancy, particularly in rural areas where many HIV/AIDS projects are being implemented according to Feldman. R et al, 2002 Positive women: Voices and Choices – Zimbabwe Report p.7:

“Cultural or traditional values have been used to deny women equal/status.”

The other reason can be the stigmatisation associated with the disease. HIV/AIDS is associated with promiscuity which, in most African societies, is the major mode of transmission. Male dominance is further translated into sexual rights where in most cases sex is to satisfy the immediate needs of a man without paying much attention of the needs of women.

There is a slight difference in the understanding of public participation by male and female respondents across all the sectors under review. The female respondents attached a great value to equitability, total involvement of all sectors of society (especially women and children) in decision-making. They also emphasised the importance of awareness-raising on issues and laws affecting women. They pointed out that public participation should recognise and deal effectively with cultural barriers, as it is useless to go to a rural community and call men and women together and ask them to make decisions together. It is much better to separate the two groups so that women can be free to express themselves and make meaningful contributions.

The problems that women face in public participation are not very different from male-headed organisations. They all face the problems posed by the “donor dependency syndrome” as well as problems posed by the political environment. However, women groups have to work twice as hard to prove themselves in public meetings. They are viewed with suspicion and considered as unfit to drive projects. Using the words of one respondent: -

“‘Women’ groups are accused of not being in touch with the grassroots level. According to some rural communities women just talk at workshops without delivering”.

Women face the challenges of breaking the negative attitude of some sectors of the community members even before they can attempt to involve rural communities particularly the opposite ‘sex’ because at the end of the day, they have to create a social space for women to participate in the decision-making process.

Programmes and institutional structures

The key programme area organisations manned by women are: -

- Research into laws and policies affecting women;
- Lobbying and advocacy for equality;
- Education and training in income generating projects.

These programme areas are different from organisations that have more men in decision-making. The male-dominated organisations are less sensitive to gender issues. It is interesting to note the expressions on the faces of male vs. female respondents on the question to the extent of gender sensitivity of the information displayed on websites devoted to public participation, situational assessment and democratic reform in Africa. Most of the male respondents admitted to never bothering to consider gender issues as they browsed through the websites; and as already mentioned earlier, this implies that genuine participation of women in decision-making is rhetoric, or is still at its infancy stages.

The organisations such in Women in Law in Southern Africa (WILSA), which are biased towards empowering women (and children), were considered to require strengthening in:

- Lobbying and advocacy;
- Leadership and management of NGOs;
- Board members induction training;
- Team building.

Their institutional arrangements and public participation methods are similar to those used by male dominated organisations, except that there are more women than men in the decision-making positions.

The general perception is that the participation of the poor, the rural population, “rural” women and generally the grassroots population is low in the EIA process compared to the other sectors, and it is vice versa for the wealthy and the educated - meaning the wealthy and educated do participate in EIA? Rural women seem to be participating satisfactorily in HIV/AIDS issues, and this can be attributed to the fact that they are the project implementers. On the other hand, women involvement in the CBNRM sector is unsatisfactory, as also supported by an example from KwaZulu-Natal. Four local boards were established as per the requirements of the KZN Conservation Act 1998, but there are very few women as opposed to men (Table 7). Even though women are marginalised, they are said to be the major users of natural resources such as thatch grass, wood, grass for mats found within the protected areas. Therefore, this is an argument to promote the participation of the users in decision-making on issues which affect them and in which they have a better understanding plus relevant experience.

Table 7. The numbers of men vs. women in the first four Local Boards of protected areas in KwaZulu-Natal, South Africa

Location of Local Board	Total number of members	Number of men	Number of women	Representation of women (%)
Drakensberg	10	9	1	10%
Coastal Forest	14	12	2	14%
Hluhluwe Mfolozi	15	14	1	6%
Tembe Ndumo	15	15	0	0%

3.6 The role of the civil society in development planning

A summary of what the respondents perceived to be the role of the civil society is provided in the two boxes below. They also expressed that civil society is at present not

able to undertake their roles due to financial constraints and the lack of willingness to get them involved by the national government. The need for more participatory decision-making, transparency and accountability was also expressed. The responses do not seem to differ from the survey undertaken by the Commonwealth Foundation on the role of civil society (Annex 3). The importance of community participation and empowerment is expressed within all the countries. Some government officials, an example is South Africa, are skeptical about the role of the NGOs and expressed the view that NGOs use the name of the public to further their own agenda.

3.6.1 EA/Water Management/CBNRM respondents – the role of the civil society

- Advocacy and watchdogs for proper implementation of the legislation e.g. the St. Lucia case study (Annex 4);
- Research by institutes, universities, and other academic institutions on some of the environmental issues;
- Training and capacity building by NGOs and institutes and universities;
- Production of materials also by WESSA;
- Community/social mobilisation – the St Lucia case study;
- Information dissemination.

3.6.2 HIV/AIDS respondents – the role of civil society

- Care and support;
- Information dissemination;
- Human rights, law reform and policy advocacy;
- Poverty and income generation activities;
- Gender related issues;
- Youth activities – life skills development;
- Advocacy;
- Research particularly by institutions of higher learning such as universities;
- Training/capacity building;
- Production of materials;
- Community/social mobilisation;
- Information storage/database development;
- Facilitation for coordination, collaboration and networking;
- Resource mobilisation and fund raising;
- Monitoring and evaluation of activities and projects.

3.7 Opinions and attitudes of the different stakeholders regarding the participation of the civil society.

Generally, opinions and attitudes vary as there is an element of dissatisfaction, whilst in others there is mention of pockets of success in different countries with problems and constraints as identified by various respondents, from the government and the civil society. The following concerns were raised during the discussions:

- ◆ There is inadequate financial and human resources for the civil society to undertake the work
- ◆ Unwillingness of the government to support programmes undertaken by the civil society.
- ◆ Lack of enabling environment including relevant legislation.
- ◆ Unskilled manpower– as denoted by one respondents stating that “the tendency of the administration is to *dump* people who are not performing well from other departments within an organisation to do public participation which indicates that management and is oblivious to the fact that public participation requires appropriately trained people! ”
- ◆ Pressures within donor-driven projects: The respondents mentioned that civil society activities/projects are donor dependent. Most donor-driven projects have deadlines, indicators, monitoring and evaluation requirements that takes for granted that the outcome of the public participation process is predictable. Generally there seems to be lack of understanding in the dynamics and complexities of the society. Thus to meet the deadlines, the process is hurried through consequently compromising the public participation process and the sustainability of the project. The following quotation expresses the frustrations of the public participation practitioners: -

“Capacity building at community level requires time and patience while on the other hand donors/funding agencies need quick results because they need to see that money is out before the end of the year and the expectation is that a project should work - the reality is THAT SUSTAINABLE DEVELOPMENT IS NOT A QUICK FIX... as much as everything is fast and instant human societies are not that simple”.

- ◆ Lack of balance between the process and the product: In some projects, the public participation process drags for too long, sometimes over issues that do not really warrant the amount of resources (time, money and human). One respondent expressed this frustration by saying:

“We end up being disillusioned on what public participation all about, is it about the process or the product? Suppose the process was satisfactory to all stakeholders while the product was unsatisfactory or vice versa, what is the issue or focus? What about issues of participant fatigue! When is the work that people are expected to do when all the majority of the time is devoted to participation through meetings and workshops and respond to long questionnaires whose products are useless? Aren't there ways to strike a balance thus rationalise and deal with some of these issues?”

- ◆ Lack of continuity: As one respondent said that this is specifically focused on the participation of the CBOs in decision-making.

“Generally, milieu of good governance and thus involvement of the civil society resulted in a mushroom of CBOs, whose members (the majority) operate on a voluntary basis because they are unemployed. The trend is that in most cases CBOs provide platforms to make contacts for better employment. As people attend the participatory meetings they make contacts for new job opportunities and leave the CBOs. In that manner most CBOs are represented by different people throughout the process thus continuity is weakened.”

- ◆ Lack of credibility of CBOs and NGOs: Representatives of some CBOs and NGOs are not genuine in their dealings; they have hidden agendas. Especially in projects where there are stipends or other similar incentives, this leads to the government not being willing to work with NGOs or CBOs and there is lack of trust between these parties. One respondent puts it this way:

“In one big government project the NGOs which represented the communities actually took a large share of the financial benefits and gave little or nothing to the communities themselves who will be affected by the developed. The usual assumption is that the NGOs are representing people, the truth is, and they are people like anybody else who are trying to make money for their families. For government to be able to work with NGOs in the future transparent and more accountable financial systems are required from NGOs. It is important that the grassroots communities benefit from development activities.”

- ◆ Unethical consultants who are not objective and independent professionals but are, instead, service providers who act in the interest of the proponent.
- ◆ Consultants who do not do their homework properly: For instances where the public participation process is facilitated by the Consultant the following problems have been identified:
 - In adequate information being given to the people which is reflected by the type of comments/concerns raised by the stakeholders – which are out of context or irrelevant to the project in question.
 - Big breakdown of communication between the big companies and the local communities attributed to the type of approaches used, whether they facilitate the understanding of the project in a manner that is acceptable to the communities. Thus some times techniques used in the process are not context specific. For instance, in a rural setting it is inappropriate to use a newspaper advertisement since

these are not a common form of communication, instead public meetings are relevant.

- Problems of language (not understood), timing (inappropriate for stakeholders) and venue (far) and approach – repetition of issues.

3.8 Modalities of stakeholder involvement

The type of public participation methods vary from country to country, and from place to place, sometimes depending on the cultural practices prevailing in a particular country or place. However, some are internationally and scientifically recognized methods of public participation.

The different types of public participation methods that are also used in the other parts of the world but were also mentioned to be used within the SADC by the respondents are as follows:

- (a) Participatory Rural Appraisal and Appreciative inquiry;
- (b) Participatory Planning;
- (c) Participation in monitoring and evaluation;
- (d) Action research and learning;
- (e) Workshops and meetings;
- (f) Exchange Visits.

Two samples of the kind of responses on reasons why some people may choose any one method are given in Table 8 below. It can be observed that the participatory rural appraisal method is quite popular, and as a result appears in both tables.

The public participation methods mentioned above could be adopted within the EA/SEA depending on the size of the study, the issues identified and the type of interested and affected parties. The rationale for adopting these approaches is that they have ways of enhancing the participation of the stakeholders, especially those who are usually marginalised in the decision-making process due to language constraints, educational attainments, remote locations, etc. Furthermore, these methods have an empowerment component within them and thus provide opportunities to empower the participants in making informed decisions.

Table 8 Reasons given for using a particular method

	PARTICIPATORY RURAL APPRAISAL AND APPRECIATIVE INQUIRY	PARTICIPATORY PLANNING	PARTICIPATORY MONITORING AND EVALUATION	CLIENT DEMAND EXTENSION APPROACH	FOCUS GROUP/PUBLIC MEETING	ACTION RESEARCH AND LEARNING
Reason	Planning tool; source of information about the area	Relevant workplan; management objective strategies more participation	Gives confidence to people, strategising	People's felt needs responded to	Faster and efficient	Provides locally relevant information; boosts confidence
Advantages	Gives relevant Information; promotes ownership and participation	Ownership of a Programme	Ownership, defines clear rate of progress	Ownership and sustainability ensured	Enables one to know different perspectives of different groups; sensitive issues disowned by individuals but gets mentioned in public for attention, e.g. HIV/AIDS	Increases internal learning; boosts confidence
Disadvantages	Fatigue for being over studied, can be misused as an end to itself	Time consuming	Time consuming, may cause despair and slow progress	Time lag gets too long as people are slow to take action	For sensitive issues such as HIV/AIDS people not free to talk	Requires high standards of planning; time consuming

Public participatory methods that could be replicated are the following:

- Participatory Rural Appraisal (PRA);
- Participatory Planning;
- Participation in Monitoring and Evaluation;
- Action Research and Learning (however, needs caution as it needs well trained person).

Respondents indicated that these public participation methods could be adopted because they are very effective in ensuring public participation. However, PRA should be modified because people are over studied with this method and little has come out. PRA has to be tailored to avoid gathering non-essential information from the local communities.

- Focused group discussion (is part of PRA)
- Public gathering (a *pitso* in Lesotho);
- Client demand extension approach.

Client Demand Extension emphasise participant empowerment and facilitation of ownership. Their application for the EA sector will need to be tailor-made depending on the nature and size of a project and the type of stakeholders. For instance, some principles of participatory “rural” appraisal can be modified and be applied to the urban context as well. Public meetings on the other hand, are very flexible and are already being used

through the region, either through traditional ways or the modern ways. They are more suitable for informing and consulting and not collaboration or empowerment. Thus some methods can be directly replicated while others may require some modification before they can be used elsewhere. So, the previous discussion is about the more academic or western terms, and the text below is about more “indigenous or local approaches.

A focus group discussion can be replicated because this method is flexible. The common community-based public participation methods or customs employed, which could be adapted for other stakeholders, include public gatherings (*e.g. pitso* in Lesotho; *kgotla* in Botswana; *indaba* in South Africa and Zimbabwe) as well as women’s traditional counselling methods that go with acceptable punishment for wrong-doing in Lesotho. It is very important to know in this situation analysis the common local methods of public participation so that they can be used when it is time to do the EIA for large or small projects.

3.8.1 Public participation methods used in HIV/AIDS

For HIV/AIDS interventions, in Zimbabwe for instance, the respondents participated in various ways including: websites, workshops, participatory rural appraisal, publications of booklets, pamphlets, poverty alleviation programmes and income generation programmes at the grassroots levels, facilitation and support of agricultural projects at the grassroots levels as a means to help the people affected and infected by HIV/AIDS, campaigns and marches against discrimination, establishment and support of “support groups” at the community level, training programmes and other methods. In the HIV/AIDS arena, organisations are focused at educating and empowering the infected and affected parties as well as communities at large so that they can attain a high degree of independence and take control of all the initiatives to fight the pandemic. HIV/AIDS is a private matter - no law can be made to force people to conduct themselves in a certain way in the running of their private lives. Implementation of such laws would mean ignoring the basic human right of freedom in democratic settings. Hence, a conscious effort to change attitudes and to get the public to participate and have a sense of ownership/responsibility of the process is the only way that can ensure positive results. Various methods were used in fighting HIV/AIDS to achieve specific objectives (inform, consult, collaborate, involve and empower) and to reach different stakeholders through methods that are tailor-made to their socio-economic status, location, educational attainments, etc. This provides a valuable lesson for the EA sector in that approaches should suit the stakeholders for specific objectives. Not one method or approach is sufficient to engage all the various stakeholders or can be able to satisfy the different objectives of citizen engagement. Thus clarification of the objectives for each participatory activity, appropriate empowerment as well as the employment of relevant participatory approaches to satisfy the needs of the various stakeholders need to be considered for the EA process.

3.8.2 Public participation methods used in CBNRM

The following list presents the different public participation tools/methods used by different organisations:

Tools and methods used in public participation:

- Meetings with workshops stakeholders and communities;
- Participatory Rural Appraisal (PRA);
- Livelihood analysis;
- Participatory monitoring and evaluation;
- Baseline surveys;
- Needs assessment study;
- Focused group discussions;
- Transects;
- Trend analysis.

Of the methods mentioned above, the majority are part of the Participatory Rural Appraisal (PRA) package whose relevance to EA has been discussed earlier; while the relevance of, specifically needs assessment study, baseline surveys and livelihood analysis to the EA sector is based on the Terms of Reference for the EA/SEA. An example of how a needs assessment study can be used for EA/SEA is during the identification of options for compensation or mitigation measures so that these are in line with the needs or aspirations of interested and affected parties. Livelihood analysis and baseline studies provide pre-development information that can be used to make decisions on the socio-economic impacts of a project. The three methods are similar in that their key advantage is that they generate information with variables that provide explicit indicators for monitoring the socio-economic impacts; however, they are very expensive in terms of time and they also require a higher level of technical expertise for analysis of findings. Most research institutions such as the NGOs, universities and other institutes of higher learning employ these methods in their research activities.

3.8.3 Public participation methods used in water management

Several participatory methods used in the water management sector include tools such as training workshops and focused group discussions. The other methods include participatory monitoring, evaluation and meetings with the communities. These methods are used for several reasons such as to inform and educate - training workshops, to get comments and contributions from the public members - focused group discussions. One disadvantage of group discussions according to the respondents (66%) is dominance by some community members especially men, and the educated. The discussions are sometimes dominated by few individuals while majority (mainly women) do not actively participate. Focused group discussions can be used to avoid this problem.

The usefulness of the different methods depends on the overall purpose of the activity. All of the respondents pointed out that the different participatory methods can be used in

any other sector, including the EIA systems. However, there has to be a link between a purpose/goal of an activity and the method used so that the desired results can be achieved.

4. CONCLUSIONS

Based on the study findings the Consultant has concluded on the following: -

1. The southern part of Africa has had different experience and history regarding democratisation process. The majority of SADC countries claim to have democratic governments whilst, in reality, in some cases there have been authoritarian governments which do not represent the views of all sectors of the society. This scenario is further evident in ruling government(s) putting only their supporters in strategic positions to safeguard their political interests.
2. One also observes core-periphery relationship where the former enjoys more bargaining power than the former. This is so in southern African countries, where a country like South Africa though it has a relatively young democracy is regarded highly within the region, Africa and globally; and therefore, its political decisions have a spill-over effect onto other countries. This is manifested in the relationship between national governments feeling powerless when compared with the G8 countries that are believed to be setting the global agenda. However, civil society has taken a role in trying to ensure that the interests of national governments and minority groups can contribute towards the global agenda setting.
3. The study has also revealed that the governance system in the majority of the SADC countries are based on popular representation done through an electoral process conducted through secret ballot. Furthermore, the governance system in most of these SADC countries recognise the presence of traditional administration by ensuring that they are part of governance system. However, in cases like Swaziland, one observes the royal family is vested with a lot of power and influence that is evident through their system of *Inkhundla*. However, irrespective of the difference in the adopted governance system by the national governments, generally speaking, one can conclude that the environmental assessment has, to a great extent, enhanced public participation in the sense that in almost all of them there is a specific clause dealing with stakeholder consultation and public participation.
4. There is a varied understanding on the objective(s) of public participation which has manifested in the EA process varying from country to country and sector to sector, i.e. water management and HIV and AIDS. Others see it as involvement of communities from the initial stages of the project right through to post implementation, whilst others see it as awareness raising and education to change perceptions. It is, therefore, important to reach a consensus on the objective(s) of public participation, by the practitioners of public participation particularly within the SADC countries. This will enable comparison and monitoring of progress.

5. Other countries have recently developed their EA legislation (0-5 years) and do not have much experience on public participation within the EA/SEA while South Africa has a long extensive experience and best practice tools such guides and information series, courses and specialists devoted to public participation that can be very useful to other practitioners in the region.
6. In some of the countries, as much as public participation is entrenched in the legislation, institutional mechanisms to enforce the laws or policy are weak or non-existent.
7. There is generally a willingness for adequate citizen engagement by the development agencies, governments and civil society, but there are, however, limitations in terms of finances and human resources.
8. The study findings have also revealed that there is to a certain extent, a common understanding of core values or principles of public participation. The majority said the basic principle is to ensure ownership of development initiatives particularly by the local communities which implies that there is a need to recognise and respect views of the local communities in order to have ownership and sustainability in these initiatives.
9. However, the study findings have also shown that there are myths associated with public participation in that it creates false expectations particularly from the local communities. Whilst others believe that it delays and or frustrates development projects or decision-making process and so on. This therefore implies that there is a need to educate stakeholders particularly those occupying strategic positions, of the importance of public participation in the decision-making process.
10. The study has again revealed that men participate more in the decision-making process than women. This can be attributed to the fact that the majority of societies found in the SADC region are patriarchy where male domination is prevalent particularly in decision-making on issues of importance. So through the SAIEA project, gender inequality regarding public participation in decision-making process can form part of the agenda.
11. Through the study, it is evident that PRA methods are widely used in the practice of public participation by different organisations and institutions. However, Appreciative Inquiry as an approach to public participation is still not widely practised relative to other tools.
12. There are several institutions/organisations devoted to public participation in different countries and at an international level. However, there was no mention by the respondents of a regional institution that public participation practitioners as individuals or organisations in SADC countries recognise and are affiliated.

Recommendations

- ◆ Relevant stakeholders should be consulted to facilitate the wider use of the appreciative approaches and discover what they hold for public participation and EA practice in the region.
- ◆ Lessons learned from the gender analysis and social analysis should be used to strengthen the use of traditional methods in the EA or general citizen engagement.
- ◆ Public participation in the EA process needs to be strengthened such that best practices can also be shared with the rest of the region.
- ◆ Peer reviewing, refresher courses and networking need to be established to facilitate best practice within citizen engagement processes in the region.
- ◆ Collaboration mechanisms within the region to source funds have to developed.
- ◆ Ways of strengthening existing institutions or creation new ones have to be considered to build the capacity of the practitioners and also provide refresher courses.
- ◆ Lessons learned by South Africa in engaging citizens in environmental decision-making as well as best practice tools should be used by other countries in the region.
- ◆ In cases where institutions are non-existent, new ones need to be formed and weak ones require strengthening in terms of financial and human resources.
- ◆ Development agencies such as USAID, UNDP and World Bank should provide adequate support. This is an opportunity that the Project has to use when advocating public participation.
- ◆ There is a need to facilitate through the project platforms or fora for engaging in discussions around certain operational concepts like public participation. This will require targeting decision-makers within SADC countries hence their involvement in this project cannot be overemphasised in order to have a buy-in into the process.

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