Gaining Public Acceptance Issue-Based Workshop

Proceedings

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UNEP-DDP SECRETARIAT
P.O. Box 30552, Nairobi, Kenya.
Tel: +254 20 7623891 Fax: +254 20 7624763
ddpinfo@unep.org

TABLE OF CONTENTS

FOREWORD

Gaining Public Acceptance of key decisions is the first strategic priority recommended by the World Commission on Dams. Although an overwhelming consensus has been reached on the concept, a road map to gain public acceptance is yet to be drawn.

These proceedings reflect the background, goal, programme, discussions and outcomes of the Workshop on Gaining Public Acceptance convened by UNEP-DDP on 5 October 2005 at UNEP headquarters in Nairobi, Kenya. The proceedings have been elaborated by the DDP Secretariat on the basis of hand written notes and tape recordings of the plenary sessions and the reports from the breakout sessions. Therefore, the contents attempt to capture the general sense of the discussions, the main issues addressed and the wide range of opinions expressed by the participants. In this regard, every effort has been made to follow the general flow of discussions although opinions are not necessarily reflected in the precise order in which they were presented.

The findings of the workshop are well expressed by the results of the breakout group discussions dealing with the four main topics of gaining public acceptance, namely, stakeholder involvement, access to information, informed participation in the decision making process and demonstration of public acceptance. They reflect the general consensus reached at the meeting. After having been submitted to the participants for input and comments, their final version is presented in this document as the workshop's main output.

The discussion held and conclusions arrived at this UNEP-DDP workshop on Gaining Public Acceptance, attended by a wide range of stakeholder groups where governments and civil society were well represented, constitute a relevant step forward in the dams and development debate aiming at promoting improved decision making on dams and their alternatives.

However, there is still need to continue with efforts to clarify the concept of public acceptance and encourage further consideration at the national and local levels with a view to its integration into the country policy, legal and regulatory frameworks. UNEP-DDP urges all stakeholders involved in the dams and development debate to engage in the implementation of this important strategic priority.

OUTCOME OF THE WORKSHOP

The issue-based workshop on *Gaining Public Acceptance* was convened in Nairobi on 5 October 2005, within the context of the DDP work programme component on supporting global dialogues. Seventy eight (78) participants representing a wide range of stakeholder groups involved in the dams and development debate attended the meeting. The overall objectives of the workshop were to:

- Discuss the nature and features of Gaining Public Acceptance process/procedure; seeking at their clarification and prioritization for further consideration at local level with a view to its integration into policy, legal and regulatory frameworks.
- Assess challenges and opportunities in national and regional contexts for institutionalising gaining public acceptance; identify examples of relevant practices in this regard.

Based on previous DDP work regarding characteristics, elements, and attributes of gaining public acceptance, four key components were proposed as the basis of the workshop programme. The four key components are:

- Stakeholder identification
- Access to information
- Informed participation in decision-making process
- Measure of acceptance.

Environmental impact assessment (EIA) and its public participation component were considered as the main vehicle, through which public acceptance could be implemented and integrated into regional and national policy and regulatory frameworks. Environmental impact assessment is understood to be inclusive of social effects and is approached as a lifecycle analysis.

The findings of the workshop were well expressed by the results of the breakout group discussions dealing with the above mentioned four main topics. They reflect the general consensus reached at the meeting. After having been submitted to the participants for input and comments, their final version is presented below as the workshop's main output. Having been constructed in the form of short summary statements, further clarification of the contents of the recommendations and issues raised can be obtained from the section of these proceedings dealing with the report of the breakout groups and the more detailed contents in Annex 4.

1. Stakeholder identification:

- Stakeholders can be different at policy and project level and also as project evolves (planning, construction, operation)
- Their identification can be a combination of different approaches such as of self-identification, social surveys, site visits, etc.
- No one stakeholder is more important than the others in the identification process. Access should be guaranteed to all stakeholders.
- However, an hierarchy of stakeholder groups does require consideration based on level of adverse effects to stakeholders – that are directly or indirectly affected in terms of livelihood (those that have most to loose) and proximity to the project (geography) while taking into account local as well as international standard
- An hierarchy of stakeholder groups is also to be considered when rights or significant risks are concerned
- There should be priority given to communities if it is a community level project.
- Particular attention should be provided to vulnerable groups including Indigenous Peoples, and gender issues.
- Particular attention should be given to establishing capacity to participate and the use of local knowledge.
- There is a need for further clarification to differentiate between the social and legal meaning of public acceptance with regard to rights issues.

2. Access to information:

- These recommendations for access to information apply to both public or private sector projects and benefits both.

As regards availability:

- All relevant project information should be made available to stakeholders including information steaming form upstream policies and strategies such as option assessment and financial aspects. Agreements or contracts should also be made available except commercially sensitive information (except commercially sensitive information).
- Need to provide information on and access to comparable projects with similar effects.
- Need to inform people about existing mechanisms to address grievances at a local and national level and for problem solving related to projects.
- Information disclosure: need for national laws on access to information as well as an appeal mechanism when access to information is denied.

- Importance of provision of access to independent review of project information and studies when applicable or requested.
- Importance of access to expert advice and counsel.

As regards timeliness:

- Importance of early access to information and adequate/sufficient time to process the information by stakeholders. Provision of minimum timeframe, such as at least 6 months, but preferably based on a mutually agreed timelines and format with stakeholders.
- The time frame between public hearing and decision, should allow sufficient time and be embedded in a procedure that ensures incorporation of inputs from public hearing(s).

As regards format and means:

- It must be adapted to stakeholders' level of understanding, accessible at a community level and involve locally available mechanisms
- Greater attention should be given to proper means of communication, taking into account literacy, including formal and informal mediums such as radio, visual representation and discussion workshops. –.
- It is imperative to provide information in the appropriate local language(s).

As regards responsibility for supplying:

- There should be a reliable depository of information on dams at a country level which does not abrogate responsibilities of other project proponents to disclose information.
- There is a need for more extensive use of points of access at local level that are embedded in the community such as community centers or churches.
- A good governance framework is required providing for freedom of expression and allowing opinions to be voiced on dams development projects. .

3. Informed participation in decision-making process

- Public Participation should be done throughout the entire project lifecycle and as soon as the policy is formulated when possible.
- During project planning, the intensity of public participation should increase from the initial scoping stage to the project implementation phase.
- After construction level, public participation may decrease unless there are specific issues or risks to be addressed through continued public participation and information access.
- Sufficient time should be provided to allow people to effectively and meaningfully participate bringing them to the same level.
- Tools and techniques should be context specific and be adapted to the local culture and traditions.
- As a principal, national strategic planning of water resources must be a participatory process that provides the opportunity for water resource users to be included in the policy decision-making.
- The main regulatory framework in which informed participation in the decision-making should be embedded is in environmental law while making explicit social and health issues.
- There is a necessity to translate policies into effective implementation through different mechanisms and processes: an example to accomplish this may be by devolving more power to the regional level.

4. Measure of public acceptance

- Government should be the ultimate decision-maker (albeit taking public contributions into consideration in a good governance context). The responsibility and liability for decisions lies with government.
- Public acceptance should be measured by an outcome-based approach that lists aspects to demonstrate public acceptance. Projecting into the future and looking back is recommended.
- Public acceptance does not result merely from good public participation process. Care must be exercised not to equate public participation with public acceptance. Good public participation process may in fact lead to the agreement, by all parties including the developer, that the project is not acceptable.
- Apart from good public participation, various other aspects contribute to public acceptance: the contents of the public participation process (facts, figures, statistics, including aspects relating to benefits, agreements for compensation etc), the decision-making process, governance framework, as well as other aspects that can come in play.. Usually it is a combination of the above and other potential aspects that need to be considered.

Issues to be dealt with:

- The need to determine at what stage it is relevant to assess whether there is public acceptance or not.: at the start of a process; somewhere in the middle of the process? When the decision is made? Somewhere in the future when promised benefits are due to have been realised or all of the above.
- Whether measuring public acceptance is a question of numbers (majority) or reliance on issues.

INTRODUCTION

The following pages contain a detailed description of the proceedings of the Issue-Based Workshop on Gaining Public Acceptance held on 5 October 2005 in Nairobi, Kenya. The first Dams and Development Forum meeting (Nairobi, July 2002) recommended that the DDP convene a workshop on Gaining Public Acceptance, as one of a series of issue based workshops addressing key strategic priorities of the World Commission on Dams. At the 2nd DD Forum meeting (Geneva, September 2003) further recommendations concerning the goal, outputs and key topics of the workshop were identified. Programmatic constraints prevented DDP from convening this issue based workshop during Phase 1 (November 2001-July 2004) as planned and announced in late 2003. Notwithstanding, further advancement in the elaboration of the topics to be dealt with at the workshop was carried out by a discussion paper completed in March 2004, which was intended to be used as a background document for a virtual group discussion as an intermediate step leading to a virtual or physical workshop. The 3rd DD Forum expressed preference for a physical workshop to be carried out during Phase 2, back to back with a DD Forum meeting. Accordingly the Workshop on Gaining Public Acceptance was convened on 5 October 2005 and this document briefly describes discussions and outcomes.

It is expected that this extensive set of materials will promote transparent discussion, enhance mutual understanding between all parties and deepen the understanding of issues related to dams and development globally. Perhaps most importantly, it is also hoped that these discussions will constitute an important step forward in leading to improved decision-making regarding dams and their alternatives.

Background

Gaining Public Acceptance of key decisions is the first strategic priority recommended by the World Commission on Dams. Although an overwhelming consensus has been reached on the concept, a road map to gain public acceptance has yet to be drawn.

On WCD' perspective, enabling the informed participation by all groups of people in decision making processes that result in demonstrable acceptance of key decisions is a fundamental element of said road map. Recognition of rights and assessment of risk to identify stakeholders, full access to information, negotiated agreements as the basis of demonstrable public acceptance of key decisions and guidance of decision on projects affecting indigenous and tribal peoples by their free prior and informed consent, are the underlying key principals. Reactions to the WCD Report raised concerns on some of these principals, particularly their implementation aspects, thus indicating that further discussion at he global and national levels was required.

The first Dams and development Forum acknowledged the need to have transparency in decision-making. References were made to the need that information on needs assessment, options assessment, environmental and social impact assessment etc is made available to all. Opportunity for all stakeholder groups to participate, fully and actively, in the decision making process would thus be enabled. The need to carefully consider the definition of stakeholders to ensure that all legitimate stakeholders, including both beneficiaries and adversely affected stakeholders, are identified at the start of the process were raised. Adversely affected stakeholders include indigenous and tribal groups, women and other vulnerable groups. Establishment of norms for consultation and involvement of all stakeholders and a means for dispute resolution was considered necessary. Reference was made to factor in that the outcomes of the process should reflect adequate and equitable compensation and/or benefit sharing for all affected stakeholders if acceptance is sought. The relevance of considering all these issues in the framework of national contexts was pointed out. While transparency and involvement of all concerned stakeholders is widely agreed, the means through which such involvement is achieved and the decision making process is carried on, have raised diverging views. These often involving the issue of government's roles in decision-making and its participation in the process.

The second Dams and Development Forum meeting, Geneva, 25-26 September 2003, provided additional direction for the proposed Gaining Public acceptance issue-based workshop. This is reflected in the objectives, expected out put and structure of the meeting as shown below. The meeting further stressed the need to further clarify the concept of Public Acceptance, in terms of common attributes or characteristics considered in the context of a decision-making process in water and energy development. When looking into the diversity of societies with different cultures, it is reasonable to state that "public acceptance" in one society will be quite different to another society. Therefore, there will be inevitably be different approaches to implementation. Consequently a key expected out put of the Gaining Public Acceptance workshop was to identify and agree on common attributes and characteristics as well as the components of a public acceptance process that can then be an input for more detailed consideration at national and regional levels and form the basis for appropriate policy formulation.

Objective of the Workshop

DD Forum members as well as ensuing work by the DDP Secretariat lead to the identification of the following two workshop objectives:

a. Discuss the nature features of «gaining Public Acceptance process /procedure seeking at their clarification and prioritisation for further consideration at local level with a view to its integration into policy, legal and regulatory frameworks.
b. Assess challenges and opportunities in national and regional contexts for institutionalising gaining public acceptance and identify relevant examples of practice in this regard.

These objectives are crystallized through a series expected outputs resulting from the workshop:

c. Clarification of the major common steps/ components/elements/attributes of public acceptance processes/procedures.
d. Identification of obstacles and challenges associated with the implementation of public acceptance processes/procedures.
e. Information on good practices around the world drawn from case studies and elaborations submitted to the meeting.
f. Proposal of the next steps for DDP and other stakeholders to move forward the internalisation of public acceptance processes/procedures at country level.

Main Topics for Consideration

The Table 1 below present the main topics involved in the concept of gaining public acceptance, elaborated by the DDP secretariat drawing on the discussions at the working group session II, entitles Gaining Public acceptance, at the second DD Forum meeting in Geneva, 2526 September 2003. They have been organized in terms of steps and components, elements and attributes/requirements of a process/procedure for gaining public acceptance.

Characteristics of the Public Acceptance Process			
	Step/Components	**Elements**	**Attributes/Requirements for Public Acceptance**
1	Stakeholder identification and involvement (appropriate to the stage of planning)	▪ Rights-and-risks approach ▪ Roles ▪ Responsibilities ▪ Accountability ▪ Support mechanisms for disadvantaged groups ▪ Interaction between groups ▪ International stakeholders ▪ Proactive involvement (maintaining motivation)	▪ Transparency ▪ Accountability ▪ Recognition of rights and entitlements ▪ Benefit sharing and community development (as opposed to compensation) ▪ Recognition of indigenous rights in the local context ▪ Adaptation to local culture and context ▪ Time-bound process
2	Access to information	▪ Availability ▪ Language ▪ Formats	
3	Informed participation in decision-making processes	▪ Public participation mechanisms ▪ Participatory decision-making mechanisms	
4	Demonstration of acceptance	▪ Measures of success: Agreements negotiated Lack of conflict ▪ Ownership of process and outcomes	

Source: Issue-based Workshop on Gaining Public Acceptance, 2005 First Announcement, DDP, June 2005

Organisation and Structure of the Workshop

The programme of the Gaining Public Acceptance workshop comprised of five plenary sessions including breakout group discussions. In the plenary sessions, two keynote presentations were made addressing issues related to integrating gaining public acceptance of dams in national and regional policy and regulatory frameworks and public participation processes and techniques. Four breakout sessions were also convened addressing the key components of gaining public acceptance: stakeholder identification, access to information, informed participation in decision-making processes and demonstration of public acceptance. In addition, various selected case studies were presented for discussion in plenary. At the end of each plenary session, the discussions were opened to the floor. A final wrap up summary report was drafted by the Facilitator and the Chairs of the Working Groups. The agenda of the meeting is included in the proceedings as Annex 1.

The participants were furnished upon registration with a briefing document containing the programme, the lead paper elaborated by Mr. Peter Leonard, Facilitator of the meeting, a background paper on Gaining Public Acceptance commissioned to the Unit for Social and Environmental Research of the Chiang Mai University in Thailand and all appropriate papers received. It is to be noted that the authors of submissions were requested to elaborate concise papers addressing the relevant topics related to national processes leading to sufficient public acceptance, good practice of problem solving tools used to achieve fast consensus building, information access and dissemination and stakeholder identification. Six papers outlining case studies of relevant experiences in dealing with public acceptance processes were selected to be presented orally at the workshop.

Participation

Seventy eight (78) participants from thirty-nine countries representing a wide range of stakeholders involved in various aspects of dams and development attended the meeting. The list of participants is included in the proceedings as Annex 2. Almost all categories as defined according to DDP categorisation attended and participated in the workshop with advocacy NGOs, Intergovernmental organisations, research and government (policy) being better represented. Government representatives from the United States of America, Sweden, Norway, Switzerland, Zambia, Mozambique, Nepal, Viet Nam and other countries were present at policy level or through bilateral agencies or national water or electricity utilities. Multilateral Development Banks (MDBS) were represented by the Asian Development Bank and the World Bank.

Group Photograph of the Workshop Participants

PLENARY SESSION 1: OPENING SESSION

In setting the scene for this plenary session Mr Alberto Calcagno, Co-ordinator of the Dams and Development Project (DDP) extended a warm welcome to all the participants at the workshop and subsequently invited Ms Veerle Vandeweerd, Officer in Charge of the Division of Environmental Policy Implementation (DEPI) to officially open the meeting on behalf of Dr Klaus Toepfer, the Executive Director of UNEP.

Ms Vandeweerd began by expressing her deep appreciation to the participants for attending the workshop. She also noted that UNEP remained fully committed to promoting sustainable development and making a contribution within its mandate towards the achievement of development goals agreed upon by the international community with particular emphasis on MDG 7 regarding environmental sustainability aiming at halving the population without access to water supply, sanitation and electricity by 2015.

Ms Vandeweerd pointed out that dams remained a critical element in water and energy resources development noting that UNEP did not lay emphasis on size or renewability, but on good and bad dams and ultimately sustainability. She further noted that the WCD report was not accepted in its entirety by all stakeholders, but there was an emerging consensus built upon the core values and strategic priorities. She reiterated that the workshop's focus was on gaining public acceptance, which was a crucial aspect of dam's decision making process. It was recognised that implementation of participatory processes on the ground poses significant challenges and placed emphasis on the adoption of the four key aspects related to stakeholder identification, access to information, informed participation in decision making processes and demonstration of acceptance. It was also noted that a diversity of participants representing the various stakeholder groups were present at the workshop to enrich discussions and unpack these key elements.

The presence of Mr Peter Leonard, the past President of the IAIA, and Ms Tisha Greyling of the IAP2 was recognised with appreciation. In particular Mr. Leonard for his role in collaborating with the DDP in the organisation and facilitation of the workshop. It was noted that there were high expectations that the one day workshop would succeed in setting the ground for fruitful discussions and eventually consensus on sensitive and contentious issues and therefore move a step forward in clarifying the road map for their implementation. Ms Vandeweerd concluded by wishing the participants fruitful deliberations and an enjoyable stay in Nairobi, Kenya.

Following the opening address, Mr Alberto Calcagno, DDP Co-ordinator, made a brief presentation of the DDP work programme and also highlighted the objectives and organisation of the workshop. In particular, he emphasised that the proposed structure for the one-day thematic GPA workshop was designed to facilitate extensive discussions, convergence of ideas and consensus when possible.

KEYNOTE PRESENTATION: "Integrating Gaining Public Acceptance of Dams in National and Regional Policy Frameworks",

Peter Leonard, Past President, International Association of Impact Assessment (IAIA)

Mr. Peter Leonard, past President of IAIA and Facilitator of the workshop, presented the background to the workshop including the key topics for discussion that had emerged following the second Dams and Development Forum meeting held in 2003 as well as briefly highlighting the goal, objectives and work programme of the DDP Phase 2. The expected outputs, main topics for consideration and the draft agenda for the workshop were also outlined.

Furthermore, he also presented the background document for the workshop: "Integrating Gaining Public Acceptance of Dams in National and Regional Policy and Regulatory Frameworks" as a basis for identifying key issues for further discussion. The key aspects emphasised in the presentation related to the definition of the concept of gaining public acceptance, role of public participation, governance issues, contribution of impact assessment, and a set of questions for triggering discussions.

In defining the concept of gaining public acceptance, the underlying policy principles of the WCD were briefly mentioned including the relationship between gaining public acceptance and the other strategic priorities, for example, in relation to maintaining trust and commitment to agreements which is also linked to ensuring compliance. The rationale underlying the proposed expansion of the principles of gaining public acceptance was also explained with key distinctions being made between procedural and distributional justice processes. In this regard, four other processes proposed linked to outcomes included equitable sharing of benefits, fair distribution of involuntary risks, protection of livelihood security and the provision of compensation, insurance and where necessary welfare support.

The IAP2 public participation spectrum was also briefly mentioned as an important aspect to be taken into consideration throughout the workshop discussions. The spectrum highlights different types and levels of public participation. The core values of public participation were highlighted as an important reference framework. Issues of governance were also reiterated as being critical to gaining public acceptance and four tracks were mentioned as being illustrative of the departure from traditional governance processes including greater involvement of civil society and interactive multi-stakeholder forums such as the Dams and Development Forum.

Peter Leonard, Keynote Presenter and Workshop Facilitator

The way forward with regard to gaining public acceptance was also pointed out including recognising transparency and fairness by creating multiple arenas for dialogue and debate and channels for public input on decision making, recognising capacity building of national institutions, dispelling the myth that public participation is wasteful of resources, recognising that there is no single correct way to implement gaining public acceptance and methods of effectively doing so are still been explored. Similarly, additional factors mentioned included the need to create incentives for effective partnerships to be reproduced by praising and rewarding agencies that are effective at public engagement, sharing gaining public acceptance experiences and deconstructing the assumption that know-how about processes of governance including gaining public acceptance is centred in mature economies.

Focus was also made on Environmental Impact Assessment (EIA). It was emphasised that although EIA is widely used and has been extended to 113 countries, it is not the sole process or tool to enhance gaining public acceptance. EIA is a process which by definition integrates participatory process from its inception and the basic principles converging with gaining public acceptance were mentioned as including the following: EIA should be a participatory process, interdisciplinary, credible, integrated, transparent, focused, adaptive and systematic. It was pointed out that these basic principles developed by the IAIA are independent from the WCD report and that they evolved separately. As a backdrop, Impact assessment was presented as an overall process and tool with emphasis being made on the emerging concept of strategic environmental impact assessment. Strategic environmental

impact assessment emphasises assessing policies, plans and programmes. In this regard, a brief allusion was made to the recently concluded international conference on strategic environmental assessment held in the Prague. It was also stated that full agreement is yet to emerge on the concept, definition and what exactly it has achieved, but there is overall consensus on the need to move beyond the project in assessing impacts, move upstream and evaluate plans, policies and programmes.

It was noted that strategic assessment is at the forefront of the assessment community and the idea is to assess options, alternatives, effects on other sectors, global effects, basin management and incorporate life cycle analysis. In terms of linking it to public involvement, strategic environmental assessment when focusing on plans, programmes and policies must take into account public participation and provide information, consultation through public hearings and other means which facilitate participatory processes and public stakeholder input in defining or assessing policies, plans and programmes. Furthermore, strategic environmental assessment is an expanding field and it has been incorporated in the European Directive on Environmental Assessment and the Espoo Convention. The cycle of impact assessment was briefly mentioned including the different activities at project planning, construction, operation and decommissioning. Parallel to this, it was emphasized that there were different public participation activities including public hearings, consultation measures and information disclosure. It was emphasised that during project construction, operation and decommissioning, specific requirements are ad hoc and are in the process of being formalised.

It was pointed out that the key questions in defining the roadmap relate to how to integrate gaining public acceptance into national and regional policy and regulatory frameworks and what the implementation processes and tools are. Specifically, how to address challenges of implementation that are context specific since no agreement has been reached on the concept itself. In this regard, it was indicated that one of the specific objectives of the workshop related to providing recommendations on the elements of a comprehensive policy/regulatory framework which would allow for more specific recommendations to be made tailored to a country/regional basis that would be flexible to these processes, provide guidelines, practical tools and techniques to ensure enhanced public acceptance.

The key questions/topics identified as a framework for the workshop were emphasized including the four steps/components identified and a series of elements and list of attributes common to each step/component. The four steps/components included stakeholder identification, access to information, informed participation in decision-making processes and demonstration of acceptance. The elements and attributes of each step/component were also briefly highlighted including a set of fundamental key issues linked to each that would be useful in triggering further discussions.

Mr Leonard concluded his presentation by reiterating the workshop objectives and outputs. The objectives of the workshop were outlined as being firstly, to discuss the nature and features of gaining public acceptance process/procedure for clarification and prioritisation for further consideration at national and locals level integration into policy, legal and regulatory frameworks and secondly, to assess challenges and opportunities in the national and regional context. The structure of the agenda for the workshop and format of the working group discussions was also outlined.

"Public Participation Processes and Techniques",

Tisha Greyling, International Association of Public Participation (IAP2)

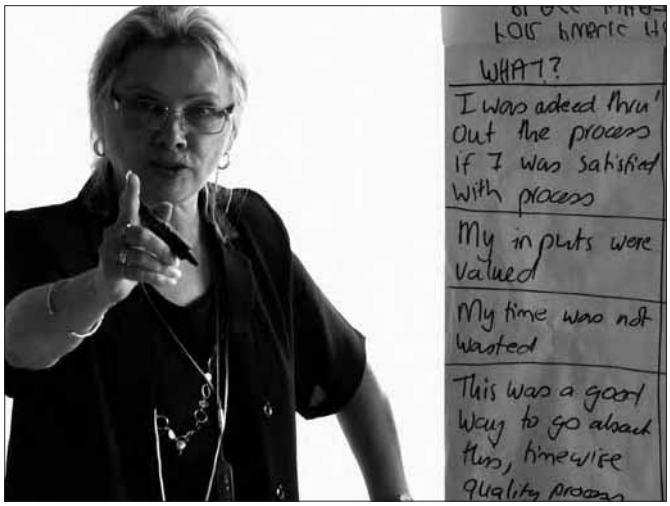
Ms Greyling began her presentation with a brief overview of the work of the IAP2. IAP2 was established in 1990 and it has practicing members worldwide. IAP2 views public participation as any process that engages the public in making a decision or uses public input to make a good decision. It was emphasised that good decisions did not just happen. The core mandate of IAP2 is therefore to help improve further and promote the practice of public participation. IAP2 does this through various avenues including sharing and learning events, research and training courses. IAP2 training courses on good public participation are available in English, Spanish and French.

Public participation can be viewed as a process leading to a joint effort between interested and/or affected parties, the developers, governments and the technical specialists to make better decisions than each of them would have been able to do independently. It involves people sharing ideas and pooling resources in order to make better decisions. Ultimately, therefore, dam developers or governments do not have to bear the burden of good decision-making on their own.

In regard to public acceptance, Ms Greyling emphasised that public participation is only one of many aspects that need to be in place for public acceptance to be achieved. Other aspects include defendable and independent environmental and social assessment, and governments incorporating public issues in the final decisions, amongst others. She pointed out the challenge of integrating public issues and technical assessment prior to decision-making, especially since local knowledge and emotions are not based on statistics and hard data.

She noted further that in some cases even an excellent public participation process, including transparent disclosure of information and joint fact finding between stakeholders and technical specialists, will not guarantee public acceptance. In fact, a good public participation process may lead to all parties agreeing that a proposed project should not go ahead, as evidenced by a number of industrial, mining and other development cases globally.

Therefore, it is critically important to define and agree on the objectives of the public participation process in advance. She pointed out that one of the fundamental reasons that processes go wrong worldwide is because there was a mismatch in expectations of the objectives of the process between the different players in the process. For this reason, IAP2 has developed a Spectrum of Public Participation, with different objectives for different levels of the Spectrum: inform, consult, involve, collaborate and empower (invest with legal power).



Tisha Greyling, IAP2

At each level, from left to right on the Spectrum, the level of public influence on the decision increases. Typically, the more sensitive people are about a proposed project, and in particular large infrastructure projects including dams and hydropower schemes, the more opportunity they want to have to influence the decision. IAP2 advises that the promise to the public of the degree of public influence on the decision be agreed upon and made explicit at the start of the process and committed to by the developer to avoid the risk of mistrust and process delays.

IAP2 has further developed, with international participation, a set of core values for public participation, representing best practice. She highlighted some of these, saying that the public participation process:

- Seeks out and facilitates the involvement of those potentially affected and interested. Proactive identification of such people and personal contact with affected people works best.
- Involves participants in defining how they participate. Either interview or ask people about how they prefer to be involved, or as a minimum allow people to comment on the proposed process methodologies.
- Provides participants with the information they need to participate in a meaningful way. Information has to be accessible in terms of language and style, available as a mix of written, verbal and visual information, has to cover both content and process information, and should help build people's capacity to participate.
- Communicates the interests and meets the process

needs of participants. This includes enough time, advance information, and several rounds of opportunities to learn and contribute during the process.

- Communicates to participants how their input affected the decision. In this regard, Issues and Response Reports, reflecting every issue raised and a response to the issue, is very valuable.

Ms Greyling noted the key benefit to developers and governments of good public participation: in a constructive process, people from many different sectors of society contribute a great deal of time, local knowledge and creative new ideas. If one has to convert their time to money, stakeholders can be viewed as free consultants in helping to make better decisions.

She concluded the presentation by pointing out the crucial role of experienced, independent and ethical public participation practitioners or facilitators in ensuring good public participation. Many processes, particularly for publicly sensitive processes such as large infrastructure projects, go wrong because they are not conducted by experienced practitioners. In this regard, IAP2 has developed a Code of Ethics for practitioners.

Plenary Discussions

In the plenary discussions, a question was raised on the title of the presentation "integrating gaining public acceptance of dams". It was pointed out that the main issue is not only about dams, but dams and their alternatives as the WCD indicated that public acceptance of key decisions is essential for equitable and sustainable water and energy resource development. In response, it was clarified that in elaborating the key presentation, the assumption taken was that the assessment of alternatives is embedded in the process.

A further question was raised about whether dam builders and governments would buy into the public participation process given the length of time it would take and the cost implications. In response, it was pointed out that the costs resulting from a public participation process should be borne as part of the feasibility study for the proposed project and the developer should pay hence the importance of raising awareness about the value of public participation. Furthermore, it was reiterated that while public participation costs money, bad public participation would cost even more. In addition, several participants expressed concerns about the purpose and value of public participation process if the comments and recommendations made were not reflected in the decision made. It was therefore indicated that the issue of greater accountability of public participation results needed to be addressed.

Further questions were asked related to the decision-making process and specifically, how the information from affected parties is taken into consideration and how much information should be made available? In response, it was noted that the environmental impact assessment process is an important basis to provide recommendations on gaining public acceptance. Some legislations provide explicitly that all comments provided should be taken into account and explanations given if that is not the case. Overall, it was pointed out that in practice not enough legal guidelines or provisions require full information disclosure, but access to information is nevertheless a fundamental issue.

With regard to cost implications of infrastructure projects, the opinion was expressed that developers in the assessment of impacts of dams, only focused on the economic aspect and therefore there is need to also ensure that social and cultural aspects become an integral aspect of the assessment of projects. The question was raised regarding public participation and in particular why the definition of it being a joint effort of people, developers and technical specialists appeared to exclude financial institutions. In response, it was pointed out that financial institutions could be part of the developers team or play a role in setting the policy framework in many countries in which case they are considered to be stakeholders/ interested and affected parties. Furthermore, it was also reiterated that the spirit of public participation is totally inclusive.

A question was raised with regard to dams built in areas where communities are socially and politically vulnerable and where the communities have their historical rights and whether in defining stakeholders and stakeholder participation in any decision making process, the same status should be accorded to local indigenous communities and right holders? In response, it was pointed out that this question would be discussed as part of the breakout group activity in the next session of the workshop.

Further comments were given regarding efforts made by SADC to elaborate a regional position on WCD. In this regard, it was indicated that the SADC Heads of State have explicitly stated that dams and development is a priority issue in order to curb poverty alleviation and achieve the internationally agreed MDGs. In response, it was stated that infrastructure development had been prioritised in development programmes of large institutions and there was growing acknowledgement that dams are an integral aspect of the basic infrastructure required for further development.

The opinion was also expressed that there was a notable absence in the discussion of the important role gender plays in addressing public participation. A recommendation was made to further elaborate on this component. It was further clarified that financiers would be more likely to engage in public consultation processes if certainty emerged that the project would go ahead.

PLENARY SESSION 2: BREAKOUT GROUP DISCUSSIONS

Session 2 consisted of discussion and recommendations carried out through break out groups. The theme of each group was based on the main steps and components identified as being key characteristics of gaining public acceptance. For each of these steps/components a series of specific of elements that characterise them were identified as well as a series of attributes and requirements common to all steps and components (*see table 1 page 10 previous section).*

DDP Secretariat organized the distribution of participants into four working groups in a way that the composition of each group reflected the range of stakeholder's representation present in the plenary sessions.. The groups were assigned to discuss the following topics based on the agreed upon components of public acceptance:

Working group 1: Stakeholder identification and involvement (appropriate stage of planning)

Working group 2: Access to information

Working group 3: Informed participation in the decision making-process

Working group 4: Demonstration of public acceptance

Each group was asked to provide their common views to the issues presented in the format of a series questions and sub questions. To this end discussion guidelines were provided to the participants. See Annex 4. The breakout groups deliberated for one and a half hours in separated rooms. Steering Committee members chaired the breakout sessions. Each group elected a rapporteur to follow up the discussion and prepare the report in the plenary.

The purpose of the general discussion in the group was identifying agreed issues, disagreements and proposals responding to the posed questions. The working group's activity began by allotting each member approximately twenty minutes to respond to the questionnaire on the proposed topics prior to opening up the general discussion. A further additional ten minutes were allotted to the participants

Rajendra Singh addressing a question to the key note presenters

to share their views with one another in order to identify common approaches.

Participants were invited to use the common EIA and public participation requirements - the template of impact assessment through its life cycle - as the backbone for their recommendations. However, discussion and recommendations were not meant to be limited to impact assessment.

All groups were requested to make recommendations to be taken into account and issues to be addressed when dealing with the specific topic at a national or regional level. In carrying out the exercise, it was emphasized that the target audience to bear in mind were national and regional governments that have the capacity to integrate these recommendations and further address the issue through their policy, legislative and regulatory frameworks. Further information on the composition and deliberations of the working groups can be found in Annex 4.

PLENARY SESSION 3: DELIBERATIONS AND OUTCOMES OF THE WORKING GROUPS

The following sections present summary descriptions of the deliberations of the working groups and the presentations of the outcomes by their rapporteurs to the Plenary Session 3. The outcomes of each working group, have been captured in the overall outcome of the workshop at the beginning of these proceedings.

Working Group 1: Stakeholder Involvement and Identification

The working group began with a general discussion on stakeholders with particular emphasis on how to identify them. In this regard, a wide range of opinions were expressed with stakeholders being considered to be amongst others the project beneficiaries, people displaced by the project and those located downstream of the dam. Furthermore, consensus emerged that stakeholders should be determined through a variety of means including discussion with local populations, visiting the site and undertaking a social study. Caution was however expressed regarding the importance of thoroughly verifying the information collected taking into account that stakeholder identification was in itself a process and it is different at both policy and project levels.

The question of whether hierarchy existed amongst stakeholders was also extensively discussed with emphasis on the question of what criteria should be used to define them. In this regard, various views were expressed by the participants with consensus emerging generally that all stakeholders should be treated equally throughout the process. However, it was also agreed that special consideration should be given to factors related to the level of adverse effects in terms of livelihood, whether it was directly or indirectly affected, proximity to the project (geography) as well as the applicable international norms when rights or significant risks were concerned.

In addition, it was suggested that particular attention needed to be given to vulnerable groups including indigenous peoples. The importance of incorporating gender issues into the decision making process was underscored. The Group participants also emphasised the importance of fully involving communities from the onset of the project planning process and the need to ensure transparency in the disclosure of information while at the same time utilising where possible the indigenous knowledge base. The Group participants also highlighted the need for further clarification to adequately distinguish between the social and legal meaning of public acceptance with regard to rights.

Working Group 2: Access to Information

The working group began by discussing in detail the question of what type of information was required and by whom? In this regard, it was noted that all project documentation is required including feasibility and options studies, demand forecasts and a thorough examination of different energy options to meet needs. In addition, opinions were expressed about the need for comprehensive cost assessments, contracts/ agreements and general information on the decision-making process including timelines, those who are empowered to make decision, opportunities to access those decision-makers; information related to previous experiences from different dam-affected communities including dispute settlement mechanisms.

In addition, it was emphasized that the same information should be provided to all "stakeholders"/ in multiple formats—print, electronic, verbal/oral, visual, etc. However, views were expressed that the information needed to be provided in a Forum coordinated by independent parties in order to prevent bias.

It was further pointed out that project proponents should make every effort to provide information through all available channels in order to enhance transparency in the process of information disclosure. Caution was however expressed on the need to avoid overwhelming affected communities with

Participants broke into four groups to discuss the key components of GPA

information. There was also the need to provide assistance that promotes the understanding of the information including facilitating access to legal expertise/advisors, with the resulting costs possibly borne by the project developers.

The Working Group also addressed the question related to where the information was to be provided. In this regard, it was suggested that information should be made available at the community level in schools, churches, government offices and town centres or alternatively establish one main depository for all the required information. It was also noted that project developers and governments had the responsibility of ensuring timely dissemination of information at least six months in advance although flexibility was possible depending on the nature of mutual agreements concluded between affected people and other stakeholders. Furthermore, information should be provided in the local languages of the affected communities as well as in national languages. In addition, the opinion was expressed that exchange visits to similar projects including discussions with other affected people should be encouraged.

It was pointed out that there was a risk if the information was given too far in advance given that it may be outdated at the time of the meeting/discussion. The opinion was further expressed that the problem with specifying information requirements was that the planning periods of different projects differ depending on size. However, the importance of ensuring that information was made available throughout the project operation was emphasized.

The Group also extensively discussed the issue of what format the information was to be provided in. In this regard, it was suggested that all available teaching methods in written and visual form tailored to the level of understanding of affected communities should be utilized. Furthermore, other available mechanisms for information dissemination and facilitating of participation by local communities included translations, radio/media, churches, schools and other academic institutions. It was also agreed that mainly the developer should bear the costs of information access although if the information is readily available and public participation is well implemented, the costs would be reduced considerably in the long term.

Similarly, various remedies to ensure access to information were proposed including the enactment of comprehensive laws incorporating the right to information, the enforcement and implementation of laws related to information and people's participation, establishment of compliant mechanisms at the local level and the recognition of collective rights of indigenous peoples and the principle of Free Prior Informed Consent.

Working Group 3: Informed Participation in the Decision-making Process

The key issues for discussion in the Working Group related to when public participation should occur and whether public participation should be recurrent and a two phase process at the beginning and end. In this regard, it was pointed out that ensuring public participation could be difficult at the very early stages of the project as little information may have been gathered on alternative options. It was also noted that public participation takes time and consultations should take both local and national needs into consideration. Furthermore, it was pointed out that early consultations with the local communities were critical in order to ensure that their priorities were considered during the planning process.

The Group also addressed the key question of what level of public participation was required. In this regard, the need to identify the different stakeholders who can be involved in the public participation process was pointed out. Furthermore, capacity building was considered to be an integral component in ensuring that the stakeholders concerned fully understood the project implications. It was further noted that in majority of cases the responsibility of bridging the gap between the public and the government was often left with the NGOs who had limited capacity to undertake this critical task effectively. It was also noted that the tools and techniques needed to be appropriate to the place and level in order to be meaningful to the local population in addition to taking language issues into consideration.

The Working Group also considered in detail the question of how to incorporate public acceptance in national and regional policy and regulatory frameworks. In this regard, various opinions were expressed including the importance of clearly articulating local issues at the national level. Furthermore, it was emphasised that policy should in essence be a reflection of the people's wishes and that national strategic planning of water resources needed to be a participatory process. It was also considered necessary to ensure that good policy is translated at the operational level, for example, by devolving power to the regional level including the consideration of transnational requirements. Government recognition of the public participatory process was also considered by the Working Group to be fundamental.

The key recommendations identified by the Working Group included the following:

- Public participation is required in the identification of needs and priorities at the national planning level and also throughout the entire process even beyond project construction.
- Public participation should increase from the scoping stage to project implementation from information to full consultation. However after the construction process, the level of public participation usually decreases unless specific issues need to be addressed.
- Time is required to bring all stakeholders to the same level in order to enable them to participate meaningfully in the decision making process. Therefore, the need to allow flexibility and resist from imposing deadlines was considered important.

- The need to recognize that tools and techniques should be context specific and take into account local culture and traditions as appropriate.
- The regulatory framework should be the environmental law that is also encompassing social issues explicitly including health.

Working Group 4: Demonstration of Public Acceptance

The Working Group began the discussion by noting that there was a need to clarify the meaning of the term public acceptance. The question was raised as to whether public acceptance related to a decision (yes/no), a project or something else? Furthermore, the issue was raised regarding what stage public acceptance needed to be assessed: a) at the start of a process (e.g. an EIA process that typically could take a year or more, and at which stage people may object to a project without having had access to information to make an informed opinion)? b) somewhere in the middle of the process? c) when the decision is made? d) somewhere in the future when promised benefits are due to have been realised, e) all of the above.

In addition, there was extensive debate regarding the question of whether government constituted the main decision maker? In this regard, consensus emerged that government is the key decision-maker albeit taking public contributions into consideration in the context of good governance. The responsibility and liability for decisions ultimately lies with Government. However, divergent opinions were expressed in relation to whether it is a question of numbers (majority) or reliance on issues that takes precedence.

Extensive discussions were also held addressing the key question of what aspects needed to be in place to indicate that public acceptance of a decision/project was in place. These aspects are related to the public participation process, content matters and the decision-making process. See Annex 4 for further details. In this regard, the Working Group made the following recommendations:

There is need to incorporate an outcomes-based approach listing aspects that demonstrate public acceptance, projecting into the future and looking back is recommended.

Public acceptance does not result merely from a good public participation process. Caution should be exercised when equating public participation with public acceptance. Good public participation process may in fact lead to the agreement, by all parties including the developer, that the project is not acceptable.

Apart from good public participation, various other aspects contribute to public acceptance. The group noted aspects related to public participation process, content (facts, figures, statistics, including aspects relating to benefits, agreements for compensation etc), decision-making, governance among others.

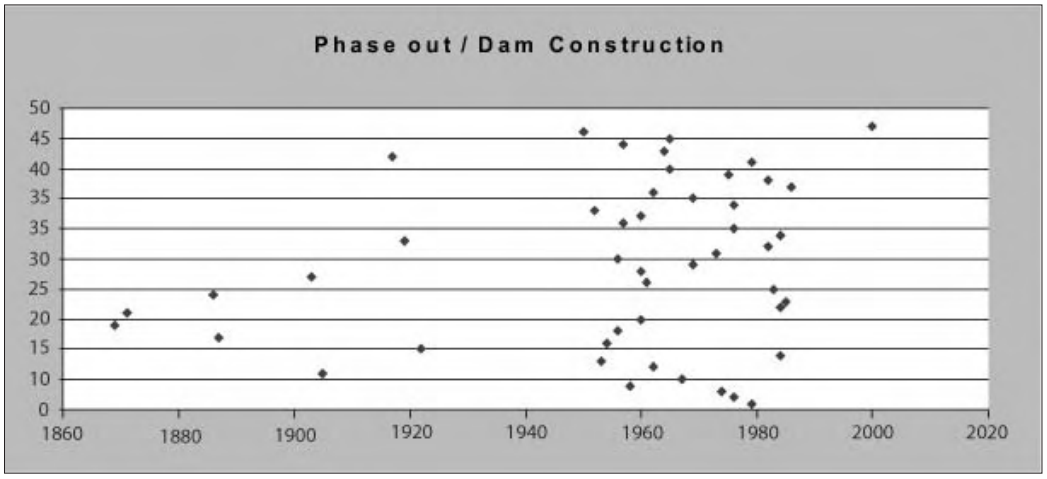
The Group also noted that certain aspects needed to be in place for someone to say: "Yes, I accept this decision/ project" including receiving ongoing progress feedback and information on next steps during the process, benefits to be accrued taking into consideration socio-economic assessments carried out as well as ensuring that mechanisms to monitor and audit the project commitments and regulatory requirements (environmental, social etc) were in place.

PLENARY SESSION 3: INFORMATION AND DISCUSSION OF SELECTED CASE STUDIES

"Malipotha Dam was not Completed. WHY?"

Badra Kamladasa, Irrigation Department, Sri Lanka

Ms Badra Kamladasa began her presentation with a brief overview of the salient features of the project. She pointed out that the project area known as Moneragala was an undeveloped district and the project under discussion is an abandoned reservoir. She then addressed the crucial question of how far the proposed project designed to supply water for irrigation to rainfed paddy owned by subsistence farmers had progressed. In this regard, it was pointed out that a reconnaissance survey was carried out in 1978 and subsequently the project was approved by the District Development Council with initial construction of the head works commencing in 1979.



However, it was noted that no funds for construction were allocated until 1996 owing to the emergence of various disputes between government agencies (Bureaucrats vs Technocrats) on land acquisition. Ms Kamladasa pointed out that, in principle, the land acquisition process began in 1995 and the construction of the chute spillway was subsequently completed in 1996. Nevertheless, it was pointed out that no further work could continue as the land acquisition process was not completed.

The various lessons to be learnt from the Mallipotha case study included the following:

- Political considerations override the technical and social considerations.
- Technocrats and Bureaucrats are called upon to rationalise or correct the implications of political decisions leading to many complications that are eventually referred for settlement in the courts.
- Funds are not usually available in a timely fashion complicating the issues further.

She proceeded further to make an assessment on why the Malipotha dam was not completed pointing out that the main contributing factors included the lack of a stakeholder analysis and appreciation of the role and interests of all the stakeholders, ill defined processes and irrational decisions. Ms Kamladasa further drew some lessons from the past experiences of the country with regard to integrating the principle of gaining public acceptance. She noted that the initial requests for small/medium reservoir projects normally originated from the people and in most cases, affected communities are normally given a higher priority to reap benefits and that sacrificing personal comforts for the benefit of the larger group was a cultural characteristic.

Furthermore, decisions of government officials were not questioned. Hence this is a unique case that ended up in the courts. But in many new development projects specially in road developments projects it is a precondition now to go through a participatory decision making process for vital matters and also accelerate and complete the land acquisition and compensation process before commencing the project.

Further it is noted that allocation of funds under the budget is being done without much concern about the other related matters involved in investigations, planning and designs. Ms Kamladasa concluded her presentation by emphasising that what remains to be done is to bring those individual processes into a single one in a way that it is appreciated by all stakeholders.

"Processes and Tools for Public Participation in Decision-making at Different Levels of Project Planning: A Case Study of Kali Gandaki 'A' Hydro-electric Project in Nepal",

Gopal Siwakoti, WAFED, Nepal

Mr Siwakoti began his presentation by giving a general introduction of the project noting that it was the largest dam project, financed by the Asian Development Bank and Japan and implemented by the Nepal Electricity Authority. The project was completed in 2003. He pointed out that prior to the construction of the project, local people were given high expectations, information was grossly absent and that public participation was controlled followed by the systematic prevention of activists and social monitors from entering into project area from outside.

By the completion of the project, it was noted that the mitigation and developmental work was largely incomplete. The resettlement of 20 Bote indigenous families was inadequate. The minimum water flow was ignored and consequently the drinking water source was drying up due to the tunnel construction. In addition, employment and income generating activities declined and no post-project monitoring and plan was put in place to address issues related to compensation and downstream impacts.

Mr Siwakoti further explained that several controversies arose owing to non-compliance with EIA/mitigation measures resulting in a case being taken to the Supreme Court alleging irregularities and massive corruption. It was noted that one direct consequence was that the electricity rate was one of the highest owing to corruption, cost increase and adverse lending conditionalities imposed by the Asian Development Bank.

The question was posed regarding the people's perceptions of the project and it was noted that the project would have been unacceptable at the time had the economic, social and environmental impacts been made more explicit from the onset. Furthermore, it was noted that no information related to the project was made available, for example, the documents related to the EIA compliance. Mr Siwakoti further emphasised that good projects are a state obligations even under domestic and international human rights and environmental laws and guidelines and that the World Commission on Dams remained important from the perspective of enabling countries to develop their own comprehensive national and regional guidelines for building acceptable large dams. He noted that the main issue that remains is protecting the rights and interests of the people. It could be facilitated through the provisions of information for better decision-making, enhancing participation as a democratic exercise, enforcement of EIA and mitigation measures as State/public obligations and ensuring proper compensation and resettlement as part of property rights and the right to livelihoods or right to life.

It was pointed out that the lessons learnt from the Kali Gandaki 'A' project indicated strongly that the issue was not about "no dams" in absolute terms, but rather how to construct "good dams" and provide electricity at an affordable price. Mr Siwakoti further emphasised the importance of ensuring compliance throughout the process noting that proper measures needed to be in place to mitigate adverse post-project impacts. It was also noted that no dams should be built without proper criteria and guidelines and that no meaningful development was possible without collective and democratic decision-making throughout the project cycle.

The various characteristics of gaining public acceptance were also outlined by Mr Siwakoti pointing out that it was a public duty and not a privilege and also a right of the affected people and directly concerned citizens as tax payers. He emphasised that gaining public acceptance needed to be practiced throughout the process with well-defined democratic methods of public participation in place. It was pointed out that the main challenge for gaining public acceptance was adhering to the original promises made and therefore implementing the principle of free, prior and informed consent remained the key to this dilemma.

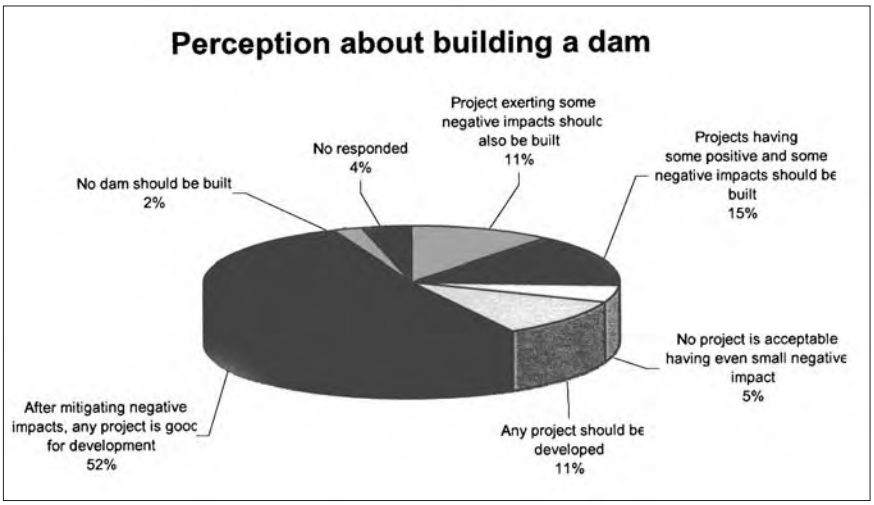
In concluding of his presentation, Mr Siwakoti indicated that the processes and tools are already existing, widely recognised methods and means of gaining public acceptance in public activities are incorporated in national constitutions and laws as well as international human rights and environmental norms, , guidelines and framework. The challenge therefore was defined as to be enabled to use them for the benefit of all stakeholders through promoting collective decision-making. In this regard, the progress made by Nepal was pointed out noting that an ongoing national dialogue on dams and development was in place with the first phase being supported by the Dams and Development Project and the GTZ. It was also indicated that Nepal was in the process of developing comprehensive national guidelines based on many scattered principles and practices, including the WCD framework and other international treaty obligations that are supreme under the Nepal Treaty Act, 1991 enacted by the Parliament.

"Gaining Public Acceptance in the Context of Nepalese Legislation and Practice",

Dilli Bahadur Singh, Department of Electricity Development, Nepal

Mr Dilli Bahadur Singh began his presentation by giving a brief history of Environmental Impact Assessment practices in Nepal. In this regard, various legislative frameworks were highlighted including the Constitution of the Kingdom of Nepal, 1990, Water Resources Act, 1992, Electricity Act, 1992, Electricity Regulation, 1993, Hydropower Development Policy 2001, Environment Protection Act, 1997 (EPA 1997); Environment Protection Regulation, 1997 (EPR 1997) and its first amendment in 1999, which lays emphasis on the protection of the existing environment. Mr Singh also highlighted the methodology undertaken to analyse the concept of 'Gaining Public Acceptance' in Nepal. He noted that the process involved a comparison of Acts/Regulations with WCD Guidelines, an in depth analysis of Environmental Impact Assessment and Initial Environmental Examination reports including the identification of stakeholders, formulation of questionnaires & surveys and finally the emerging conclusions and recommendations resulting from a rigorous analysis and interpretation. In this regard, various stakeholders consulted included INGOs, GOs, Consultants, Developers, Bankers, Beneficiaries, Regulator, Project Affected People, Utilities, Experts, Promoters, Associations and Environmentalists.

The processes related to public consultation during the EIA were also explained with specific examples being given including the Khudi Hydropower Project and the Singati Khola Small Hydropower Project. The various methods of public consultation utilised during the EIA included the village/household questionnaire surveys, interviews, focus group discussions, key informant interviews with local authorities and other organisations. Physical, socio-economic, cultural, biological environmental information were acquired through the consultation with local people and other concerned agencies along with the available secondary database.



Mr Singh further emphasised that a sizeable eighty-two per cent of respondents in the study conducted concluded that technically sound, economically viable, environmentally benign and socially acceptable dams constitute good projects. Furthermore, it was noted that ninety two per cent of the people participating in the study considered it necessary to build good dam projects regardless of height of the dams which is crucial for national benefit; since Nepal is a mountainous country and so as to achieve the national goal of poverty alleviation it is a must to develop water resources dam projects in a sustainable manner. He also outlined that as per the prevalent legislative frameworks various methods are being followed for Gaining Public Acceptance including publishing a notice in the national daily newspaper, providing information at the project sites and head office, conducting public hearings and disclosure of the relevant information from the studies conducted about the project (feasibility/ EIA study) along with the interaction/consultation with the relevant stakeholders nearly for five times during the course of EIA study.

It was also pointed out that with regard to the hydropower/ irrigation projects in Nepal, 52% of respondents in the study considered that public acceptance had been gained by "most of them" whereas 5% said "all of them", 6% said "half of them", 13% said "some of them" and the remaining 24% showed their ignorance in this matter. Mr Singh emphasised that following the promulgation of EPA 1997, EPR 1997 and its first amendment in 1999 and National EIA Guidelines in 1993 most of the hydropower/irrigation projects had Gained Public Acceptance in Nepal owing to the various methods used including public involvement/consultation, public hearing, stakeholder participation and dissemination of information through mass media etc.

In conclusion, Mr. Singh categorically pointed out that Nepal is a mountainous country where in the stretch of 150 km from South to North the elevation ranges from 80 metres above the sea level to 8848 metres and consequently any dam project constructed in the country would be considered a large infrastructural project as per the WCD/DDP report. Therefore, he emphasised that there should be no generalisations with regard to the size/ height of dams as impacts of dam due to height may vary from country to country depending upon the topography of the country. Rather emphasis should be given to build good dam projects which are technically sound, environmentally benign, socio-culturally acceptable, economically viable and nationally beneficial. He further clarified that most

of the dam related (hydropower and irrigation) projects have Gained Public Acceptance in Nepal especially after the enactment of the EPA 1997 and EPR 1997 and its first amendment in 1999.

Following the presentation, the Facilitator, Mr Peter Leonard, reminded the workshop participants that caution should be exercised when distinguishing between large and small dams as many small dams have commensurate impacts with large dams. It was stated that impacts depended on the characteristics of the given environment. Furthermore, it was noted that there were two presentations from Nepal which provided different views raising the question whether the initial project presented to the workshop had been carried out prior to the promulgation of the Environmental Impact Assessment regulatory framework. In response, it was clarified that the initial project presented on Nepal had been constructed prior to the existing reforms in Environmental Impact Assessment and therefore the apparent lack of compliance with legislative provisions.

A further comment was made that very few existing national environment or energy legislations required disclosure of contractual commitments. However, it was noted that there are some few innovative national legislations, for example, the case of Ecuador in Latin America, which required commitment not only to an environmental management plan, but also the investment figures. Another mechanism in the Ecuador legislation was where the project proponent had to put aside a specific amount of money for liability purposes in order to ensure compliance of the project.

"Processes Leading to Public Acceptance of Dam Development Projects: The Zambian Experience",

Peter Chola, Ministry of Energy and Water Development, Zambia (on behalf of Geoffrey Mukala)

Mr Chola began his presentation by noting that it was based on government practice similar to experiences presented from Nepal. He clarified that he was making the presentation on behalf of Mr Geoffrey Mukala, Permanent Secretary, who was unable to be present at the workshop. He pointed out that the role of energy and water resources in the Zambian socio-economic development was extremely important especially given that the country is classified as one of the least developed in the world. Therefore, Zambia needs to do certain developmental activities to generate income and uplift its citizens from the vicious circle of poverty.

He highlighted energy consumption figures in a study carried out in 1990 by the Energy Department indicating that the highest consumers included domestic households, agriculture and forestry, mines, industry and commerce and the government sector. In particular, the government sector consumed a lot of petroleum products, which are a genesis of pollutants. It was emphasised that sound environmental practices required utilisation of clean sources of energy.

Mr Chola further noted that new renewable sources of energy were an alternative, but Zambia's industrial development did not have the necessary technology and therefore, the only viable option is hydropower in the form of electricity. It was pointed out that Zambia is in a situation where electricity demand is likely to be higher than the production levels. Therefore, Zambia needs to develop other sources of electricity in order to increase hydropower generation. Therefore, the need to build some small hydropower schemes and increase coverage of electricity and empower people to earn incomes to pay electricity bills and ultimately save the forests was emphasised.

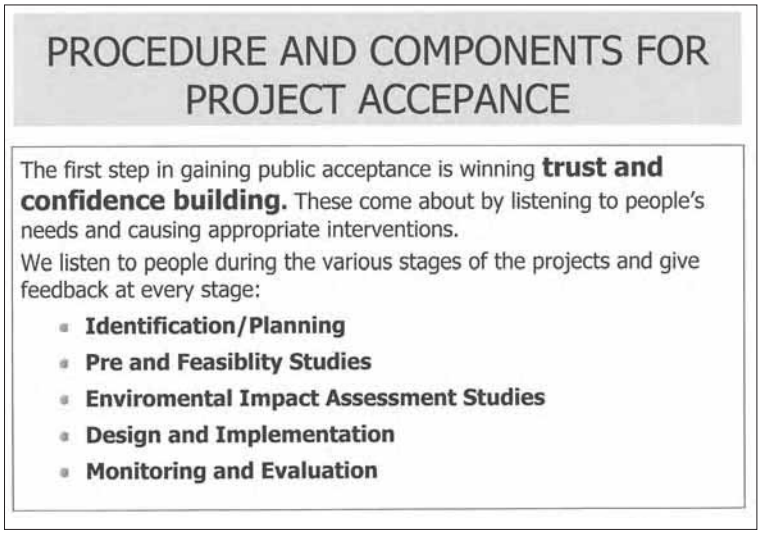
It was pointed out that Zambia shares the Kariba dam that was built in the mid 1950s with Zimbabwe and it is the major source of electricity in the country while the Kafue Gorge built in 1977 is the major source of electricity supplying mainly the mining activities on the copper belt of Zambia. Therefore, without hydropower generation from the two dams, the mining industry would not have been realised in the country.

Mr Chola further explained the procedures and processes for project acceptance in the country. In this regard it was noted that one key element is confidence building, which is better reflected in the government of the day. He expressed the opinion that Government was the main authority and therefore had the responsibility of initiating programmes for the benefit of all its citizens. Therefore, it was imperative for the Government to engage with people at all stages of project implementation including identification, planning, feasibility studies, EIA, designs, monitoring and evaluation.

It was pointed out that the co-ordinating body for EIA in Zambia was the Environmental Council of Zambia and that the Water Board was the regulator for water rights issues. It was emphasised that, these two bodies had the explicit mandate to evaluate any project prior to implementation taking due consideration of the recommendations of the EIA. Furthermore, it was noted that the new tool used for bigger projects in hydroelectric power generation is strategic impact assessment to determine if policy regulation change is envisaged so that developmental activities in construction of those schemes will not impact negatively on the environment. The environment was broadly defined to include the people, soil, animals, forests, rivers and the atmosphere.

Emphasis was made that the people's views are solicited through various instruments including EIA reports, Water Board and Environmental Council of Zambia, public hearings and that the announcement of the content of projects is done through the media for a minimum period of fourteen days. Views are also solicited through public meetings at various stages and project committees, for example, the Village Development Committees formulating programmes would initiate a project for a small dam to support irrigation and might request for their area to be electrified. These requests would then be taken up to formulate district programmes, which are largely demand driven. Government after assessing the hydropower needs for various economic and social sectors usually initiates large dams. However, through the regulatory instruments cited above affected communities are consulted for their inputs in the proposals. Dam sites with minimum environmental impacts are developed. This was the case with the development of the Kafue Gorge Hydropower Plant. Steering Committees and dam operation committees for small dams are also established. Information can be accessed from government gazette and reports; posters; print and electronic media.

Mr Chola emphasised that the demonstration of acceptance is normally done through negotiated agreements and good indicators of success in this regard included the lack of serious conflicts, increasing willingness to contribute to a project and maintenance of good neighbourliness for small dams between communities and farming communities where there are water user associations. He noted that the major challenge remained of ensuring that strategic impact assessment became mandatory in bigger dams and encouraging stakeholder participation at all levels through enhancing information flow. In this regard, the importance of giving feedback to the people regarding the incorporation or otherwise of their input was considered to be an important way of maintaining a good rapport, enhancing trust and commitment as well as securing the vote for politicians.



Following the presentation, a question was raised regarding the one sided perspective of the process of gaining public acceptance where Government initiated the project, presented it to the public and they in turn accepting it. The opinion was therefore expressed that Government would not have problems gaining public acceptance of projects if they were initiated by the people and that Government should learn from the past and shift from the traditional top-down approach. A bottom-top approach would result in better development initiatives and less conflicts. In response to this issue, it was emphasised that Government usually solicits views from both developers and communities. Furthermore, it was pointed out that there should have been a civil society presentation from Zambia because there have been ongoing studies done regarding the impacts of the hydropower projects on flood releases and impacts on the communities below the dams.

In response to the comments/questions, clarification was made pointing out that Zambia gained independence in 1964 and the Kariba dam was built in the early 1950s during the colonial times. The EIA regulations were established following the enactment of the Environment Protection and Pollution Control Act of 1990. Therefore, all dams and other major water development programmes in the country will have to comply with the legislation of 1990. A further comment in this regard was made stating that very few national legislations had provisions for addressing existing dams as environmental and social concerns were not taken into consideration in the past. It was pointed out that the United States of America was an exception in this regard as there was a systematic dam licensing process in place.

"The Experience of Popular Participation in Decision-making Processes and Elaboration of Criteria on Dams on the Uruguay River Basin",

Hélio Mecca, MAB, Brazil

Mr Mecca began his presentation by stating that he was a leader of the dam affected people in Brazil having himself been resettled ten years ago. He further expressed appreciation to the Dams and Development Project for according him this special opportunity and stated that he would make brief remarks on the situation of dam affected people in Brazil and also share some relevant experiences. Mr Mecca stated that MAB, the dam affected people movement in Brazil, is working in seventeen states in ten different regions in Brazil, but he would highlight only two experiences in one region which is in the Uruguay River Basin located in the southern part of the country.

He pointed out that the struggle in this region had begun in the late 1970s when the Government announced the construction of twenty-five large dams in this basin. This event occurred during the period of military dictatorship in the country when there was no EIA or any regulatory framework in place to highlight and address social and environmental impacts. In these circumstances, the mobilization of the population commenced with two important activities including a petition signed by a million people and another taking place with thirty thousand people marching in protest of the projects.

It was further stated that in 1987 with a democratic regime in place, an important and historical agreement was signed with Eletrosul, a utility within the public electricity sector in Brazil, which operated the first two dams of the project. Therefore, in the case of the Ita dam, a participatory negotiation process emerged that clearly stated that during the resettlement process the population would have access to four mitigation options: land for land, money indemnization /compensation, credit letters, resettlement (collective). In this regard, he noted that the negotiation process between the movement and the company resulted in a change in the location of one of the dams that achieved a twenty five per cent reduction of the energy costs and eighty per cent of the social impacts.

Consequently, it was pointed out that all decisions concerning where and how the houses would be built and the social resettlement aspects were all decided through the participatory process. The construction of the houses and infrastructure and resettlement was done in an atmosphere of constructive co-operation with the dam affected people contributing to the construction of the houses thereby reducing the total costs of the company by thirty-five per cent and also leading to a fifty per cent improvement of the infrastructure for the resettlement. Mr Mecca noted that during that period, the dam affected people were viewed as a 'necessary evil' because of their demands that the dam be constructed in a sustainable way.

It was noted that the privatization process started in Brazil in 1994 drastically changing the operational modalities of companies and therefore annulling the advances made with the previously concluded agreement with the Movement in 1987. Mr Mecca emphasized that in stark contrast to previous arrangements, the companies appeared to blatantly disrespect the laws in Brazil and also persecute the militants of the Movement and their representatives. He emphasized that the only people's instrument to exercise influence to ensure implementation of existing environmental laws in these circumstances was to mobilize themselves.

He pointed out various anomalies including fraud in the EIA process in one part of the Uruguay River Basin where approximately two thousand hectares of native protected forest were not included. In addition, it was noted that in the case of the Campos Novos Dam , ten militants of the Movement were arrested and the reservoir is currently in the process of filling up without a legal operational license. Mr Mecca then concluded his presentation by raising two questions related to how to ensure that laws are enforced while simultaneously also protecting the legitimacy of the organization of people's movements.

RESPONSE: ***Mr Pedro Da Cunha e Menezes, Permanent Representative of Brazil to UNEP***

In response to the presentation of MAB, Mr Pedro Da Cunha E Menezes, the Permanent Representative of Brazil to UNEP, pointed out that Brazil highly appreciated the discussion being held and valued the inputs of this Forum which would be taken to Brazil for further internal discussion. He then proceeded to make a few points noting that in Brazil, planning is done in accordance with existing natural resources and in this regard, decisions are tough but choices have to be made. It was emphasized that the existing choice for Brazil was to use its hydroelectric potential, of which only twenty-four per cent has currently been utilized.

He further noted that exercising such a choice while avoiding the use of fossil fuels brought about some challenges mainly in the social and environmental fields. In order to deal with challenges related to the use of water resources, Brazil created in 2000 a dedicated agency ANA (Water Management National Agency) which has been co-ordinating with the Electricity Agency in the Ministry of Mines, as well as the Ministry of the Environment.

It was pointed out that planning of the development and utilisation of rivers in Brazil is done at national level and now more frequently within a watershed framework. Therefore, according to the law, every project must go through thorough public consultation and EIA in order to be approved. Furthermore, Brazil has a permanent round table forum for the government and the movement of families who are affected by dams. This round table forum was set up to discuss ongoing policies as well as assess the impacts of already existing dams. As a result of this round table forum there are presently a number of social programmes dedicated to the resettled people including education, technical assistance, electrification and others.

Mr Pedro Da Cunha e Menezes stressed that never under the current government has a single family been resettled to construct a dam without being given due compensation. In this regard, it was emphasised that social, economic and environmental impacts incurred as a result of dam construction must be compensated according to the new law by the entrepreneur be it private or governmental. The entrepreneur has to incorporate the expenses of resettlement and environmental impact mitigation into the building and operational costs.

He stated that it was ongoing policy of the current Brazilian government, a government that originated from the unions' movements and the worker's associations to provide education, electrification and social services to every single resettled household. It was stated that under Brazilian law, water is an asset falling within public domain. In that regard, no one had exclusive rights over its use because it belonged to the whole nation. The Permanent Representative of Brazil to UNEP further emphasized the fact that veto power in such a framework did not exist. In this regard, it was noted that Brazil was proud of being a democracy and was actively fighting against the anachronism of the veto power in the United Nations Security Council. He emphasized that it would therefore be absurd to accord a veto power to anyone when it comes to a common asset.

It was further pointed out that Brazil had a very active judiciary system ready to adjudicate on all disagreements and differences that may exist between various parties. In this regard, he indicated that not one single dam had been imposed upon the population without proper debate taking place in addition to the fulfillment of all legal requirements. It was further emphasised that currently eleven of the seventeen dams expected to be licensed are subject to legal action in court and that the government would abide by the outcomes of the court decisions, as this was how true democracy functioned. Mr. Pedro Da Cunha e Menezes reiterated the fact that Brazil was proud of being a democracy. He concluded his presentation by expressing the hope that participation in this Forum would allow for the acknowledgement of Brazil's efforts to incorporate sustainability goals in its water and energy development plans and therefore bring about greater understanding of the specific characteristics of the Brazilian model given the size, social and economic needs of the country.

Following this presentation, the Facilitator made a comment stating that the EIA process in Brazil is one of the most comprehensive and in this regard, Brazil had played an important leadership role in Latin America.

PLENARY SESSION 5: WRAP UP AND FINAL WORKSHOP STATEMENT

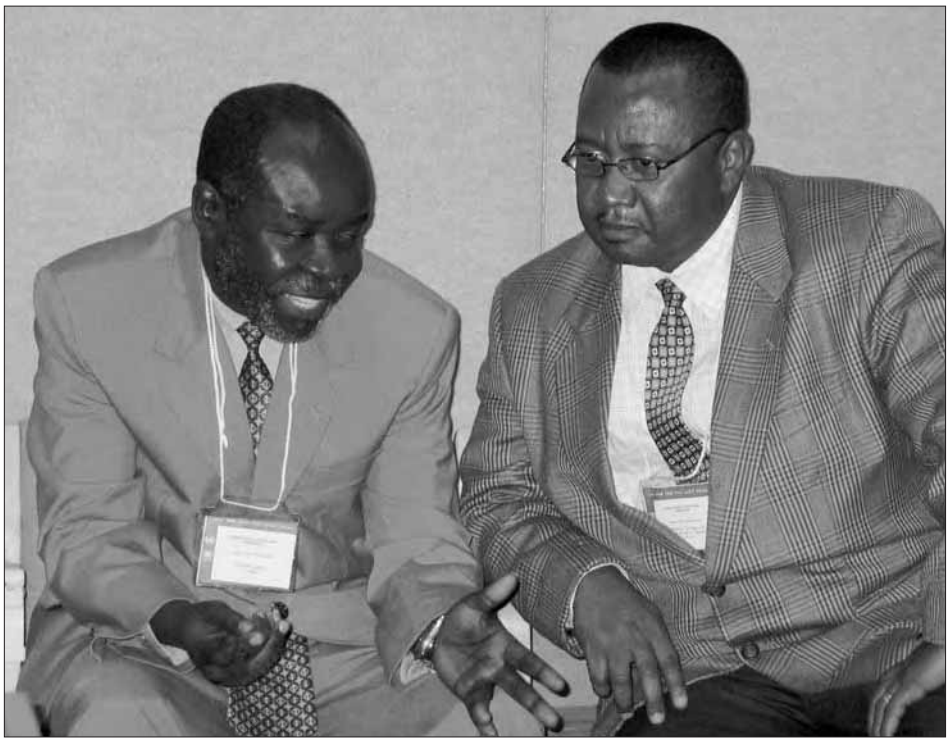
The plenary session began with the Facilitator outlining points of convergence of the four working group discussions. It was noted that one important point of convergence was the premise that EIA could be a good process and tool that was widely used and could potentially provide concrete mechanisms to implement gaining public acceptance. In addition, agreement also emerged on the need to expand and reinforce participatory processes of which public participation is a key component.

Likewise, the Facilitator pointed out that it was important to remember that dams and other infrastructural projects can have adverse social/environmental impacts. In addition, dams also have significant benefits and are now considered to be an increasingly integral component of development. It was emphasized that approximately ninety to ninety-five per cent of the future dams to be built for water/hydroelectricity are in developing countries.

The question was posed on how to avoid/minimize adverse effects and maximize benefits while ensuring local communities and vulnerable groups including indigenous peoples are not bearing an unacceptably high proportion of the adverse effects and benefiting marginally from the tangible benefits of the projects. In this regard, the Facilitator indicated that impact assessment had made great strides resulting in improved project planning with legislation now enacted in more than one hundred and fifty countries. However, it was noted that while a lot had been accomplished, there was still room for further improvement in the case of public participation. It was also pointed out that the case studies presented had clearly indicated that the record of ensuring compliance was not always successful.

In shifting the focus to public participation, it was highlighted that although almost all environmental impact legislations required one form or another of public participation, very rarely were the requirements clearly articulated. In this regard, the suggestion was made regarding the need to develop tools/mechanisms/policy frameworks that clearly specified what public participation really meant.

Finally, the importance of impact assessment as an emerging major development over the last five years was emphasized noting that there had been an effort to develop a series of tools and methodologies that would enable impact assessment to move upstream at the planning level. In this regard, it was noted that it was important for participatory processes and gaining public acceptance to move upstream of the planning process to enable engagement and also the assessment of alternatives. He concluded by noting that although legislative efforts had been made including public hearings, consultation requirements and information disclosure, it was important for participatory processes to be an integral aspect of the entire life cycle of the project.



Peter Chola (left) is discussing the challenges of gaining public acceptance in Zambia with Joseph Sutherland, Ghana

CLOSING REMARKS AND PLENARY DISCUSSION

Due to the fact that the precedent discussions extended longer than planned conflicting with other important meetings scheduled within the context of DDP planned activities for the same day, Ms. Veerle Vanderweerd, DEPI Director OiC anticipated her closing remarks.

Closing remarks – Ms Veerle Vandeweerd, UNEP DEPI Director

Ms Vandeweerd began by explaining to the participants that there was a Steering Committee meeting commencing shortly tasked with doing some preparatory work for the forthcoming Dams and Development Forum and hence the need to make closing remarks prior to the scheduled official closing time. She also noted with appreciation that the workshop participants were willing to remain for an extra one and half hours in order to come up with an agreed text. In this regard, she reminded the participants that one of the major outputs of the multi-stakeholder Forum was translating the principle of engaging public participation into more concrete steps and recommendations on how to move forward.

She further noted that the working groups had been able to come up with some concrete and useful suggestions and the task before the participants was to consolidate these inputs into a statement to be carried forward to the Forum and ultimately by extension contribute to further the work of the dams and development process. Ms Vandeweerd expressed her appreciation to the participants for their continued engagement, hard work and the prevailing constructive spirit in dealing with sensitive issues where emerging opposing views some times made it difficult to come out with a common view.

Nevertheless, she expressed confidence that this challenge would be overcome and a sense of convergence would prevail and contribute significantly towards translating the key principles of gaining public acceptance into practice on the ground. Ms Vandeweerd concluded by reiterating her deep appreciation to the participants for their input and wished them fruitful discussions for the remainder of the workshop noting that she looked forward to meeting the majority of the participants at the fourth Dams and Development Forum meeting to be convened the next day and the continuation of the prevailing constructive spirit to carry forward with the work set out to be accomplished.

Peter Leonard and Ute Collier, WWF International

FINAL PLENARY SESSION

Following some brief background remarks by the Facilitator aiming to focus the discussions on the contents of the summary conclusions from the meeting, the floor was opened for discussion. Consideration was given initially to the conclusions from first breakout group that dealt with stakeholder identification. Some further comments on stakeholder involvement and identification were issued.

An issue was raised regarding the disclosure of information such as contractual agreements between project proponents and governments. In this regard, the limitation of responsibilities by parties in private agreements and dispute resolutions clause carried out in third countries were provided as examples of the need to establish better disclosure rules as to what is part of public domain and what is to remain confidential for business purposes. It was noted that there is a need to address these issues in national legislations.

Furthermore, the issue of addressing existing dams was also pointed out. It was noted that majority of the case studies presented provided examples of dams built before environmental impact assessment and public consultation mechanisms were required. Therefore, the participants emphasized the need to develop procedures and mechanisms to bring existing dams up to current environmental and social standards as currently few national legislations address these issues other than through ad hoc contexts.

At this point, time constraints led the discussions towards the nature of the final output to be delivered by the meeting and its contents. It was agreed that the outputs of the workshop should be issued in terms of summary report that would be presented to the 4th Dams and Development Forum meeting. As regards the contents, the general sense emerging from the discussions was that the findings of the workshop were well expressed by the results of the breakout group discussions dealing with the four main topics of gaining public acceptance, namely, stakeholder involvement, access to information, informed participation in the decision making process and demonstration of public acceptance. It was agreed that a smaller committee integrated by the chairs and rapporteurs of the breakout groups, the facilitator and other interested participants would be convened to write up the summary report.

Elaboration of the Report Of The Meeting

The group convened on the evening of the same day and following morning. The draft summary report consolidating the results of the four working groups was distributed to the participants of the 4th DD Forum meeting for additional comments and was presented by the Facilitator during the final plenary session on Friday 7 November 2005. The outcome of the workshop on gaining public acceptance heading these proceedings presents the summary report (see page 4) taking into account further comments received in response to the circulation of the draft of these proceedings to the participants.

ANNEXES

ANNEX 1: AGENDA*

Wednesday, 5 October 2005

08:00-08:30 REGISTRATION OF PARTICIPANTS

08:30-9:45 OPENING SESSION

08:30-08:40 Opening remarks

Ms Veerle Vandeweerd, Officer in Charge (OIC), Division of Environmental Policy Implementation (DEPI)

Alberto Calcagno, Co-ordinator, Dams and Development Project (DDP)

08:40-09:10 KEYNOTE PRESENTATIONS

"Integrating Gaining Public Acceptance of Dams in National and Regional Policy and Regulatory Frame works", Peter Leonard, Past President, International Association of Impact Assessment (IAIA)

09:10-09:25 *"Public Participation Processes and Techniques", Tisha Greyling, International Association of Public Participation (IAP2)*

09:25-09:45 Discussion and agreement on the main axis of workshop discussion

09:45-10:00 Coffee/Tea Break

10:00-12:00 SESSION 2: BREAKOUT GROUPS DISCUSSION

12:00-12:45 SESSION 3: PLENARY REPORTING OF GROUPS DISCUSSION AND AREAS OF CONSENSUS

12:00-12:30 Reporting of group discussions

12:20-12:45 Discussion and agreement on areas of consensus and recommendations

12:45-14:00 Lunch

14:00-16:00 SESSION 4: INFORMATION AND DISCUSSION OF SELECTED CASE STUDIES

14:00- 14:20 *A Participative Approach to Using the Hydropower Potential of the Sumaco Rainforest in Ecuador, Anne Schuster, GTZ Germany*

14:20- 14:40 *The Mallipothana Reservoir Construction in Sri Lanka, Badra Kamladasa, Irrigation Department of Sri Lanka*

14:40-15:00 *Processes and Tools for Public Participation in Decision-making at Different Levels of Project Planning, Gopal Siwakoti, WAFED, Nepal*

15:00- 15:20 *National Process on Gaining Public Acceptance for Hydropower Development in Nepal, Dilli Bahadur Singh, Chief, Department of Electricity, Nepal*

15:20- 15:40 *The experience of popular participation in decision-making processes and elaboration of criteria on dams at the Uruguay River Basin, Sadi Baron, Dam Affected People Movement, Brazil*

15:40- 16:00 *The Yesa Dam Enlargement Project, R. Galvan Plaza, Ebro River Basin Authority, Spain*

16:00-16:15 Coffee/Tea Break

**** This agenda reflects the proposal submitted for consideration of the participants at the beginning of the meeting. The timing, order and contents of the sessions were altered during the development of the workshop to account for the actual duration of the sessions and the authors that were able to attend the meeting and make presentations of case studies.***

16:15-17:15 SESSION 5: WRAP UP AND FINAL WORKSHOP STATEMENT

16:15-16:45 Discussion and recommendations on next steps for DDP and other stakeholders to move forward internationalisation of public acceptance processes and procedures at country level

16:45-17:10 Final workshop statement

17:10-17:15 Closing remarks

Ms Veerle Vandeweerd, Officer in Charge (OIC), Division of Environmental Policy Implementation (DEPI)

ANNEX 2: LIST OF PARTICIPANTS

1. Dr. Akiko Abe
Japan Bank for International Cooperation
P.O. Box 49526, Mama Ngina Street
00100, Nairobi
Kenya
Tel: +254 20 221420
Fax: +254 20 221569
Email: a-abe@jbic.go.jp

2. Ing. Felipe Arreguin-Cortes
General Technical Subdirector
National Water Commission
Insurgentes, Sur 2140
Segundo Piso Colonia Emita
San Angel
Mexico
Tel: +525 661 5304
Fax: +525 481 426 62
Email: felipe.arreguin@cna.gob.mx

3. Mr. Teferra Beyene Asfaw
Supervising Officer of Public Water Works Enterprises
Ministry of Water Resources
P.O. Box 8775
Addis Ababa
Ethiopia
Tel: +251 1 0940 5666
Fax: +251 1 610 710/611 700/626 318
Email: teferrabeyene@yahoo.com

4. Mr. Bryan Ashe
Earthlife Africa eThekweni
P O Box 18722
Dalbridge, 4014
Tel: 031 2011119
Fax: 031 2011119
South Africa
Email:bryan@earthlife.org.za

5. Mr. Leo Atakpu
African Network for Environmental & Economic Justice (ANEEJ)
123 1st East Circular Road
P.O. Box 3864, Benin City Edo State
Nigeria
Tel: +234 52 258748
Cell: +234 80 2344 8216

6. Dr. Huynh Le Bac
Deputy Director General
Ministry of Natural Resources and Environment
P.O. Box 51 Quang Trung Street
Ha Noi 10,000
Viet Nam
Tel: +84 4 943 5429
Fax: +84 4 943 417
Email: ntlai@vn.vn

7. Ms. Dipti Bhatnagar-
Narmada Bachao Andolan
B-14 Shivam Flats, Ellora Park,
Bhagwan Mahaver Marg
Baroda 390023
India
Tel: +91 265 228 2232
Fax: +91 265 228 2232
Email: dipti_es@berkeley.edu

8. Dr. Angela Bednarek
U.S. Department of State
OES/Office of Environmental Policy
P.O. Box 2201 C St. N.W., Suite 4325
Washington, D.C. 20520
USA
Tel: +1 202 647 8772
Fax: +1 202 647 5947
Email: bednarekat@state.gov

9. Mr. Peter Bosshard
Policy Director
International Rivers Network
P.O. Box 1847 Berkeley Way
Berkeley 94703
USA
Tel: +1 510 848 115
Fax: +1 510 848 1008
Email: peter@irn.org

10. Prof. Ola Busari
Development Bank of Southern Africa (DBSA)
Halfway House
P.O. Box 124, Midrand
South Africa
Tel: +27 11 313 3920
Fax: +27 11 313 3416
Email: ola@dbsa.org

11. Ms. Marcia Pinto Camargo
Coordenadora do Comite integrado de Empreendi mentos do Sector Eletrico
Governo Federal da Republica Federativa do Brasil
Esplanada dos Ministerios Bloco U Sala 914
70065900 Brasilia – DF
Brasil
Tel: +55 61 3319 5731
Fax: +55 61 3319 5622
E-mail: marcia.camargo@mme.gov.br

12. Mr. Pedro Cambula
Senior Engineer
Ministry of Public Works and Housing
Republic of Mozambique
Tel: +258 21 309 621/623
Fax: +258 21 32 14 03/3021 30

13. Ms. Joan Carling
Chairperson
Cordilllera Peoples Alliance
P.O. Box 975
Baguio City 2
Philippines
Tel: +63 74 442 2115
Fax: +63 74 443 7159
Email: cpa@cpaphils.org; joan@cpaphils.org

14. Mr. Belarmino Chivambo
Senior Engineer
Ministry of Public Works and Housing
Republic of Mozambique
Tel: +258 21 309 621/623
Fax: +258 21 32 14 03/30 21 30

15 Dr. Ute Collier
WWF International
Global Freshwater Programme
PO Box Panda House, Weyside Park
Gu7 1xr, Godalming, Surrey
UK
Tel: +441483412549
Fax: +441483426409
E-mail:ucollier@wwf.org.uk

16. Peter Chola
Assistant Director of Water Affairs
Ministry of Energy and Water Development
P. O. Box 5022 Lusaka
Zambia
E-mail: hydro@zamnet.zm

17. Mr. Willie Croucamp
Manager Strategic Coordination
Policy and Regulation Branch
Department of Water Affairs and Forestry
P/Bag X313, Pretoria 0001,
South Africa
Tel: +27 12 336 8810
Fax: +27 12 336 8561
Email: xca@dwaf.gov.za

18. Mr. Pedro de Castro da Cunha e Menezes
Second Secretary
Deputy Permanent Representative
Eagle Court 2nd floor
Vuli Lane (off Muranga Road)
P.O. Box 30754 00100 GPO
Nairobi, Kenya
Tel: +254 20 3753223/4
Fax: +254 20 3766442
E-mail: kenbrem@africaonline.co.ke

19. Mr. Gudni Dagjartsson
Group Vice President
ABB Ltd.
Affolternstr. 44, Zurich CH-8050
Switzerland
Tel: +41 43 3175260
Fax" +41 43 317 5262
Email: gudni.dagjartsson@ch.abb.com

20. Ms. Pianporn Deetes
Assembly of the Poor
C/o Southeast Asia rivers Network
P.O. Box 78 MOO 19 Suthep Rd.
Tambol Suthep, Muang, Chiang Mai
Tel: +66 53 278 334
Fax: +66 53283609
Email: pai@chmai2.loxinfo.co.th

21. Dr. Ninh Nguyen Dinh
Deputy Director
Department of Agriculture & Rural Dev.
No2 Ngoc Ha, Ba Dinh Hanoi
Hanoi
Vietnam
Tel: +84 4 733 5714
Fax: +84 4 733 5702
Email: ninhnd.tl@mard.gov.vn

22. Mr. Anton Earle
Deputy Head
University of Pretoria
African Water Issues Research Unit
P.O. Box Suite 17, Pvt Bag X1 Vlaeberg
Cape Town 8018
South Africa
Tel: +27 21 46 99 110
Fax: +27 86 672 5962
Email: antonearle@mweb.co.za

23. Ms. Christine Eberlein
Programme Manager
Berne Declaration
P.O. Quellenstr. 25
Zurich 8031
Switzerland
Tel: +41 44 277 7008
Fax: +41 44 277 7001
Email: ceberlein@gmx.ch

24. Bill Freeman
V.P. Planning & Development
Columbia Power Corporation
P.O. Box 9131
844 Courtney Street
Victoria, B.C. V8R 5X5
Canada
Tel: +1 250 387 0243/Fax: +1 250 356 2819
Email: bill.freeman@columbiapower.org

25. Mr. Ismail Günes
The General Directorate of State Hydraulic Works
Dam and Hydroelectric Power Plant
Ankara
Turkey
Tel: +90 312 48 3410
Fax: +90 312 418 34 13
Email: ismgunes@yahoo.com/ismgunes@dsi.gov.tr

26. Ms. Liane Greeff
Water Justice
Environmental Monitoring Group
Cape Town 7705
South Africa
Tel: +27 21 448 2881/7888 319
Fax: +27 21 448 29 22
Email: rivers@kingsley.co.za

27. Ms. Tisha Greyling
Principal
Golder Associates Africa (Pty) Ltd.
P.O. Box 6001
Halfway House, Midrand, 1685
South Africa
Tel: +27 11 254 4800
+27 11 315 0317
Email: tgreyling@golder.co.za

28. Mr. Goran Haag
Energy Adviser
Swedish International Development Cooperation
Agency (SIDA)
Division for Infrastructure and Financing
Stockholm SE-105 25
Sweden
Tel: +46 8 698 5636
Fax: +46 8 698 5330
Email: goran.haag@sida.se

29. Dr. David Hales
Counsel for Sustainability Policy
Worldwatch Institute
P.O. Box 1776
Massachusetts Avenue
Washington, DC 20036 USA
Tel: + 1 202 452 1992 Ext. 563
Fax: +1 202 296 7356
Email: dhales@worldwatch.org

30. Ms. Terry Hathaway
Africa Campaigner
International Rivers Network
1847 Berkeley Way, Berkeley,
California 9703
USA
Tel: +1 510 848 1155
Fax: +1 510 848 1008
Email: terri@irn.org

31. Mr. Joseph Hmar
President
Hmar Indigenous Peoples/Hmar Students'
Association
P.O. Box Airport Road, Sangaiprou-Mamang
Imphal 795 001
India
Tel: +91 385 2444 677
Email: hoerhmar@rediffmail.com/
hsaimphal@rediffmail.com

32. Mr. Nelson Infanti
Consultant – Geology and Environment
Engevix Engenharia
Rua Tenente Silveira, 94-8th Floor
Floranopolis-SC 88040-400
Brazil
Tel: +55 48 2107 0319
Fax: +55 48 2107 0314
Email: foes@engevix-sc.com.br

33. Mr. Naeem Iqbal
Programme Officer
Sungi Development Foundation
Advocacy and Research Programme
P.O. Box 7-A, Street 10, Sector F-8/3
44000 Islamabad
Pakistan
Tel: _92 51 2282481-2
Fax: +92 51 2282483
Email: naeem.iqbal@sungi.org

34. Mr. Øivind Johansen
Minister of Petroleum and Energy, Norway
Einar Gerhardsens plass 1
P.O. Box 8148, Dep. 0033 Oslo
Norway
Tel: +4722 2462 43/24 61 98/ 65 97
E-mail: postmottak@oed.dep.no

35. Mr. V. K. Jyothi
Chief Engineer
Central Water Commission
P.O. Box 5-9-201/B & B1.,
Chirag Ali Lane, 500 001 Hyderabad
India
Tel: +040 23201 605
Fax: +040 23201605/91 11 261 95516
Email: trngdte@indiatimes.com
Hyd_cecwc@yahoo.com

36. Ms Badra Kamaladasa
Deputy Director (Dam Safety)
Dam Safety Division
P.O. Box 1138
Colombo
Sri Lanka
Tel: +94 11 2580 677/Fax: +94 11 2580 677
Email: ddds@eureka.lk

37. Ms. Miriam Kibi
GAVADWEN
Colesburg
Tel: 0517530977
Fax: 0517530658
Email: MiriamKibi@telecomsa.net

38. Ms. Karin Krchnak
Director, International Water Policy
The Nature Conservancy
P.O. Box 4245 North Fairfax Street
Arlington, VA 22203
USA
Tel: +1 703 841 5383
Fax: +1 276 3241
Email: kkrchnak@tnc.org

39. Mr. Amath Dior Mbaye
Tropica Environmental Consultants
SICAP Liberté 6 No 8181 Dakar, Senegal
B.P. 5335 Dakar Fann
Senegal
Tel: +221 633 0075
Fax: +211 867 1899
Email: amath_mbaye@yahoo.fr

40. Matthew McCartney
Researcher-Hydrologist
International Water Management Institute
Private Bag X813, Silverton
Pretoria 0127
South Africa
Tel: +27 12 845 9100
Fax: +27 12 845 9110
Email: m.mccartney@cgiar.org

41. Mr. Jose Helio Mecca
Integrant of the National Coordination of the MAB
HIGS, Asa Sul, Quadra 705, Bloco K,
Casa 11. 70.350-711
Brasilia-DF
Brazil
Email: projetos@mabnacional.org.br

42. Mr. Jerry Mafifi Methula
Manager
Stakeholder Empowerment
Private Bag X313, Pretoria RSA
Pretoria 0001
South Africa
Tel: +27 (0) 12 336-6688
Fax: +27 (0) 12 336-6791
Email: methulaj@dwaf.gov.za

43. Mr. Dinesh Kumar Mishra
Convenor
Barh Mukti Abhiyan
C-7 Vatial Green City
PO MGMC, Dimna
Tel: +916572650844
Email: dineshmishra@rediffmail.com

44. Mr. Aboubacry Mobdji
Coordinator of CODESEN
Civil Society Coordination for the Senegal River Basin
Water, Environment & Development, c/o Raddho,
P.O. Box 5246,Dakar-Fann
Senegal
Tel: +221 865 0030
Fax: +221 824 6052
Email: ambodji1@yahoo.fr

45. Mr. Benaissa Mokrane
Directeur d'Etudes au niveau de l'Administration Centrale due Ministere de Resources en Eau
Algeria
Tel: +213 21 283149
Fax: 213 21 2837 00
Email: mok_ben@hotmail.com

46. Mr. Paul Mubiru
Commissioner
Energy Resources
Ministry of Energy and Mineral Development
P.O. Box 7270, Kampala
Uganda
Tel: +256 41 349 010
Fax: + 256 41 349 342
Email: mubiru@energy.go.ug

47. Mr. Frank Muramuzi
Executive Director
National Association of Professionalists (NAPE)
P.O. Box 29908,Kampala
Uganda
Tel: 534453/492362
Fax: +256 41 530 181
Email: nape@nape.or.ug

48. Mr. Boniface Mutale
Basilwizi Trust representing the Tonga People affected by Kariba
Basilwizi Trust,P O Box 3720, 14 Edward Road
Humalo, Bulawayo
Zimbabwe
Tel: +263 9 230351-3
Email: info@basilwizi.co.zw
basilwizi@mail.com

49. Mr. Francis Muthomi
Board Member
Kenya National Federation of Agricultural Producers (KENFAP)
P.O. Box 43148, 00100 Nairobi
Kenya
Tel: +254 20 608324
Fax: +254 20 608325
Email: producers@kenfap.org

50. Eng. Peter Njurumba
Water Resources Management Authority
Ngong Road, P.O. Box 45250 – 00100
Nairobi
Kenya
Tel: +254 20 273 2291
Fax: +254 20 272 9950
Email: wrma.wrma@or.ke

51. Mr. Hope Eghe Ogbeide
Director
Society for Water & Public Health Protection
P.O. Box 10577 Benin
Nigeria
Tel: +234 803 724 24999
Fax: +1 253 5634042
Email: swaphep@yahoo.com

52. Mr. Engelbertus Oud
Project Manager
Lahmeyer International
P.O. Box Friedberger Landstrasse 173
Bad Vibel
Germany
Tel: +49 610155 1632
Email: bert_oud@gmx.net

53. Mr. Paul Peter
Head East and Southern Africa Division
Swiss Agency for Development & Cooperation (SDC)
Freiburgstrasse 130
CH-3003, Bern
Switzerland
Tel: +41 31 322 8789
Fax: +41 31 324 1695
Email: paul.peter@deza.admin.ch

54. Mr. Andrew Preston
Director
Association for International Water Studies (FIVAS)
Solidaritetshuset, Osterhaugate 27
Oslo N-0183
Norway
Tel: 47 2298 93 25
Fax: +47 22 98 93 25
Email: fivas@fivas.org

55. Ms. Nikki Reisch
Program Manager
Bank Information Center
Email: nreisc@bicusa.org

56. Mr. Daniel Ribeiro
Organizaçao Justiça Ambiental
Mozambique
Email: dribeiro@botzoo.uct.ac.za

57. Mr. Shisei Sakoda
Chief Speclialist
Nippon Koei Co. Ltd.
2, Kojimachi 4-chome, Chiyoda-ku
Tokyo 102-0083
Japan
Tel: +81 3 5276 2486
Fax: +81 3 5276 3306
Email: a2144@n-koei.co.jp

58. Mr. Teodoro Sanchez-Campos
International Programmes
Practical Action (ITDG)
P.O. Box Bourton Hall
Bourton on Dunsmore
Rugby CV 23-002
U.K.
Tel: +44 1986 634 479
Fax: +44 1926 634 401
Email: teodoro.sanchez@itdg.uk

59. Dr. Hans Schiffer
Managing Director
Hydro Equipment Association (HEA)
Georg-Beutler-Strasse 14
Heidenheim 89518
Germany
Tel: +49 7321 946275
Fax: +49 7321 946 285
Email: hanspeter.schiffer@voith.com

60. Ms Anne Schuster
Advisor
GTZ – Germany Technical Cooperation and Infrastructure
P.O. Box Dag – Hammarskjold Weg 1-5
Eschborn 65726
Germany
Tel: +49 6169 791350
Fax: +49 6169 7980 1350
Email: anne.schuster@gtz.de

61. Mr. Jayawardana W. M. Ranjith T. Seimon
Director (Engineering)
Ministry of Agriculture, Livestock, Lands & Irrigation
Rajamalwatta Avenue
Battaramulla
Sri Lanka
Tel: +9411 288 5387
Fax: +94 11 288 5405
Email: imbulana@eureka.lk

62. Mr. Mothusi Seqee
Transformation Resource Centre
Lesotho
Email: lhwp@trc.org.ls

63. Ms. Noriko Shimizu
Campaigner
Friends of the Earth Japan
Development Finance & Environment Programme
2nd Floor 3-17-24 Mejiro Toshima-ku, Tokyo
Japan
Tel: +81 3 3951 1081
Fax: +81 3 3951 1084
Email: shimizu@foejapan

64. Mr. Dillibahadur Singh
Senior Division Engineer
Ministry of Water Resources,
Department of Electricity Development
Survey & Feasibility Study Section,
Project Studies Division, GPO Box 2507
Anam Nagar, Thapagaun
Kathmandu
Nepal
Tel: +977 144 80 425/448/1410
Fax: +977 1 4480 257/554/5819
Email: dillisingh@yahoo.com

65. Mr. Rajendra Singh
Tarun Bharat Sangh
P.O. Box 34/24, Kiran Path, Shipra Path, Mansorava
Kaipur, Rajasthan 302030
India
Tel: +91 0141 239 1092, 2393178
Fax: +91 0141 239 1092, 2393178
Email: watermantbs@yahoo.com

66. Mr. Gopal Siwakoti (Chintan)
Co-ordinator
Water and Energy Users Federation (WAFED)
Nepal
P.O. Box 2125
60 New Plaza Marga
Kathmandu
Nepal
Tel : +977 1 442 9741
Fax: +977 1 441 9610
E-mail: wafed@ntc.net.np

67. Ms. Olinda Sousa
Deputy National Director (Head of Delegation)
Republic of Mozambique
Tel: +258 21 309 621/623
Fax: +258 21 32 14 03/30 21 30
Email: osousa@dnapnda.org

68. Richard K. Barimah. Twum
Executive Director
Volta Basin Development Foundation
P.B. M516, Accra
Ghana
Tel: +00233 244 451037
Fax: +00233 21 256 120
Email: rtwumus@yahoo.com

69. Dr. Pulatkhon Umarov
Director
Scientific Information Center of Water Coordination Commission of Central Asia
P.O. Box B., 11, Karasu-4
Tashkent 700187
Uzbekistan
Tel: +998 71 166 51 22
Fax: +998 71 166 50 97
Email: umarovp@icwc-aral.uz

70. Ms. Flavia Braga Viera
Assistant Researcher
IPPUR/UFRJ
Rua Prof. Estlita Lins, 50/20 – Laranjeiras
Rio De Janeiro 22245-150
Brazil
Tel: +55 21 2225-7590/Fax: +55 21 2598 1923
Email: flaviab@attglobal.net

71. Mr. Chacha Benedict Wambura
Foundation Help
Tanzania
Email: ceo@foundationhelp.org

72. Ms. Johana Wernqvist
Project Leader
Swedish Water House
P.O. Box Metargatan 22
Stockholm 116 66
Sweden
Tel: +46 (0) 8642 11 85
Email: Johana@swedishwaterhouse.se;
waernquist@hotmail.com

73. Mr. Emmanual Wirsiy
Global Village
Cameroon
Email: wirsiyemma@yahoo.com

FACILITATOR

74. Mr. Peter Leonard
Past President
International Association for Impact Assessment (IAIA)
Hydro-Quebec Production
Canada
Email: leonard.peter@hydro.qc.ca

DDP SECRETARIAT

75. Mr Alberto Calcagno
Co-ordinator
Dams and Development Project
DEPI, UNEP
P O Box 30552
Nairobi
Tel: +25420-623942
Fax: +25420-624763
Email: alberto.calcagno@unep.org

76. Mr Thomas Chiramba
Senior Project Officer
Dams and Development Project
DEPI, UNEP
P O Box 30552
Nairobi
Tel: +25420-624769
Fax: +25420-624763
Email: Thomas.chiramba@unep.org

77. Ms Wanjiku Kaniaru
Associate Project Officer
Dams and Development Project
DEPI, UNEP
P O Box 30552
Nairobi
Tel: +25420-624748
Fax: +25420-624763
Email: wanjiku.kaniaru@unep.org

78. Mary Muthamia
Programme Assistant
Dams and Development Project
DEPI, UNEP
P.O. Box 47074
Nairobi, Kenya
Tel: +254 20 762 38 91
Fax: +254 20 762 47 63/62 42 49
E-mail: mary.muthamia@unep.org

79. Ms Rose Oloo
Public Information Assistant
Dams and Development Project
DEPI, UNEP
P.O. Box 47074
Nairobi
Tel: +254 20 624729
Fax: +254 20 623859/624763
E-mail: rose.oloo@unep.org

80. Ms Liazzat Rabbiosi
Associate Project Officer
Dams and Development Project
DEPI, UNEP
P O Box 30552-
Nairobi
Tel: +25420-624791
Fax: +25420-624763
Email: liazzat.rabbiosi@unep.org

*ANNEX 3: BACKGROUND PAPER

Integrating Gaining Public Acceptance of Dams in National And Regional Policy And Regulatory Frameworks

Peter Leonard Past President, IAIA

1. DDP Phase 2 Goal and Work Program

The goal of Phase 2 of the Dams and Development Project (DDP) hosted by the United Nations Environmental Programme (UNEP) is "to promote improved decision making, planning and management of dams and their alternatives, building on World Commission on Dams core values and strategic priorities and other relevant reference materials" (ref: DDP Phase 2 Information Sheet No. 1, Goal and Work Program, May 30, 2005). The objectives of Phase 2 of the Dams and Development Project (DDP) are twofold:

- "Support multi-stakeholder dialogues at country, regional and global levels on improving decision making on dams and their alternatives with the aim of engaging all stakeholders with emphasis on governments.
- Produce non-prescriptive tools drawing on all relevant existing bodies of criteria and guidelines for planning and management of dams and their alternatives, which can help decision makers" (ibid).

The DDP Phase 2 work program is structured to promote dialogue and develop practical tools. Non-prescriptive practical tools for decision makers build on the World Commission on Dams (WCD) core values and strategic priorities and other existing bodies of criteria and guidelines. This includes, among other activities, the compilation of a checklist of issues, assessment of set

Table 1: WCD Core Values and Strategic Priorities

WCD Core Values	WCD Strategic Priorities
• Equity • Efficiency • Participatory Decision making • Sustainability • Accountability	• Gaining Public Acceptance • Comprehensive Options Assessment • Addressing Existing Dams • Sustaining Rivers and Livelihoods • Recognising Entitlements and Sharing Benefits • Ensuring Compliance • Sharing Rivers for Peace, Development and Security

Source: DDP Phase 2 Information Sheet No. 1, Goal and Work Program, May 30, 2005

prioritised issues, references to examples of success and failure, provision of a compendium on relevant practices in a practical tool, as well as dissemination and consultation.

By now the WCD's five core values and seven strategic priorities are well-known (ibid, see table 1). Moreover, there is widespread agreement and support for both the core values and the strategic priorities in the WCD report, even from stakeholders who expressed reservations about the report, its policy principles and guidelines.

2. The WCD First Strategic Priority: Gaining Public Acceptance

This workshop will address the first strategic priority of the WCD: gaining public acceptance. We wish to do so with the full challenges of its implementation in mind.

The WCD's key message to this effect reads: "Public acceptance of key decisions is essential for equitable and sustainable water and energy resources development. Acceptance emerges from recognising rights, addressing risks and safeguarding the entitlements of all groups of affected people, particularly indigenous and tribal peoples, woman and other vulnerable groups. Decision-making processes and mechanisms are used that enable informed participation by all groups of people, and result in

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* ***The views expressed are those of the author and cannot be attributed to the DDP Secretariat and Steering Committee***

the demonstrable acceptance of key decisions. Where projects affect indigenous and tribal peoples, such processes are guided by their free, prior and informed consent" (Dams and Development: A New Framework for Decision-Making, p.215).

There is "widespread agreement on the importance of the strategic priority from all stakeholders and interested parties in dams development" (ref: Issue-based Workshop on Gaining Public Acceptance, 2005 First Announcement, DDP, June 2005). However, a consensus on the exact meaning of the concept of public acceptance remains to be achieved and, more importantly, a road map to gaining public acceptance has yet to be drawn (ref: ibid). The WCD did provide for what was considered a fundamental element of the road map: " informed participation by all groups of people" in decision-making processes that "result in the demonstrable acceptance of key decisions" (ref: ibid). This is arguably where the main challenges lie.

Underlying policy principles

The underlying policy principles provided by the WCD are the cornerstones upon which the WCD report recommended that gaining public acceptance be achieved. These underlying policy principles provide that:

"Recognition of rights and assessment of risks are the basis for the identification and inclusion of stakeholders in decision making on energy and water resources management.

Access to information, legal and other support is available to all stakeholders, particularly indigenous and tribal peoples, women and other vulnerable groups, to enable their informed participation in decision-making processes.

Demonstrable public acceptance of all key decisions is achieved through agreements negotiated in an open and transparent process conducted in good faith and with the informed participation of all stakeholders.

Decisions on projects affecting indigenous and tribal peoples are guided by their free, prior and informed consent through formal and informal representative bodies." (ref: ibid p.214)

Concerns about some of these principles, and especially their implementation, are arguably the basis of the present differences in views on how to draw a road map for implementation of the strategic priority. Governments, industry, project proponents and multilateral organisations, NGOs and academics do not necessarily share the same views on the relevance and applicability of these underlying policy principles. Possible reasons and means to overcome these differences will be presented later and discussed thoroughly during the workshop. These differences emerged as reactions to the initial results of the WCD report and have been expressed during previous DDP Forum meetings as well as in other forums or tribunes.

3. Workshop Objectives and Expected Outputs

3.1 An ongoing body of work in the making

A considerable amount of work has been done since the final release of the WCD report in November 2000. This workshop builds on the previous body of work accomplished during Phase 1 of the DDP and the ongoing Phase 2. Previous Dams and Development Forum meetings and subsequent work provided critical guidance and much of the background for this workshop. In fact, the workshop objectives, issues, expected outputs, and even its proposed structure result from the combined contributions of previous Dams and Development Forum meetings and ensuing efforts.

During the first DDP Forum meeting (Nairobi, July 2002) there was agreement that gaining public acceptance would require transparency, information availability, opportunity for all stakeholder groups to participate, a precise and clear definition of stakeholders, inclusion of indigenous peoples and other vulnerable groups, development of norms for consultation and public involvement, identification of means for dispute resolution, equitable compensation and/or benefit sharing as well as a flexible framework adapted to national contexts. (ref: Issue-based Workshop on Gaining Public Acceptance, 2005 First Announcement, DDP, June 2005) Among the diverging views expressed, the main concern was probably about government roles in decision making and government participation in the process.

A second Forum meeting (Geneva, September 2003) provided additional direction for the proposed Gaining Public Acceptance Workshop by proposing objectives, expected outputs and a workshop structure. The need to further clarify the concept of public acceptance and its common attributes and characteristics was emphasised. Also of tremendous importance was the realisation that public acceptance will have different meanings when applied to diverse societies with different cultures. Thus public acceptance will differ depending on the country or regional context, and will inevitably require different approaches (ref: ibid).

The forum identified the key expected output of the thematic workshop on gaining public acceptance as being identification of "the common attributes, characteristics and components of the public acceptance process as input for more detailed

consideration at national levels and a basis for policy" (ref: ibid). A series of key topics and questions was agreed upon for further consideration (see Table 2: GPA Key Topics from the 2003 Dams and Development Forum.

Table 2: GPA Key Topics from the 2003 Dams and Development Forum

Topic	Key Questions
Stakeholder selection	How to identify and involve key stakeholders, including beneficiaries, in all project planning phases
Access to information	How to ensure that all stakeholders have access to information
Assessing public acceptance	What criteria should be used to assess public acceptance, taking into account varying interpretations in different countries? What would be appropriate indicators?
Accountability	How to ensure accountability of governments, citizens, NGOs and the private sector
Public participation	What are the processes and mechanisms that can improve public participation?
Time	How best to try and reach a consensus within an agreed time frame, accounting for the expectations of different stakeholders and urgent needs
Differences	How to deal with different cultural, ethnic, professional and corporate values, views and preferences when trying to reach public acceptance in diverse societies

Source: Issue-based Workshop on Gaining Public Acceptance, 2005 Second Announcement, DDP, August 2005

Further development of the workshop was achieved through the commissioning of a discussion paper, completed in March 2004, which was intended to serve as a background paper for a virtual discussion and workshop to follow. However, from the third Dams and Development Forum meeting came an expressed preference for a face-to-face workshop to be held with the upcoming Dams and Development Forum meeting (ref: ibid).

The discussion paper entitled Gaining Public Acceptance – A Strategic Priority of the WCD, authored by John Dore, Luis Lebel, et al. (Faculty of Social Sciences, University of Chiang Mai, Thailand, 2004), has served as a valuable basis for identifying issues to be dealt with during this workshop. This paper will be referred to extensively in the following sections.

3.2 Integration of GPA into national and regional policy and regulatory frameworks

Definition of the scope of the "gaining public acceptance" priority and identification of its attributes and components may be guided by the necessity of focussing on the provision of guidance for implementation at national and regional levels. The ultimate purpose of the thematic workshop can be construed as the integration of the "public acceptance" concept into policy, legal and regulatory frameworks at national and regional levels through recommendations that aim to achieve:

- comprehensive policy and regulatory frameworks for gaining public acceptance
- nationally and regionally adapted and flexible processes, guidelines, practical tools and techniques to gain or enhance public acceptance.

The workshop objectives are twofold (see Table 3 - ref: Issue-based Workshop on Gaining Public Acceptance, 2005 Second Announcement, DDP, August 2005). Both objectives should be crystallised through precise outputs, four of which have been identified as expected results for the workshop. They are presented in Table 3 (ref: ibid).

The proposed workshop structure and agenda directly reflect these concerns, as illustrated in Table 4 (Ref: Issue-based Workshop on Gaining Public Acceptance, 2005 Second Announcement, DDP, August 2005).

Table 3: Workshop Objectives and Expected Outputs

Workshop Objectives	Workshop Expected Outputs
• Discuss the nature and features of the PA process/procedure to clarify and prioritise for further consideration at a local level and integration into policy, legal and regulatory frameworks • Assess challenges and opportunities in national and regional contexts for institutionalising PA and identify examples of relevant practices	• Common steps/components/ elements/attributes of PA processes /procedures • Obstacles and challenges of implementing PA processes/ procedures • Information on good practices from case studies • Proposal of the next steps for DDP and other stakeholders to move forward the internalisation of PA processes/procedures at the country level.

The proposed structure for the one-day thematic GPA workshop allows maximum discussion, convergence of ideas and consensus. Session 1 is a plenary session for opening remarks, presentation of the concept and discussion and agreement on the main thrust of the workshop discussion. Session 2 will consist of group discussions.

Session 3 is a plenary session for group discussion reports and consensus building. In the afternoon, session 4 is planned as a plenary session for the presentation and discussion of selected case studies. A final plenary (session 5) will wrap up discussions, consider the final workshop statement and provide time for closing remarks.

The results of the session following the plenary reporting and consensus building will provide the core material for the workshop statement. The closing plenary session will discuss and review the next steps for DDP and other stakeholders to move forward with internalisation of the public acceptance processes and procedures at the country level. Providing a road map and/or recommendations for integrating public acceptance into national and regional policy and regulatory frameworks will be the ultimate result and achievement of the workshop.

Implementation processes and tools adapted to national and regional contexts should follow later. A possible succession of steps for the future would be first to make gaining public acceptance an important issue in national policy and frameworks, followed by inclusion in regional policy and frameworks, then to develop appropriately adapted, flexible processes and procedures, principles and guidelines, tools and techniques, to facilitate implementation at the national and regional level.

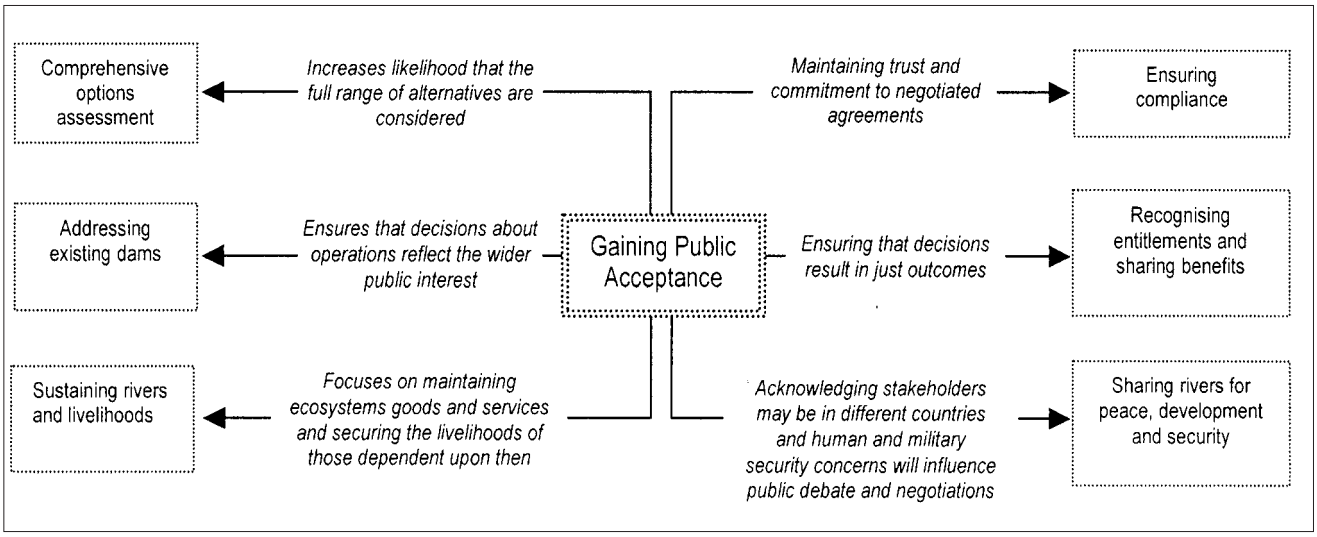
Table 4: Proposed Workshop Structure and Agenda

Workshop Agenda A.M.	**Workshop Agenda P.M.**
Session 1: plenary • Concept presentation/discussion Session 2: breakout groups • Common steps/components/ elements/ attributes of PA processes /procedures Session 3: plenary • Reporting/Consensus building	Session 4: plenary • Information on good practices from case studies Session 5: plenary • Next steps for DDP and other stakeholders to move forward with internalisation of PA processes /procedures at the country level Final workshop statement Closing remarks

Source: Issue-based Workshop on Gaining Public Acceptance, 2005 Second Announcement, DDP, August 2005

However, this and most previous considerations - and undoubtedly many other missing considerations – will be discussed much more thoroughly and in depth during the workshop. This introductory paper is meant to raise issues, provide food for thought and proposals on the focus for the discussions. It provides background context and clarifies the objectives and expected outputs, as well as reviewing how the workshop agenda is structured to achieve these results.

Table 5: Relationship of Gaining Public Acceptance with Other WCD Strategic Priorities



Source: CMU-USER

4. The Concept of Gaining Public Acceptance

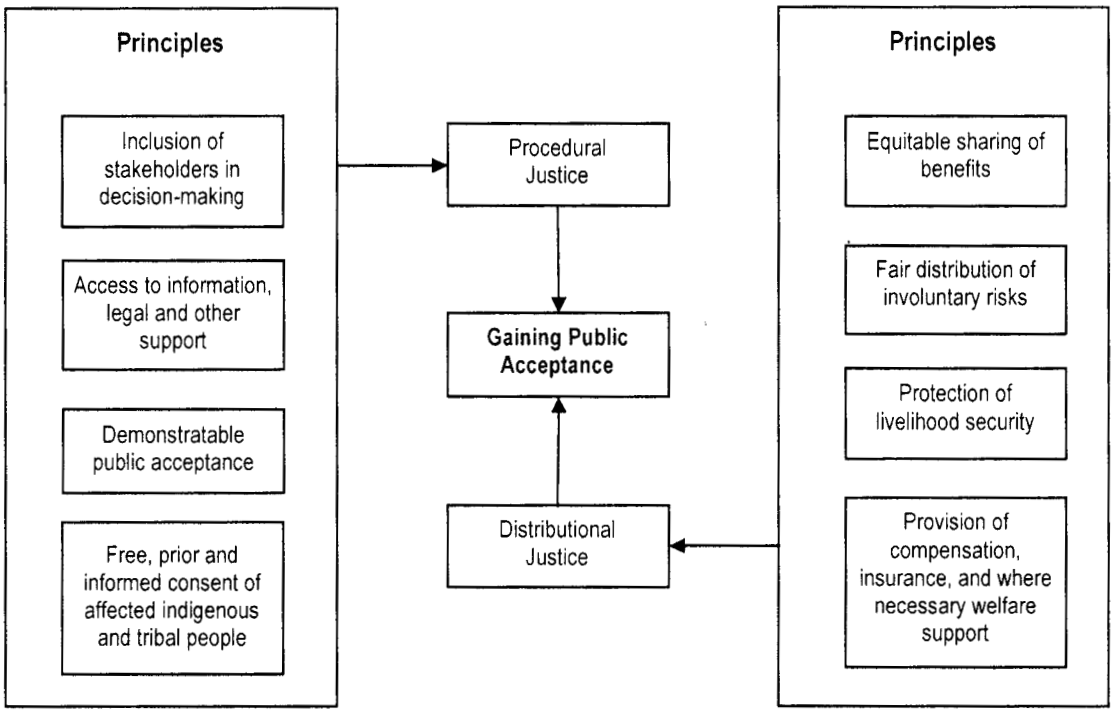
The relationship of "gaining public acceptance" with the other six strategic priorities in the WCD report is illustrated in Table 5.

-"At the outset, we must say that in our view, the label gaining public acceptance is, in one way, unfortunate. In English it can have the connotation of convincing the public to accept a pre-determined option or 'selling an option' or 'marketing a done deal'. However, this was not the intention of the WCD commissioners. The GPA strategic priority, and the rest of the framework, is intended to promote participatory and fair decision making throughout a typical planning and project cycle, including the early steps when choices are being made about development directions and the 'option set' to be considered." (ref: ibid p.5)

The background paper for the planned email conference in 2004, "Gaining Public Acceptance – A Strategic Priority of the WCD, proposed an expansion of the WCD formulation of gaining public acceptance, which is largely oriented towards procedural justice, to encompass negotiated expectations about distributional justice linked to outcome-related principles. Table 6 illustrates the proposed expansion of another four principles based on distributional justice aspects or outcomes of gaining public acceptance**.**

Table 7 provides a descriptive summary of the WCD underlying principles seen as procedural justice principals, with a descriptive summary of the proposed addition of distributional principles (ref: Gaining Public Acceptance – A Strategic Priority of the WCD, authored by John Dore, Luis Lebel, et al.).

Table 6: Proposed Expansion of Principles for Gaining Public Acceptance



Source: Procedural justice principles from the WCD report, distributional justice principles suggested by CMU-USER

5.The Role of Public Participation

Public participation is one of the key processes that can contribute to achieving public acceptance of a particular policy or development proposal. There are several views about what constitutes public participation, usually considered to be different levels or degrees depending on a context. The choice of the appropriate participatory process affects the impact, to a greater or lesser extent, on decisions made.

The rationale for using participatory approaches varies enormously. Public participation can be undertaken for different purposes, even when using the same tools and techniques. For some, public participation is a means. For others, public participation is an end to enable participants to have greater control and influence over the decision-making process or a decision. It is critical to recognise the importance of the relationships between actors and institutions, which may empower some, and suppress or inhibit others.

However, an efficient participatory process can lead to the gaining and sharing of information and the building of understanding and trust. Efficient public participation means that more information enters the public domain (ref: "Gaining Public Acceptance – A Strategic Priority of the WCD, p. 19).

Public participation, or public involvement as it is often called, covers the full spectrum from providing timely, accurate, sufficient information to full participatory processes such as partnerships where communities and/or other stakeholders are full participants in the decision-making process. Although there are many different public involvement methods and processes, especially their applications, the public participation spectrum as developed by the International Association for Public Participation is arguably the best and illustrates the increasing levels of public impact (see Table 8).

Table 7: WCD Procedural Justice Principles and Proposed Distributional Justice Principles

PROCEDURAL JUSTICE PRINCIPLES	DISTRIBUTIONAL JUSTICE PRINCIPLES
Inclusion of stakeholders in decision making	**Equitable sharing of benefits**
…is intended to foster the protection of the rights of affected people and make them net beneficiaries rather than just bearers of social or environmental costs. Consistent with human rights norms established in existing international agreements, the WCD report proposes an approach to GPA based on the recognition of rights and assessment of risks. Those with rights or bearing risks are considered 'stakeholders' and should be included, or have their interests genuinely represented and considered.	…benefits should be shared equitably rather than being captured by a small subset of stakeholders. If, for example, the water captured and electricity produced is for use in a distant location, then these resources themselves or some of the taxes and fees should go to more local uses as well... Lack of perceived fairness in distribution of benefits (and involuntary risks) can make finding a procedural solution to conflicting interests and values over projects very difficult.
Access to information, legal and other support	**Fair distribution of involuntary risks**
…affected groups have often been disadvantaged and unable to access relevant information or other support to enable informed participation and exercise their rights… There is a difference between making information accessible and then ensuring that this can become shared knowledge and understanding, even if not agreement.	…projects must make information about these risks clearly available to all and do as much as possible to ensure that they are distributed fairly among affected people. Otherwise what is likely to happen is that risks get transferred to the poor with little access to information and alternatives.
Demonstrable public acceptance	**Protection of livelihood security**
...should result in "demonstrable public acceptance of binding formal agreements…" achieved via "an open and transparent process" (WCD 2000:217) "All stakeholder forum members should share a genuine desire to find an equitable solution and agree to be bound by the consensus reached" (2000:280)…What matters is the outcome of the 'open and transparent negotiations'…when related public decisions have attained a 'sufficient' or 'demonstrable' public acceptance.	The changes brought by a project should not be allowed to undermine livelihood security... Any newly created opportunities should be made available and accessible to those who have lost options. Differences in culture, skills, capacities and social discrimination means that protecting livelihood security of the poor is not straightforward and may require public spending on education, training and business development.
Free, prior, informed consent by indigenous and tribal peoples	**Compensation, insurance and, where necessary, welfare support**
While there is growing recognition of indigenous peoples' rights to FPIC, it remains debatable as to whether this claim of ancestral domain can give rise to direct legal obligations for States that are more likely to invoke the right of eminent domain to justify making decisions on behalf of their citizens. Inevitably, differences of opinion remain about this…	In cases where it is hard to uphold the previous three principles of distributive justice there should be some kind of a safety net. Compensation for lost livelihoods, property and benefit streams may have to be transferred.... Insurance and welfare support may also be necessary, and should be fair.

The International Association for Public Participation has also developed a series of public participation core values which are meant to provide useful guidance when determining what level of public participation is required depending on the context, as well as when to apply different public-involvement techniques (see Table 9).

Section 8 on Impact Assessment and Public Involvement will dwell in more detail on the process, methods and benefits of public participation in the decision-making process. Here it suffices to emphasise that appropriately adapted participatory processes are considered to be among the most efficient means of enhancing public acceptance. Participatory processes provide better information, facilitate understanding of diverging and converging interests and allow a dialogue between stakeholder groups – including directly adversely affected communities – as well as the proponent and other parties such as government representatives. Such a dialogue, when done appropriately, leads to design modifications and/or measures to lessen adverse impacts and enhance positive impacts, provides adequate compensation when necessary and equitable treatment of affected populations and concerned stakeholders.

To be effective, the results of public involvement must be adequately considered and taken into account in the decision-making process; this must be done sufficiently early in the process to influence the decisions. Accountability and timeliness, as well accessibility of information, are key factors in the effectiveness of any form of public involvement. When considering public involvement effectiveness in decision making, it is becoming increasingly evident that the process, how it is implemented, and the quality of its application are key factors.

Much remains to be improved on this front, particularly in much of the environmental assessment legislation of emerging and developing countries where public participation processes tend to be overly procedural, formal and too often carried out very late in the decision-making process.

Table 8: IAP2 Public Participation Spectrum

INCREASING LEVEL OF PUBLIC IMPACT				
INFORM	**CONSULT**	**INVOLVE**	**COLLABORATE**	**EMPOWER**
Public Participation Goal	Public Participation Goal	Public Participation Goal	Public Participation Goal	Public Participation Goal
To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
Promise to the Public	Promise to the Public	Promise to the Public	Promise to the Public	Promise to the Public
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
Example Techniques to Consider	Example Techniques to Consider	Example Techniques to Consider	Example Techniques to Consider	Example Techniques to Consider
. Fact sheets . Web sites . Open houses	. Public comment . Focus groups . Surveys . Public meetings	. Workshops . Deliberate polling	. Citizen Advisory Committees . Consensus building . Participatory decision making	. Citizen juries . Ballots . Delegated decisions

Source: IAP2 Website. Developed by the International Association for Public Participation

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Promise to the Public	Promise to the Public	Promise to the Public	Promise to the Public	Promise to the Public
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
Example Techniques to Consider	Example Techniques to Consider	Example Techniques to Consider	Example Techniques to Consider	Example Techniques to Consider
. Fact sheets . Web sites . Open houses	. Public comment . Focus groups . Surveys . Public meetings	. Workshops . Deliberate polling	. Citizen Advisory Committees . Consensus building . Participatory decision making	. Citizen juries . Ballots . Delegated decisions

Source: IAP2 Website. Developed by the International Association for Public Participation

Aside from accountability, timeliness and accessibility of information, other core issues to be dealt with when considering public involvement in terms of gaining public acceptance can be framed as "how to":

- ensure proper disclosure
- provide effective and meaningful information
- determine who is a stakeholder
- determine what level and type of public involvement is required
- assess the appropriate measures required

Table 9: IAP2 Public Participation Core Values

Core Values for the Practice of Public Participation	
▪ The public should have a say in decisions about actions that affect their lives. ▪ Public participation includes the promise that the public's contribution will influence the decision. ▪ The public participation process communicates the interests and meets the process needs of all participants. ▪ The public participation process seeks out and facilitates the involvement of those potentially affected.	▪ The public participation process involves participants in defining how they participate. ▪ The public participation process provides participants with the information they need to participate in a meaningful way. ▪ The public participation process communicates to participants how their input affected the decision.

Source: IAP2 Website. Developed by the International Association for Public Participation

As for the measures used to enhance or gain public acceptance, the increasing shift in recent years from mainly compensatory and mitigation approaches towards enhancement and benefit-sharing approaches renders the choice of measures more complex.

Determining who is a stakeholder is a critical issue and it may be the most important issue because it implies determining who is considered not to be a stakeholder for various reasons, such as not being directly affected (only indirectly affected), not being within the spatial boundaries of effects, and other such criteria. In a nutshell, determining who is a stakeholder largely frames the scope of the public participation that will ensue, therefore the issues.

The WCD framework, as well as ongoing work by the DDP, provides a road map based on a rights-and-risks approach. This approach has tremendous merits and potentially far-reaching implications that need to be grasped better in order to become applicable to projects in varying and often very distinct contexts. How to identify stakeholder groups using these rights and risks – both voluntary and involuntary risks - is a key component for gaining public acceptance.

An increasingly significant number of emerging good public participation practices using development communication is being provided by the World Bank's Development Communication Unit as External Affairs contributions for project task leaders (see Box 1). An example applicable to dam infrastructure is the Bumbuna hydropower development project in Sierra Leone where the development communication program provided an analytical review of stakeholders, community needs and the overall project context, tailored a two-way communication program accordingly and designed a process adapted to the specific needs of the project. (ref: A World Bank Case Study: The Bumbuna Hydroelectric Project in Sierra Leone, Starting Early, Doing It Right, Leonardo Mazzei, World Bank, IAIA '05, June 2005).

6. Governance Issues

An important issue when considering public acceptance - and the objective of this workshop - is how to incorporate public acceptance and its attributes/components into national and regional policy and regulatory frameworks. Another of the workshop's objectives is to assess the "challenges and opportunities" in national and regional contexts for institutionalising public acceptance policies and procedures. A significant number of the challenges and opportunities seem to be inherently related to governance issues. One of the goals of the workshop is to identify these governance issues and provide concrete recommendations on how to improve the decision-making process and institutional framework upon which gaining public acceptance depends.

6.1 Linkages with the different governance processes

The previous background paper, "Gaining Public Acceptance – A Strategic Priority of the WCD (Dore, Lebel, et al., 2004), explicitly recognised that the WCD governance framework, and the GPA component, need to be considered within the wider context of governance-related institutions and the formal and informal, public and private, interaction in diverse and complex societies. Table 10 is an attempt to portray this complexity, which provides the backdrop for project and planning cycles.

While recognising that a key player in governance and GPA is the State (government), an understanding of the different types of governance processes is essential to the GPA context. Tracks can be used to describe the different types of forums which may each be a part of public governance (Table 11). Many Track 2 and 3 forums could be characterised as multi-stakeholder platforms which constitute a form of governance process as is the case for the WCD and DDP processes.

The Dore, Lebel, et al. (2004) paper also identifies the elements of the State/society complex, which would be most conducive to GPA. An ideal situation is framed around drivers, organisations, institutions, governance processes, and what is called 'gold standard' attributes. The ideal situation is one in which there is a high level of public trust, particularly between the State and the people. Transparency, accountability and competence contribute to trust-building and enhance the legitimacy of the

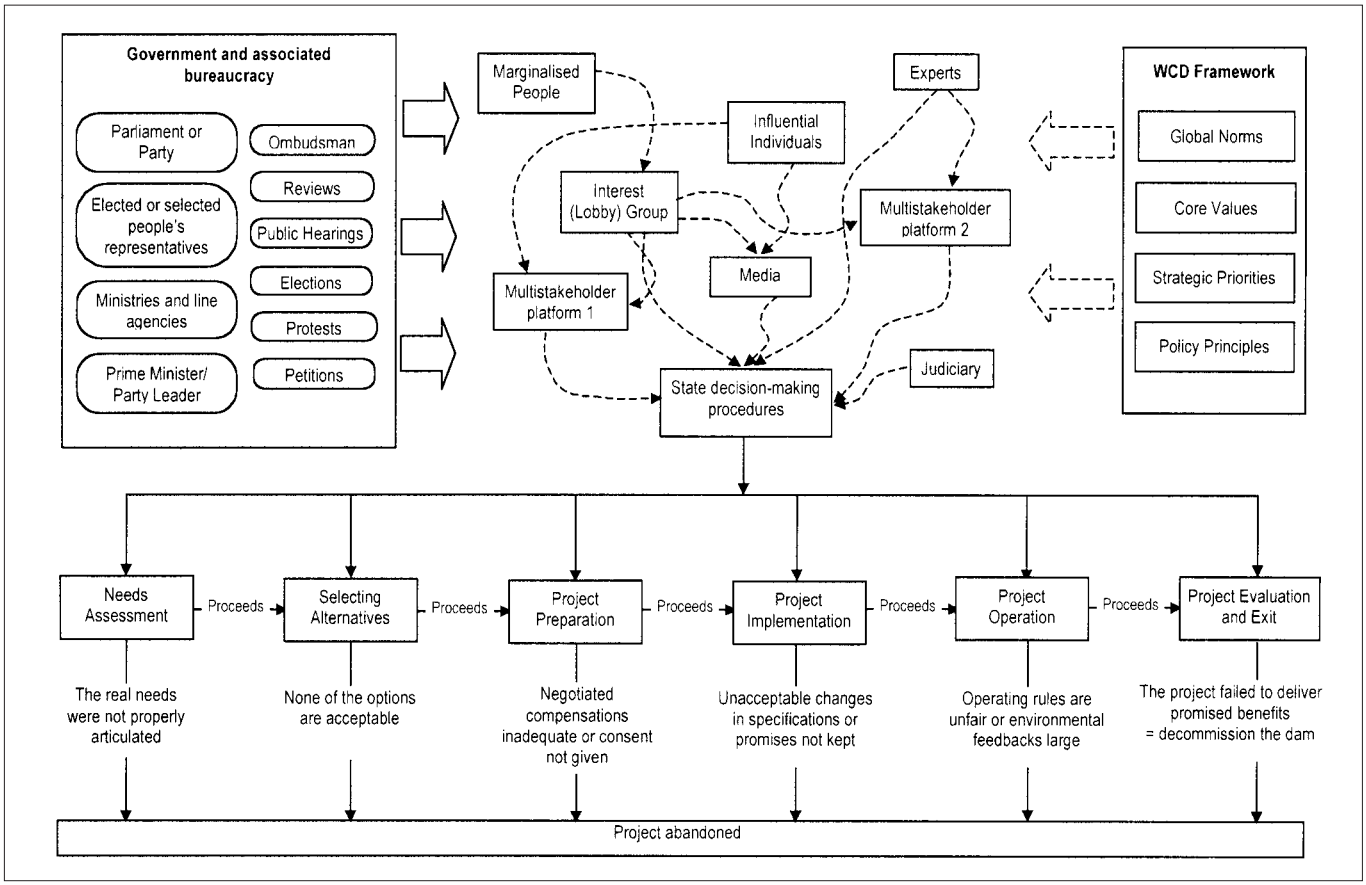
Box 1: The Use of Strategic Development Communication

Strategic development communication has emerged of late largely because of shortcomings and how information has been poorly disseminated and communication poorly managed in countless development projects. It feeds on the growing amount of evidence of the limitations of public-participation processes and procedures as presently applied through environmental assessment and other legislation in many developing countries (Strategic Communication for Impact Assessment, E.Santi, World Bank, P.Leonard, IAIA, 2004).

Strategic development communication rests on the premise that to be both effective and receive public acceptance, development projects must drastically increase the effectiveness of their communication programs and mechanisms with all types of stakeholders, including affected communities, in order to attain the desired results and to expand and adapt development.
Communication does not mean "selling" a program or project. A simple definition of strategic development communication is providing a two-way exchange of information that allows the development project to consider the full spectrum of issues to be addressed based on a systematic communication process and comprehensive program that fosters appropriate stakeholder and community involvement, with fair compensation and participation in benefits.
Strategic development communication converges with public participation and other social and anthropological approaches in the emphasis put on very accurately identifying each stakeholder group, the socio-economic dynamics and cultural context of affected communities, documenting the local culture and context, and adapting – as much as deemed necessary and possible – the program or project components to the stakeholders' legitimate interests and increasingly to the values, concerns and needs of communities and the surrounding population.
Most importantly, strategic development communication adds value to the decision-making process, based on the premise that close, continued and locally adapted two-way communication must take place throughout the program or project cycle. The rationale for this is not only to gain public acceptance, but also to ensure that the project is well-designed in accordance with its development objectives and implemented effectively while taking into consideration community and stakeholders' development needs.
The underlying premise is that by providing the appropriate information and two-way communication between stakeholders, communities and project proponents, strategic development communication will contribute significantly to agreements and trade-offs when required, increase equitable treatment of adversely impacted stakeholders, and optimise project benefits.

authorities. Government is considered legitimate through demonstrated 'good' governance practices. Institutions are strong and organisations are functional. The driving forces to the attainment of the 'gold standards' are, on the one hand, governments guided by leaders with a sense of justice and fairness, and on the other hand, a proactive civil society that is willing to constructively engage and negotiate with State representatives. The interactions between state and civil society will be enhanced by the appropriate use of tools, such as participatory processes (ibib. p.15-18).

Table 10: Existing Governance Contexts and the WCD Framework



Source: Dore, Lebel, et al. (2004)

Table 11: Governance 'Tracks' Identified by Dore, Lebel, et al., 2004

Track 1	Track 2
Formal intra- and inter-government processes for the most part restricted to States. State authority is considered paramount and governance is conceptualised and largely restricted to consensus-building or interest-based bargaining within or between States. Track 1 has been the traditional focus of the International Relations and Political Science disciplines.	An evolution from Track 1 has seen the emergence of State/civil society interactive forums, but where States remain 'privileged' actors either directly or via their offspring, such as public international financial institutions (eg. World Bank, UN agencies). Track 2 refers to institutions and processes with semi-formal links to governments, such as the DDP.
Track 3	**Track 4**
Track 3 is characterised by civil society leading, less impeded by, and less subordinate to States. Track 3 governance forums include many dialogues/ platforms and processes. The WCD was, more rather than less, a Track 3 process.	Reflects the position of what are often called 'localists', increasingly prominent in water and energy resource development governance. They usually have a greater emphasis on self-sufficiency and lower expectations of government.

Source: Dore, Lebel, et al.. (2004)

6.2 Capacity building and institutional strengthening

Many of the WCD's underlying principles for gaining public acceptance can be construed, of course, as being governance issues. Recognition of rights and risks, access to information, free, prior and informed consent and negotiated agreements can all be interpreted as being related in different degrees to governance issues. The point here is that many governance issues entail decision-making processes that go beyond the reach of applying participatory decision-making processes.

Table 12: Ways Forward to Gain Public Acceptance

WAYS FORWARD to GPA (Dore, Lebel, et al., 2004)	
• recognise that openness, transparency and fairness are best achieved through multiple avenues, by creating multiple arenas for dialogue and debate and channels for public input on decision making • recognise that the capacity and experience of personnel in bureaucracies is limited, therefore it is essential in many places to build the capacity of State agencies to co-design, use, fund, participate in and monitor MSP inputs to aid decision making • dispel the myth that public participation is wasteful of resources, before even being given a chance, by highlighting the right to participate, and demonstrating the value of genuine public participation to affected peoples, the general citizenry, investors, credit providers, and State agencies	• recognise that there is no single correct way to gain public acceptance and that we are still discovering how to do it, therefore encouraging further experimentation and learning with governance processes, such as multi-stakeholder platforms. • create incentive for effective partnerships to be reproduced by praising and rewarding agencies that are effective at public engagement over non-trivial decisions • share GPA experiences from fields other than large-scale water and water-related energy policy, planning and projects • deconstruct the assumption (by some) that know-how about processes of governance, including GPA, is centred in mature economies; therefore encourage more openness to learning lessons of good practice from developing countries

Source: Dore, Lebel, al (2004).

Ultimately, even the best of the public participatory approaches will be of limited value, and is no substitute in most cases, when a national or regional context lacks the institutional strength, capacity or willingness to provide consultation processes or when it infringes upon basic human rights.

How to gain or enhance public acceptance when mainly governance issues are at stake needs to be addressed through recommendations of improved governance measures, not solely through increased or improved participatory processes. However, when addressing governance issues related to decision-making, many of the issues at hand, although of utmost importance, reach far beyond the specific context of dams and development. Nevertheless, there should be no doubt that good governance is a key attribute and component for gaining public acceptance. Therefore, recommendations on institutional strengthening and capacity development, carefully tailored to the specific needs of national and regional contexts, are important and must be addressed to improve and gain public acceptance for dam or other infrastructure development. In the concluding section of Dore, Lebel, et al. (2004), the majority of the ideas offered as examples of the actions required to move forward with gaining public acceptance are linked in one way or another to governance issues and capacity building (see Table 12).

Even if it is agreed that governance issues must be addressed through appropriate institutional strengthening and capacity building, there are issues of responsibilities and political processes to be considered. The roles and responsibilities of different stakeholder groups, as well as their control or lack of control in given governance issues, should not be underestimated. Furthermore, lack of good governance in a national or regional context can hinder the achievement of public acceptance and the benefits of public participatory processes. One cannot be a substitute for the other. They need to be applied in conjunction with each other.

7. Impact Assessment Framework

When assessing where or how to develop a series of comprehensive recommendations on gaining public acceptance, to be implemented in national and regional policies, legislation and regulatory frameworks, the impact assessment process and tools provide a comprehensive framework to build upon. There are other important policy domains and legislative frameworks where participatory processes must also be taken into account, mostly in developed countries, such as urban and regional planning and protected-area management. However, apart from the formal political process, impact assessment in many national and regional contexts presently encompasses one of the most effective mechanisms for public participation. More than 113 countries now have some form of environmental impact assessment legislation. Most of them have some kind of public participation requirement. Several components and attributes of public acceptance can be found in one form or another in impact assessment, in particular in environmental impact assessment. The basic principles of environmental impact assessment, as identified in the Principles of Environmental Impact Assessment Best Practice (see Table 13), illustrate the attributes environmental impact assessment has for gaining public acceptance.

Impact assessment and public involvement are closely intertwined. Environmental assessment, in particular, and public participatory requirements have evolved together since the beginning of EIA more than three decades ago. Perhaps this is because both stem originally from similar social movements and political forces of the late nineteen sixties. Most environmental impact assessment legislation requires at least some form of disclosure of information as well as public consultation. This close link has been under strain in recent years because of mounting evidence that improvements are required. Table 14 illustrates the concordant activities of impact assessment and public involvement.

The state of public involvement within the environmental assessment process varies tremendously from one national context to another. In fact, much recent good practice has evolved way beyond the confines of legislative and regulatory frameworks in order to adapt to changing societal forces. However, the overall status of public involvement in developing countries can nevertheless be summarised as follow:

Many regulatory frameworks do not specify how to proceed to provide the information or carry out the public consultation and often what is specified is incomplete. Legislation is often limited to stating the principle that information must be provided and when the public consultation must take place without providing indications or guidance as to the extent and how.

Public consultation requirements are procedural, often too formal and mainly focused on consultations, in particular public hearings. The overall tendency has often been to overformalise the consultation process, most often through public hearings procedures.

National and regional institutions and proponents often do not have the technical capacity, expertise or adequate resources to implement public consultation requirements.

In some legislative frameworks, consultation and/or some form of public hearing takes place both at the beginning of the project during the scoping phase and later upon consideration of the preliminary project report. However, in most cases, the consultation and/or public hearings take place only once, late in the decision-making process during review of the preliminary report when it is often too late to make substantial changes to the project.

Public participation is too often limited solely to the project-planning phase. Very few legal and regulatory frameworks have -public involvement requirements during the project implementation and operation phases. The emergence of strategic environmental assessment has begun extending the public involvement upstream to the policy, program and planning stage mostly by multilateral development agencies.

Table 13: Principles of Environmental Impact Assessment Best Practice

Basic Principles of EIA **Environmental Impact Assessment should be:**	
Purposive – the process should inform decision making and result in appropriate levels of environmental protection and community well-being. **Rigorous** - the process should apply "best practicable" science, employing appropriate methodologies and techniques to address the problems being investigated. **Practical** – the process should result in information and outputs which assist with problem solving and are acceptable to and able to be implemented by proponents. **Relevant** – the process should provide sufficient, reliable and usable information for development planning and decision making. **Cost-effective** - the process should achieve the objectives of EIA within the limits of available information, time, resources and methodology. **Efficient** – the process should impose the minimum cost burdens in terms of time and finance on proponents and participants consistent with meeting accepted requirements and objectives of EIA. **Focused** – the process should concentrate on significant environmental effects and key issues; i.e., the matters that need to be taken into account in making decisions. **Adaptive** – the process should be adjusted to the reality, issues and circumstances of the proposals under review without compromising the integrity of the process, and be iterative, incorporating lessons learned throughout the proposal's life cycle.	**Participative** – the process should provide appropriate opportunities to inform and involve the interested and affected publics, and their inputs and concerns should be addressed explicitly in the documentation and decision making. **Interdisciplinary** – the process should ensure that the appropriate techniques and experts in the relevant biophysical and socio-economic disciplines are employed, including use of traditional knowledge as relevant. **Credible** – the process should be carried out with professionalism, rigor, fairness, objectivity, impartiality and balance, and be subject to independent checks and verification. **Integrated** – the process should address the interrelationships of social, economic and biophysical aspects. **Transparent** – the process should have clear, easily understood requirements for EIA content; ensure public access to information; identify the factors that are to be taken into account in decision making; and acknowledge limitations and difficulties. **Systematic** – the process should result in full consideration of all relevant information on the affected environment, of proposed alternatives and their impacts and the measures necessary to monitor and investigate residual effects.

Source: Principles of Environmental Impact Assessment Best Practice. IAIA, IEA, 1999.

Public involvement requirements most often are devoid of an effective mechanism for demonstrating that information received and consultation results of stakeholders were effectively considered in the decision making.

There is also an absence of procedures or process to ensure the compliance of decisions made on the basis of public participation.

Therefore public involvement – or public participation - as a component of the impact assessment process requires further improvement. However, many of these improvements are a reflection of the state of impact assessment. Although there has been tremendous expansion of impact assessment in the past decades and much improvement has taken place, there is a need for continued improvement for impact assessment to fully achieve its purpose.

A recent study reviewing the state of impact assessment through a series of regional studies in developing countries provides observations that highlight the overall context: "Where it exists, the legislative and regulatory framework is usually the strong point of EIA. The formal process and procedures are generally also strong points, as are the identification of minimal EIA requirements. Overall, however, the capacity to implement legislative requirements is often lacking, project implementation is weak and control mechanisms need to be reinforced or are non-existent. Monitoring remains a weak link in the process. EIA reports are often more descriptive than predictive and management-oriented. The quality and review of EIA reports needs to be improved. Methods used are very diverse and rarely quantitative." (Ref: Capacity Enhancement for Impact Assessment in Developing Countries – A Summary of Seven Regional Studies, IAIA & World Bank, 2005, p. 10).

8. Characteristics of the Public Acceptance Process

"Gaining public acceptance" topics and key questions for the proposed 2004 email conference are summarised in Table 15 (ibid. p. 28). All the main topics for consideration, as prioritised in 2003 during the Dams and Development Forum, are included. However, the proposed framework has been slightly expanded to include distributional justice principles as outputs for the procedural principles, as well as certain governance issues.

Table 14: Impact Assessment and Public Involvement Requirements

Impact Assessment		**Public Involvement**	
Strategic Impact Assessment		**Public Participation**	
Type	**Activity**	**Type**	**Activity**
Policies **Programs** **Plans**	Options/alternatives Effect on other sectors Global/cumulative effect Basin management Life-cycle analysis	**Policies** **Programs** **Plans**	Information Consultation Public hearings
- Impact Assessment -		- Public Participation -	
Type	**Activity**	**Type**	**Activity**
Project planning	Screening Scoping Data collection Assessment of impacts Enhancement/correction measures Environmental management plan Community/social development plan	**Project planning**	Public hearings Consultation Disclosure of information Consultation Public hearings
Project construction	Environmental follow-up program EMP implementation CDP implementation Compliance	**Project construction**	No specific requirements
Project operation	Environmental monitoring EMP/CDP implementation Environmental management system Compliance audit	**Project operation**	No specific requirements
Project decommissioning	EMP/CDP/EMS Compliance audit	**Project decommissioning**	No specific requirements

Table 15: GPA Topics and Key Questions for 2004 E-Conference

Topics	Key Questions
Dealing with differences	How to deal with different cultural, ethnic, professional and corporate values, views and preferences when trying to achieve public acceptance in diverse societies
Stakeholders – with different 'stakes'	How to identify and enable the involvement of stakeholders in all relevant phases of a project How to clarify and prioritise different 'stakes' when there are overlapping rights and interests, and different risks
Transparency & access	How to ensure transparency whereby all public agendas are in the public domain and decision making is open to scrutiny How to ensure the public has access to information
Accountability	How to ensure accountability of all actors in the State/society complex, whether governments, bureaucrats, citizens, NGOs or the private sector
Participation	How to ensure publicly relevant decisions are 'open' to public participation What are the processes and mechanisms that can improve public participation? How to move forward with respect to the concept of 'meaningful' participation
Negotiation	How best to try and reach *a negotiated agreement* within an *acceptable* time frame, accounting for the *rights and expectations* of different stakeholders, and urgent needs
Multi-stakeholder platforms	What role can multi-stakeholder platforms and other processes play? When, where and why do tensions emerge between multi-stakeholder platforms and States?
Consent & dissent	How to move forward with respect to the principle of free prior informed consent of affected indigenous and tribal peoples Can public acceptance ever be said to be gained, if there are no, or minimal, opportunities to freely and safely express dissent?
Measuring	How much support must there be, and from whom, before public acceptance is 'demonstrable' and indicative of 'acceptance'? What criteria should be used to *measure* public acceptance? What would be appropriate proxy indicators to assess *process* and *outcomes?*

Source: CMU-USER building on DDF

Table 16 presents the characteristics of the public acceptance process, drawing on the discussions at working group session II during the second DD Forum meeting as compiled by DDP Secretariat. "Topics are organised in terms of steps/components, elements and attributes/requirements of a process/procedure for gaining public acceptance" (ref: ibid).

These topics and the process will serve as a reference to build upon throughout the workshop discussions. The proposed process builds on previous proposals cited in this paper. It also suggests a framework classification that identifies steps/components, elements and attributes/requirements for gaining public acceptance.

Stakeholder identification and involvement, access to information, informed participation within the decision-making process and demonstration of acceptance are proposed as the four key steps/components for gaining public acceptance. To each key step/component is linked a series of elements for gaining public acceptance. A series of attributes/requirements leading to public acceptance are identified. Attributes/requirements are common to all four key steps/components for gaining public acceptance. This is the framework proposed as a basis for further discussion during the workshop.

9. Key Issues and Questions

Looking through the window of impact assessment as both a process and tool for decision making, keeping in mind both its strengths and the required improvements to the process and its public participation component, what are the key issues or questions to be addressed during the workshop in order to be able to make a series of comprehensive recommendations for integrating public acceptance policy and processes into national policy and regulatory frameworks?
For discussion purposes during the workshop, an indicative, non exhaustive list of key issues articulated as questions are provided in this section. The questions draw on previous identification of key issues and questions. Questions are structured as much as possible around the proposed framework of the characteristics of the process for gaining public acceptance. Some questions are relevant to all or more than one step or component.
Key issues and questions to be addressed during the workshop are as follows:

Table 16: Characteristics of the Public Acceptance Process

Characteristics of the Public Acceptance Process			
	Step/Components	**Elements**	**Attributes/Requirements for Public Acceptance**
1	Stakeholder identification and involvement (appropriate to the stage of planning)	• Rights-and-risks approach • Roles • Responsibilities • Accountability • Support mechanisms for disadvantaged groups • Interaction between groups • International stakeholders • Proactive involvement (maintaining motivation)	• Transparency • Accountability • Recognition of rights and entitlements • Benefit sharing and community development (as opposed to compensation) • Recognition of indigenous rights in the local context • Adaptation to local culture and context • Time-bound process
2	Access to information	• Availability • Language • Formats	
3	Informed participation in decision-making processes	• Public participation mechanisms • Participatory decision-making mechanisms	
4	Demonstration of acceptance	• Measures of success: • Agreements negotiated • Lack of conflict • Ownership of process and outcomes	

Source: Issue-based Workshop on Gaining Public Acceptance, 2005 First Announcement, DDP, June 2005

9.1 Stakeholder identification and involvement (appropriate stage of planning)

- *Who are the stakeholders?*
- *How to identify them?*
- *Are there different categories or groups of stakeholders?*
- *Is there a hierarchy of stakeholders. i.e. are some to be considered more than others?*
- *Should local and regional communities be given particular treatment?*
- *How to enable the involvement of stakeholders in all relevant phases of a project?*

9.2 Access to information

- *What type of information is required?*
- *How to provide effective and meaningful information?*
- *To whom should the information be addressed?*
- *Who should provide the information?*
- *How should the information be managed?*
- *How to ensure that information is accessible?*
- *How to ensure that information is timely and provides sufficient time for consideration of decision?*
- *How to establish a two-way mutual dialogue between the stakeholders, project proponent and government?*

9.3 Informed participation in the decision-making process

- *When should public participation occur?*
- *How early in the process?*
- *Should public participation be recurrent?*
- *Should there public participation be a two phased process at the beginning and at the end?*
- *What level and type of public participation is required?*
- *How to decide whether it is information, consultation, involvement, collaboration or empowerment is required?*
- *What tools and techniques are best fit?*
- *How should public participation be incorporated beyond the project planning phase?*
- *How will this improve the effectiveness and accountability of the public participation process?*
- *How to implement effective and comprehensive public participation mechanisms beyond project planning stage?*

9.4 Demonstration of acceptance

- *How to take into account the results of public participation?*
- *How to ensure accountability of all actors?*
- *How to incorporate results in the decision making?*
- *How to ensure that the results were adequately considered if not incorporated ?*
- *Is accountability a project proponent or regulator responsibility?*
- *What criteria should be used to measure public acceptance?*
- *What would be appropriate indicators to assess the process and the acceptance of outcomes?*
- *How to incorporate public acceptance in national and regional policy and regulatory frameworks?*
- *What type of policy and regulatory framework is required?*
- *In what policy and regulatory frameworks (e.g. Environmental law, EIA, Land acquisition law, etc) should it be incorporated?*
- *What type of institutional /organisational measures are required to integrate gaining public acceptance into national and regional policy and regulatory frameworks?*
- *Are institutional reforms required?*
- *Are institutional strengthening and capacity development programs required? Are additional resources required and available and if so who will assume responsibility?*
- *What should be the roles of project proponents and government regulators?*

Providing answers to these key issues and questions is well within the scope of the workshop. Articulating the answers as recommendations to be further pursued and integrated in a manner respectful of and adapted to particular needs and national and regional contexts will be the major out-come of the workshop.

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ANNEX 4: REPORTS OF THE BREAKOUT GROUPS

Reports of the Working Groups

Introduction

Four working groups were convened to address the following issues:

Working Group 1:	Stakeholder Identification and Involvement
Working Group 2:	Access to Information
Working Group 3:	Informed Participation In Decision Making Processes
Working Group 4:	Demonstration of Public Acceptance

The participants were provided of guidelines for discussion that included general instructions (see box), a set of three questions to guide and focus the discussions and background information to assist the participants comprising the components/elements of the gaining public acceptance process (See Table 16, page 28) and the requirements of Impact Assessment and Public Involvement (see Table 14, page 26). The following sections briefly present the participants of the group, the questions posed, a summary of the general sense of the discussions and the conclusions of the group.

Guidelines to Breakout Group Session for Participants

1. The group is asked to provide their common views to the issues presented below in the format of questions. In order to build a group response guided by the chairman in the short time available (2 hours), the following procedure is proposed:
2. The group's activity will start allotting each member 20 minutes to write down in the attached form his/her own views on the proposed topics. Responses should be brief in key word format. The participant might identify the form with his name if he/her so wishes. The filled forms will be returned upon dismissal of the group to the DDP secretariat that will later assess the range of views expressed by the participants.
3. The chair will allot additional 10 minutes so each participant might share his/her views with those sitting next to him/her in order to identify common approaches.
4. The Chair will then facilitate the deliberations guiding the comments and discussions along the proposed topics in order to identify agreed issues, disagreements and proposals responding to the posed questions.
5. The Chair and the elected rapporteurs will present the group report on the basis of the outcomes of the deliberations to the plenary session.
6. The results of the four breakout sessions will be compiled in the early afternoon session and presented in the closing plenary for discussion and hopefully agreement on the workshop declaration which will be the major outcome of the workshop

Working Group 1: Stakeholder Identification and Involvement

Participants

Anne Schuster	GTZ (Chair)
Martha Sugai	ANA-Agéncia Nacional de Aguas
Jerry Methula	Department of Water Affairs and Forestry
Sharma Shiv Kumar	Ministry of Water Resources
Benaissa Mokrane	Ministry of Water Resources
V. K. Jyothi	Central Water Commission
Abe Akiko	Japan Bank for International Co-operation
Pianporn Deetes	Assembly of the Poor
Mecca José Helio	Movimento dos Atingidos por Barragens
Dagjartsson Gudni	ABB Group Function Sustainability Affairs
Hope Ogbeide	SWAPHEP

Chacha Wambura	Foundation Help
Frank Muramuzi	National Association of Professional Environmentalists
Bryan Ashe	Earthlife Africa
Ola Busari	DBSA
Rajendra Singh	Tarun Bharat Sangh
David Hales	Worldwatch Institute
Wanjiku Kaniaru	DDP Secretariat

Questions:

1. Who are the stakeholders?
2. How to enable the involvement of stakeholders in all relevant phases of a project?
3. How to incorporate public acceptance in national and regional policy and regulatory frameworks?

Discussions: Stakeholder Identification and Involvement

The Working Group began with a general discussion on stakeholders with particular emphasis on how to identify them. In this regard, the participants were given the opportunity to express a wide range of views. The following stakeholders were identified including project beneficiaries, people displaced by the project and those located downstream of a dam. In addition, various mechanisms were proposed for the identification of stakeholders that included the following: discussion with local populations, visiting the site and undertaking a social study. In this regard, the importance of verifying the information collected was emphasised. Furthermore, it was pointed out that stakeholder identification was in itself a process and it is different at both policy and project levels.

The question of whether hierarchy existed amongst stakeholders was also extensively discussed with emphasis on the question of what criteria should be used? In this regard, the participants emphasised that all stakeholders should be treated equally throughout the process. However, it was also agreed that special consideration should be given to factors related to the level of adverse effects in terms of livelihood whether it was direct or indirect, proximity to the project (geography) as well as the applicable international standards when rights or significant risks were concerned.

In addition, it was suggested that particular attention needed to be provided to vulnerable groups including indigenous people. The Working Group also stressed the importance of incorporating gender issues into the decision making process.

Furthermore, the importance of fully involving communities from the conceptual stage of the project planning process and the need to ensure transparency in the disclosure of information while at the same time utilising where possible the indigenous knowledge base was underscored. The Group participants also highlighted the need for further clarification to adequately distinguish between the social and legal meaning of public acceptance with regard to rights.

Conclusions:

- The Working Group made the following recommendations:
- Stakeholders can be different at policy and project level and also as project evolves (planning, construction, operation)
- Their identification can be a combination of different approaches such as of self-identification, social surveys, site visits, etc.
- No one stakeholder is more important than the others in the identification process. Access should be guaranteed to all stakeholders.
- However, an hierarchy of stakeholder groups does require consideration based on level of adverse effects to stakeholders – that are directly or indirectly affected in terms of livelihood (those that have most to loose) and proximity to the project (geography) while taking into account local as well as international standard
- An hierarchy of stakeholder groups is also to be considered when rights or significant risks are concerned
- There should be priority given to communities if it is a community level project.
- Particular attention should be provided to vulnerable groups including Indigenous Peoples, and gender issues.
- Particular attention should be given to establishing capacity to participate and the use of local knowledge.
- There is a need for further clarification to differentiate between the social and legal meaning of public acceptance with regard to rights issues.

Working Group 2: Access To Information

Participants:

Gopal Siwakoti (Chair)	WAFED
Medeiros da Silva Luiz	MME
Dinh Ninh Nguyen	MARD - Ministry of Agriculture and Rural Development Social Republic of Vietnam
Angela Bednarek	US Department of State
Marcia Cargo	MME
Pulatkhon Umarov	Inter-State Commission for Water Co-ordination
Peter Paul	Swiss Agency for Development & Cooperation
Mishra Dinesh Kumar	Barh Mukto Abhiyaan
Diptri Bhatnagar	Narmada Bachao Andola
Joan Carling	Cordillera Peoples Alliance, Phillipines
Oud Engelbertus	Lahmeyer International
Nikki Reisch	Bank Information Centre
Emmanuel Wirsiy	Global Village
Liane Greeff	NAWISA
Leonard Atakpu	ANEEJ
Ken Msibi	SADC Water Division
Flavia Braga	Institute of Urban and Regional Planning and Research, Brazil
Thomas Chiramba	DDP Secretariat

Questions:

1. What type of information is required?
2. How should the information be managed?
3. How to incorporate public acceptance in national and regional policy and regulatory frameworks?

Discussions: Access to information:

The working group began by discussing in detail the question of what type of information was required and by whom? A wide range of opinions were expressed in this regard with consensus emerging that all project documentation is required including feasibility and options studies, including demand forecasts and thorough examination of different energy options to meet needs. In addition, it was emphasised that there was need for comprehensive cost assessments, contracts/agreements and general information on the decision-making process including timelines, those who are empowered to make decision, opportunities to access those decision-makers; information related to previous experiences from different dam-affected communities including dispute settlement mechanisms.

In addition, the participants of the working group indicated that the same information should be provided to all "stakeholders"/ "in multiple formats—print, electronic, verbal/oral, visual, etc. In this regard, it was also noted that the information needed to be provided in a Forum coordinated by independent parties in order to prevent bias.

In order to enhance transparency in the process of information disclosure, the Working Group stressed that the project proponents had the responsibility of ensuring that the information was disseminated widely through all available channels. Caution was however expressed on the need to avoid overwhelming affected communities with information and the need to provide assistance in promoting its understanding including facilitating access to legal expertise/advisors, with the resulting costs possibly borne by the project developers.

The Working Group also addressed the question related to where the information was to be provided. In this regard, it was suggested that information should be made available at the community level in schools, churches, government offices and town centres or alternatively establish one main depository for all the required information. It was stressed that project developers and governments had the responsibility of ensuring timely dissemination of information at least six months in advance although flexibility was possible depending on the nature of mutual agreements concluded between affected stakeholders and other stakeholders. In addition, the participants emphasised that the information should be provided in the local languages of the affected communities as well as in national languages. In addition, opinion was expressed that exchange visits to similar projects including discussions with other affected populations should be encouraged.

It was pointed out that there was a risk if the information was given too far in advance given that it may be outdated at the time of the meeting/discussion. The opinion was further expressed that the problem with specifying information requirements was that the planning periods of different projects differ depending on size. However, the importance of ensuring that information was made available throughout the project operation was emphasised.

The Group also extensively discussed the issue of what format the information was to be provided in. Some of the key points emerging from this discussion included the fact that information must be accessible at the community level and adapted to the various stakeholders. Furthermore, it was noted that it was critically important to utilise proper modes of communication to take into account literacy, formal and informal mediums such as radio, visual representation and discussion workshops.

Similarly, various remedies to ensure access to information were proposed including the enactment of comprehensive laws incorporating the right to information, the enforcement and implementation of laws related to information and people's participation, establishment of compliant mechanisms at the local level and the recognition of collective rights of indigenous peoples and the principle of Free Prior Informed Consent.

Conclusions:

The Working Group made the following recommendations:

As regards availability:

- All relevant project information should be made available to stakeholders including information steaming form upstream policies and strategies such as option assessment and financial aspects. Agreements or contracts should also be made available except commercially sensitive information (except commercially sensitive information).
- Need to provide information on and access to comparable projects with similar effects.
- Need to inform people about existing mechanisms to address grievances at a local and national level and for problem solving related to projects.
- Information disclosure: need for national laws on access to information as well as an appeal mechanism when access to information is denied.
- Importance of provision of access to independent review of project information and studies when applicable or requested.
- Importance of access to expert advice and counsel.

As regards timeliness:

- Importance of early access to information and adequate/sufficient time to process the information by stakeholders. Provision of minimum timeframe, such as at least 6 months, but preferably based on a mutually agreed timelines and format with stakeholders.
- The time frame between public hearing and decision, should allow sufficient time and be embedded in a procedure that ensures incorporation of inputs from public hearing(s).

As regards format and means:

- It must be adapted to stakeholders' level of understanding, accessible at a community level and involve locally available mechanisms
- Greater attention should be given to proper means of communication, taking into account literacy, including formal and informal mediums such as radio, visual representation and discussion workshops. –.
- It is imperative to provide information in the appropriate local language(s).

As regards responsibility for supplying:

- There should be a reliable depository of information on dams at a country level which does not abrogate responsibilities of other project proponents to disclose information.
- There is a need for more extensive use of points of access at local level that are embedded in the community such as community centres or churches.
- A good governance framework is required providing for freedom of expression and allowing opinions to be voiced on dams development projects. .

Working Group 3: Informed Participation in Decision Making Processes

Participants:

Matthew McCartney	International Water Management Institute (Chair)
Olinda Sousa	MPHW
Paul Mubiru	Ministry of Energy and Mineral Development of Uganda
Badra Kamaladsa	Ministry of Irrigation and Water Management
Willie Croucamp	Department of Water Affairs and Forestry
Pedro Cambula	MPHW
Tu Dao Tromg	Mekong River Commission
Gorän Haag	Swedish International Development Agency
Sequee Mothusi	Transformation Resource Centre
Joseph Hmar	Hmar Indigenous People
Sakoda Shishei	Nippon Koei, Water Resources Department
Daniel Ribeiro	OJA
Noriko Shimizu	Friends of the Earth
Naeem Iqbal	SUNGI Development Foundation
Terri Hathaway	International Rivers Network
Joseph Opiyo-Odongo	United Nations Development Programme
Liazzat Rabbiosi	DDP Secretariat

Questions:

1. When should participation occur?
2. What level and type of public participation is required (information, consultation, involvement, collaboration or empowerment? What tools and techniques best fit?
3. How to incorporate public acceptance in national and regional policy and regulatory frameworks?

Discussions: Informed Participation in Decision-making Processes

The key issues for discussion in the Working Group related to when public participation should occur and whether public participation should be recurrent and a two-phase process at the beginning and the end. In this regard, a wide range of opinions were expressed with consensus emerging that ensuring public participation could be difficult at the very early stages of the project as little information may have been gathered on alternative options. Furthermore, it was considered important to note that public participation takes time and consultations should take both local and national needs into consideration. In addition, the opinion was expressed that it was critical to hold early consultations with the local communities in order to ensure that their priorities were considered during the planning process.

The Group also addressed the key question of what level of public participation was required. In this regard, the need to identify the different stakeholders who can be involved in the public participation process was pointed out. Furthermore, emphasis was made on the need to enhance capacity building considered to be an integral component in ensuring that the stakeholders concerned fully understood the project implications. It was further noted that in majority of cases the responsibility of bridging the gap between the public and the government was often left with the NGOs who had limited capacity to undertake this critical task effectively. Furthermore, the participants stated that the tools and techniques used needed to be appropriate to the place and level in order to be meaningful to the local population in addition to taking language issues into consideration.

The Working Group also considered in detail the question of how to incorporate public acceptance in national and regional policy and regulatory frameworks. In this regard, various opinions were expressed including the need to delink between people and policy as well as the importance of clearly articulating local issues at the national level. Furthermore, the Working Group emphasised that policy should in essence be a reflection of the people's wishes and that national strategic planning of water resources should be a participatory process. It was also considered necessary to ensure that good policy is translated at the operational level, for example, by devolving power to the regional level including the consideration of transnational requirements. Government recognition of the public participatory process was also considered by the Group to be fundamental.

Conclusions:

The key recommendations identified by the Working Group included the following:

- Public participation is required in the identification of needs and priorities at the national planning level and also throughout the entire process even beyond project construction.
- Public participation should increase from the scoping stage to project implementation from information to full consultation. However after the construction process, the level of public participation usually decreases unless specific issues need to be addressed.
- Time is required to bring all stakeholders to the same level in order to enable them to participate meaningfully in the decision making process. Therefore, the need to allow flexibility and resist from imposing deadlines was considered important.
- The need to recognize that tools and techniques should be context specific and take into account local culture and traditions as appropriate.
- The regulatory framework should be environmental law but also encompassing social issues explicitly including health.

Working Group 4: Demonstration Of Public Acceptance

List of participants:

Tisha Greyling (Chair)	IAP2
Ismail Gunes	DSI – General Directorate of State Hydraulic Works
J. Seimon	Ministry of Irrigation and Water Management (MIWM)
Dillibahadur Singh	Ministry of Water Resources
Oivind Johansen	Ministry of Petroleum and Energy
Belarmino Chivambo	MPHW
Joseph Sutherland	Volta River Authority
Mbodj Aoubacry	CODESEN
Miriam Kibi	GAVADWEN
Bill Freeman	Columbia Power Corporation
Ute Collier	WWF – Living Water Programme
Christine Eberlein	The Berne Declaration
Birgit Zimmerle	German Carajas Forum
Richard Twum	Volta Basin Development Foundation
Perera Pradeep	Asian Development Bank
Stephen Karakezi	African Energy Policy Research Network (AFREPREN)
Amath Dior Mbaye	Tropica Environment Consultants Ltd

Questions:

1.	How to take into account the results of public participation?
2.	What criteria should be used to measure public acceptance including the appropriate indicators to assess the process and acceptance of outcomes?
3.	How to incorporate public acceptance in national and regional policy and regulatory frameworks?

Discussions: Demonstration of Public Acceptance

The Working Group began the discussion by extensively debating the meaning of the term public acceptance. In addition, the participants raised the question whether public acceptance related to a decision (yes/no), a project or something else?

Furthermore, the issue was raised regarding what stage public acceptance needed to be assessed:

a. at the start of a process (e.g. an EIA process that typically could take a year or more, and at which stage people may object to a project without having had access to information to make an informed opinion)?
b. somewhere in the middle of the process?
c. when the decision is made?
d. somewhere in the future when promised benefits are due to have realised,
e. all of the above.

In addition, there was extensive debate regarding the question of whether government constituted the main decision maker? In this regard, consensus emerged that government is the key decision-maker albeit taking public contributions into consideration in the context of good governance is where the responsibility and liability for decisions ultimately lies. However, divergent opinions were expressed in relation to whether it is a question of numbers (majority) or reliance on issues that takes precedence.

Extensive discussions were also held addressing the key question of what aspects needed to be in place to indicate that public acceptance of a decision/project was in place.

Conclusions:

The Working Group made the following recommendations:

- There is need to incorporate an outcomes-based approach listing aspects that demonstrate public acceptance, projecting into the future and looking back is recommended.
- Public acceptance does not result merely from a good public participation process. Caution should be exercised when equating public participation with public acceptance. Good public participation process may in fact lead to the agreement, by all parties including the developer, that the project is not acceptable.

- Apart from good public participation, various other aspects contribute to public acceptance. The group noted aspects related to public participation process, Content (facts, figures, state, including aspects relating to benefits, agreements for compensation etc), decision-making, governance among others.

The Group also noted that certain aspects needed to be in place for someone to say: "Yes, I accept this decision/project" including the following:

- Receiving ongoing progress feedback and information on next steps during the process
- Benefits to be accrued taking into consideration socio-economic assessments carried out and;
- Ensuring that mechanisms to monitor and audit the project commitments and regulatory requirements (environmental, social etc) were in place (see also table 1 below).

Table 1: What Aspects should be in place to say there is Public Acceptance of a decision/project?

A decision on a project has been made. What will make people say: "I accept the decision"?	**Can it be measured?**	**How can it be measured?**
Public participation process-related considerations		
Everyone that was affected or interested was involved		
Anybody could participate, not just affected parties (group members do not all agree on the word anyone)		
There was a committee of stakeholders that kept an eye on the process to ensure quality participation was done		
Different interests and values were recognised and valued during the process		
Different interests and values were harmonised in a participatory manner during the process		
I received ongoing progress feedback and information on next steps during the process	Yes	
The process was flexible for example, deadlines were extended when there was good reason to do so		
I was asked throughout the process if I was still satisfied with my participation in the process		
My level of participation was just right		
My suggestions for improved process were considered, even those that were not implemented		
I felt free to give my views/inputs at any time		
I feel that my inputs were valued, even though some of them did not make it into the final decision		
My time was not wasted		
There was enough time		
I trust and have confidence in the parties involved		
The major parties involved trusted each other		
I got to know a lot more people in my area		
My country's context was understood		
There was healthy conflict during the process		
The project is demand-driven by the public		
I had opportunity to help shape the policy that guided this process / project		

A decision on a project has been made. What will make people say: "I accept the decision"?	**Can it be measured?**	**How can it be measured?**
Content-related considerations		
I accept the decision / project because I see that people will not be worse off	Yes	Socio-economic assessments, indices etc
I accept the decision / project because I see that people will benefit	Yes	Socio-economic assessments, indices etc
I sufficiently understood the project alternatives that were available	Yes	▪ Clear information, easily understood by non-technical people, was available in the languages of the affected area ▪ People indicate they have understood the options (either informally or by way of questionnaire)
Mechanisms to monitor and audit the project commitments and regulatory requirements (environmental, social etc) are in place	Yes	▪ Environmental and Social Management Plan (ESMP) is drawn up to transfer the EIA recommendations for mitigation into measurable actions ▪ Benefit agreements/commitment tables are drawn up ▪ The ESMP and benefit agreements are publicly available ▪ A committee of stakeholders exists to help monitor compliance ▪ A webcam is erected on the construction site
The major players that had to make trade-offs could live with these trade-offs because they understood why the trade-offs were necessary	Yes	
The process started early when there were still several options on the table	Yes	Number of options
The project outcome/design was influenced by the contributions received during the process	Yes	
I understand the potential consequences of the project and the mitigation measures that are proposed		
I helped shaped the mitigation measures through local knowledge		
My country's neighbours are happy with the decision		
Decision-related considerations		
My issues and contributions were considered in the decision, even if my issues were not incorporated	Yes	• Good records of all issues raised with feedback on how each was considered for the decision, and if not, why not, is kept throughout the process. • Document is publicly available
Vociferous people / lobbyists / people with their own agendas were not the only ones that were heard; the decision took all views into account		

A decision on a project has been made. What will make people say: "I accept the decision"?	**Can it be measured?**	**How can it be measured?**
The requirements of international financiers were not the only ones that were heard; the decision took all views into account		
Political influence was heard but did not dictate the decision		
The decision-maker provided good, publicly available justification for its decisions		

Further additional questions proposed by participants in the Working Group included when should the consultations start and end; who should bear the cost; and what happens if some group violates the stipulated procedures.

ANNEX 5: PRESENTATION OF KEY ISSUES RAISED BY PARTICIPANTS IN QUESTIONNAIRES PROVIDED IN THE WORKING GROUPS

The questionnaires filled by the participants were collected by DDP Secretariat at the end of each working group session. The responses were analysed in order to assess the range of individual opinions independent of the stakeholder group. Though the conclusions issued by each group as presented in Annex 4 represent the actual agreement reached by their members, the following issues raised by the participants in their respective questionnaires provide additional insights about individual perspectives:

- Information should be tailored to the group, which it is provided in order to facilitate understanding. Important factors to be considered include language, level of education etc.
- Information should be made public through websites, establishment of information centres in project areas, public hearings, workshops and NGOs and civil society can play an important role in dissemination and making it more accessible.
- All sectors of society should have access to information made public with special consideration being given to affected communities.
- Information made available should be as neutral as possible and a two way dialogue is necessary to ensure transparency and enhance mutual respect.
- Enforcement of legal obligations is crucial in countries where policy/regulatory frameworks. Laws required include water/environmental laws, local authority by laws.
- Information should be provided as early as possible during the planning of a project and at all stages of development.
- GPA should be incorporated into legislation and made mandatory. Need to incorporate the principle of Free Prior Informed Consent and public participation guidelines.
- Information required should include background of project including scope and timeline and feasibility studies documenting environmental/ social impacts.
- Establishment of institutions with clear responsibilities and guidelines including monitoring and complaint mechanisms at local/ national levels.
- Public participation should occur during the scoping stage and needs to be integrated into the EIA process.
- Public participation is inevitable and should be an integral part of a defined project cycle.
- Information and consultation are means of public participation and collaboration and involvement are types of empowerment and therefore an inclusive approach is more important than any particular tool or technique.
- Public participation is more than just a beginning and end. It should be a continuous flow of information until decisions are reached.
- Public participation should be recurrent, but may be at different levels and stages in the decision-making process.
- Constructive dialogue and mutual understanding needs to be enhanced during the public participation process.
- Public participation is required at all levels of decision-making so long as those decisions would affect the people. In this case, different types of public participation could be decided upon based on the requirements of each level of decision making. Issues of the scale and level of detail of the planning should also be considered.
- Bottom-up approaches to policy formulation increases the chances for public participation.
- Policy should be a reflection of the genuine concerns of the public and hence the need for continuous consultative processes.
- Policy/regulations at the national level should require proof of public acceptance prior to issuance of environmental authorisation to continue with project implementation.
- National legislation: Environmental law/ legislation should include relevant provisions and it is important to separate accountability for compliance and the regulatory function should be separated from the implementing/operating function.
- There must be explicit regulations that include set standards and timeframes for addressing public acceptance of a project and also ensure accountability.
- In taking into account the results of public participation the following suggestions were made: have a legal obligation to ensure that the stakeholders are involved, make written comments

part of the licensing documents and accountability should be a regulator responsibility.

- Accountability of all actors can be ensured through defining responsibility in the screening process, results/inputs should be documented with clear reasons provided for their acceptance/rejection, need to agree before hand on the responsibilities of all actors.
- Criteria to measure public acceptance includes: how was the information made public to all stakeholders, at what stages in the process was the information made public and to what extent were changes made in the project plan?, level of participation, quality of the process, conducting opinion polls, trust and confidence building, level of government involvement.

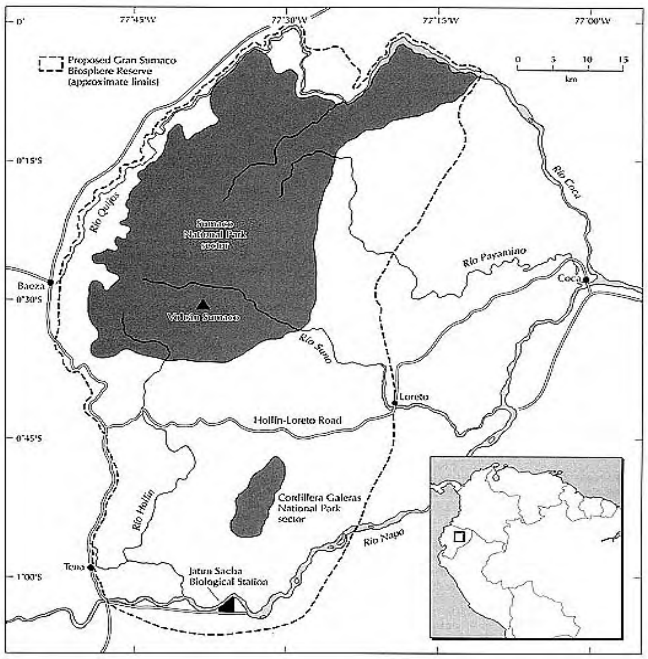
ANNEX 6: SELECTED CASE STUDIES

A Participative Approach to Using the Hydropower Potential of the Sumaco Rainforest in Ecuador,

Anne Schuster, GTZ, Germany

Background

The National Park Sumaco Napo – Galeras was established in 1994 in the area surrounding the Sumaco Volcano and the Galeras mountain chain on the edge of the Amazon prairie in northeast Ecuador. Around 85.000 persons inhabit the adjoining area to the National Park, the majority of which belong to the Indígena tribe of Napo – Quichas (75%). The population lives predominantly on subsistence agriculture and trading in agricultural produce.



The rainforest of Sumaco Napo – Galeras does not only encompass a huge variety of plant and animal life but also possesses a remarkable all- seasonal hydro potential, given the strong rainfalls (up to 6000 mm) and the protected water catchment areas that characterize the area. This is a renewable source of energy that can be best put to use through either grid connected or decentralized micro hydroplants, providing sustainable access to clean energy for remote communities and settlements at the fringe of the National Park.

The German Technical Assistance that is provided by GTZ in the area Sumaco Napo – Galeras goes back to the beginning of the 1990ies and has focused on supporting local communities in finding the most appropriate technical and financial solution to exploiting their rich hydro potential. Apart from the increased socio-economic benefits that an improved electricity supply can provide to the communities, it is thought that this very practical example of an environmentally sound and sustainable usage of natural resources will increase the local awareness for the value of the National Park and environmental protection generally.

Pre–feasibility study for the sustainable use of hydropower in the Amazonas source region

GTZ' s involvement is currently focused on supporting ERDESU S. A. (Energia Renovable y Desarrollo Sustentable, i.e. Renewable Energy and Sustainable Development), a private sector enterprise that was founded in 2000 with the explicit aim of developing the hydropower resources of the region, up to a capacity of 25 MW. For a three year period beginning in 2003 the project will provide the basic structures and data for the development of hydroelectric potentials in the Sumaco region as follows:

- Preparation of relevant decision papers, such as prefeasibility studies, cost comparisons, environmental impact assessments, impact studies on economic development, financing proposals, etc.
- Strengthening of ERDESU as an independent power producer and project developer through human capacity building and human resource development.
- Design and construction of micro hydroplants in remote villages.

At present, two potential sites on the Jondachi River have been identified with a gross heads of 155m and 125m and design discharges of 12.4 and 18.6 m^3/s respectively. Run – off – river plants at these sites would yield 16 to 20 MW which can be connected to the national grid through a 69 kV transmission line 25km and 15km long respectively. Based on technical and economic considerations, one of the sites will be selected for more detailed studies and implementation.

The decision–making mechanism

The design of the project has to a high degree been influenced by the recommendations of the World Commission on Dams regarding the importance of gaining stakeholder acceptance, buy – in and active support in decision – making and implementation. The local stakeholders could already draw on previous positive experiences regarding participative decision making and benefit sharing mechanisms. These experiences were made several years ago, as two villages in the region joined forces and were supported by GTZ in the

effort of establishing the decentralized micro hydroplant "La Cascada" that is providing reliable and uninterrupted power supply to ca. 150 families.

The most important lesson learned during this pilot project was the importance of establishing an effective mechanism for decision – making, benefit sharing and conflict resolution as well as fostering the local ownership of the project by clearly delegating a number of design and implementation responsibilities to the villages themselves. Even if the two communities have had the aim of putting their natural resource to productive use for a long time, there were a number of obstacles that took a long time to solving. For example, the most challenging part was reaching an understanding between the Huahua village (with Indígena population) and Pacto Sumato (which is located in the higher water catchment area and consists mainly of settlers) regarding the avoidance of negative effects on the water supply for the plant. Another tricky problem was the balanced distribution of tasks and responsibilities regarding those parts of the project that were carried out by the communities themselves.

The way the project has dealt with these challenges and what has since emerged as a best practice model was to set up the "Comité Eléctrico", a small regional electricity association that has for the past 4 years been responsible for the operation, maintenance and management of the plant. The association, which comprises representatives from both communities and the local authorities has provided a platform for discussion and decision making and ensured access to information for all stakeholders. Once decisions were agreed upon, the members of the association, who are widely respected individuals in their respective communities could communicate, gain acceptance, motivate and ultimately ensure the ownership of the process among all stakeholders.

The establishment of ERDESU aims to replicate on a larger scale the positive experience that has been made in the case of the "Cascada" hydro plant and seeks to explicitly involve all stakeholder in planning and decision making. Given the more complex structure of the project and the fact that GTZ's support is limited to the pre-feasibility stage (amounting to 1,5 million USD), all stakeholder feel that only a strong ERDESU will be able to mobilise the international financial resources that are necessary for the success of the project (estimated at around 30 million USD). It is therefore seen as vital that the decision – making process is transparent, includes all stakeholders and will produce results that are accepted by the public.

Following stakeholders are holding stock in ERDESU:

- Provincial council of Napo (10%) – government – provincial level
- Communal administration in Tena (10%) – government – communal level
- Communal administration in Archidona (10%) – government – communal level
- Regional Indígenas Organisation (10%) – civil society – grassroots level
- Wasserkraft Volk AG (30%) – private sector – German – Ecuadorian joint venture
- GTZ project Gran Sumaco (30%) – envisioned stock selling to community organisations and private sector

The supervisory board of ERDESU can to a high degree be seen as representative of the local population. The chairman of the board, Mr. Nelson Rodriguez is a former mayor of Tena who has been involved in the first studies concerning the use of hydropower in the region and has been a major player since. Based on an approach jointly proposed by GTZ and Mr. Rodriguez, ERDESU's supervisory board is comprised by professionals that are not directly connected to the stockholder, yet represent and are widely accepted by the three main stakeholders of the project: local authorities, Indígena population and the tourism industry. The six other members of the board and the three deputy members are: two Indígena spokespersons, the administrative director of the Napo provincial council, an undersecretary (for the Amazonas region) in the tourism ministry, a forestry specialist, a local historian and writer, a representative from women's organisations, a Catholic padre, and the chairman of the tourism association of the Napo province. All members of the supervisory board regard their engagement as honorary.

The supervisory board meets according to the statutes once a month and at this early phase it does primarily discuss the progress of the project, it exchanges information and it seeks to act according to the interests of the different stakeholder. For example, the tourism industry representatives are especially interested in coordinating planned activities with the kayak- and wild water rafting community, as they serve as entry point for foreign tourists to the region. The Indígena representatives see the main emphasis of their work in maintaining a steady flow of information and establishing a communication mechanism with the Indígena communities, thus preventing the rise of misinformation and misconceptions.

While it is quite early in the project and few events except a very comprehensive capacity building workshop at ERDESU have taken place, it is felt by both the local partners and GTZ that a broad stakeholder participation in all stages of the project is vital for success and that the diverse and highly motivated supervisory board of ERDESU can provide an adequate platform for the decision making process. In supporting the project of developing the Jondachi river site, GTZ puts an equal emphasis on the technical studies as well as on strengthening the capacity of ERDESU to foster and implement participative decision making.

From Repressing Dissent to Gaining Acceptance? Thailand's Pak Mun Dam, 1999-2003,

Tira Foran, Thailand

Introduction

This paper reviews decision-making processes in the operation of Pak Mun Dam (PMD), a conflict-ridden project in Thailand. Does Pak Mun offer any positive experiences of public acceptance processes? If so, which processes and procedures changed the conflict from one of repressing public dissent to gaining increased public acceptance? Gaining public acceptance (GPA), one of seven strategic priorities recommended by the World Commission on Dams, is an ambiguous term. Some in Thailand would interpret it as manufacturing public consent or "minimising public dissent. By contrast, I regard GPA as desirable outcomes produced by desirable processes. Desirable outcomes include lack of violence, negotiated agreements, benefits shared, or in a much less ambitious take-it-or-leave-it situation. Significant concessions offered to affected parties. Desirable processes include minimising repression of project critics, acceptance of broad-based participation in deliberation, and transparent and accountable pathways towards contentious decisions. In both processes and outcomes what counts as "desirable can be determined with reference to the needs of the most vulnerable stakeholders, and by other principles of justice, such as free prior and informed consent (WCD, 2000; Dore et al., 2004). A common basis of both desired outcomes and desired processes is, of course, mechanisms of authentic public participation. This paper describes efforts to secure public participation in the case of PMD.

During its fifteen years of construction and operation, Pak Mun Dam has drawn domestic and international attention. Pak Mun was criticised in a WCD Case Study for delivering only a fraction of its intended hydropower benefits (21 MW actual dependable capacity vs. 136 MW planned), at the cost of severely reducing the diversity and overall supply of fish to income-poor, labour-exporting rural households (Amornsakchai et al., 2000). At the same time, villagers involved in protest activity were often viewed by the Thai layperson as exaggerating their dependence on fish and of fabricating specious claims for new forms of compensation. At first glance, Pak Mun Dam with its 14-year-old debate and conflict (1989-2003) hardly seems like a good place to look for examples of gaining public acceptance. Yet, I argue that between 1999 and 2003, in successive attempts to reduce conflict, the state tolerated increased participation and deliberation. We can regard the four-month seasonal opening (FMSO) decision by the Thaksin government in early 2003 as the unplanned cumulative result of successive rounds of deliberation and participation. The FMSO was not the product of formal negotiation, and in fact the Assembly of the Poor (AOP), the main organisation of affected peoples, officially rejects it. It was a take-it-or-leave-it offer made by an administration increasingly intolerant of civil disobedience nationwide and justified on the basis of an opinion poll.

Notwithstanding these obvious limitations, we can cautiously regard the processes that helped shape the FMSO, 1999-2003, as evidence of increased capacity in Thailand to implement desirable processes.

When Pak Mun was approved in the last years of the 1980s, Thailand had begun a very slow and delicate transition from military dictatorship to an electoral democracy. This meant that the country has rather thinly developed democratic institutions, for instance, a virtual monopoly of the executive branch on decision-making; limited use of parliament for deliberation of state-society conflicts, and limited judiciary processes that allow citizens to bring suit against state agencies to resolve grievances. Furthermore, many citizens think of participation as participating in elections.

The public has an ambivalence towards civil society interest groups that is fostered by elites and media. There is ambivalence among the public fostered by elites and media towards civil society interest groups. Media provide unbalanced coverage of controversial political issues (Pasuk and Baker, 1995; Rungrawee, 2002).

The closed nature of the political system reflects decades of authoritarianism. At the same time, however, in a post-Indochina war detente, Thai non-profit organisations who been doing rural development work since the early 1980s began to feel increasingly free to articulate participatory and people-centred policies, including critiques of new irrigation and hydropower dams proposed by the state. The contradiction between increased voice and space for civil society actors, and. closed-shop decision-making processes has resulted, predictably, in acute and ongoing controversy over large projects.

The early history of PMD can thus be read as a series of demonstrations and direct protest actions by concerned villagers and other stakeholders aimed at getting successive governments to recognise a broader set of issues, problems, and people than previously framed by project developers (Amornsakchai et al., 2000: 73-83; Missingham, 2003). The next section reviews public participation institutions and mechanisms from the PMD case, with particular emphasis on the post-1998 period, in which the most sophisticated participation and debate have evolved.

Part 2: An Increase in Deliberative Mechanisms

In March 1999, in the wake of the financial crisis, conflict over PMD took a new turn. After the second Chuan Leekpai administration (1997-2001) reversed major concessions made to the Assembly of the Poor during the preceding Chavalit government, the AOP mounted a new campaign to decommission the dam. Shortly after the campaign was launched, the WCD process commenced in Thailand. The

WCD, a multi-stakeholder process (MSP) funded by a range of development and private sector donors was a sophisticated attempt to conduct a series of participatory studies about the performance of large dams worldwide. The WCD asked the governments of ten countries, including Thailand, for permission to study the economic, environmental, and social impacts; the benefits, costs, and distribution of these impacts; and the decision-making processes for these dams.

For these multi-and inter-disciplinary studies, the WCD developed a methodology based on trial studies in South Africa. In Thailand, it decided to commission a set of expert consultants (mostly Thais) to do disciplinary studies. Thailand Development Research Institute, a government think-tank with economic credentials, was to write the synthesis report. Thailand has had very limited experience with formalised knowledge-building MSPs. In fact, the only such MSP before the WCD was the Constitutional Drafting Assembly in 1996-7 (Pasuk and Baker, 2000). Thailand appears to have been the only WCD case study that proceeded while active protest was being staged by dam opponents, and these tensions required WCD to hold separate meetings with Electricity Generating Authority of Thailand (EGAT) and with protestors. EGAT initially requested that WCD defer its study until the conflict was resolved. A WCD commissioner and staff appealed for EGAT's cooperation, citing its overall timeframe limitations. It promised that the study would not be judgmental and that the knowledge generated would help guide governmental decision-making. After frankly expressing its desire that the study should not further defend the demonstrators' cause, EGAT agreed to proceed (WCD Secretariat, 1999a). The AOP also had concerns about the conduct of the study and initially wanted foreign experts to do all of the study (Steiner, 1999). Each side expressed concerns about consultants and the specific research methods they used, but, with dedicated work from the WCD staff, did not abandon the process (WCD Secretariat 2000). WCD gave stakeholders several opportunities to help shape the report: in 1999, to comment on a paper outlining the scope of the study, and several times in 2000, as successive versions of the draft final report were issued (February and late May 2000).

By late 2000 WCD produced an impressive compilation of knowledge. Its account not only contained criticisms of fisheries aspects of the dam, it mounted a detailed criticism of the power benefits of the dam (Amornsakchai et al., 2000). The WCD report is also multi-vocal since it incorporates detailed and occasionally vehement critique from the World Bank and EGAT. Unfortunately, despite its well-designed and well-intentioned deliberative process, the WCD Pak Mun study ended in acrimony. The Thai Ministry of Foreign Affairs issued statements through its missions worldwide rejecting the findings of the WCD case study. In order to understand why the process ended this way, consider that in its response to the WCD report, EGAT steadfastly argued that:

a) The dam produced hydropower benefits in line with the original feasibility studies justifying the project (Amornsakchai et al., 2000: 102-103);
b) The study over-exaggerated the decline in the number of fish species found in the Mun after construction of the dam; and, in any case, any such decline resulted from multiple causes and should not be attributed to Pak Mun Dam (ibid., 105-111);
c) Socially constructed grievances were driven by villagers material incentives for compensation and organised by Thai and foreign environmental NGOs (ibid., 111; WCD Secretariat, 1999a).

In its narrative, EGAT rewarded itself for producing power benefits, while limiting its responsibility for fisheries declines. Its arguments repeatedly took the form of categorical assertions that certain methods and studies were credible, and other studies and methods were invalid (see Amornsakchai et al., 2000: Ch. 9). WCD's counter-narrative was challenging for EGAT to deal with, and it was exacerbated by two factors: (1) WCD gave EGAT less than 14 days to respond to its May 28 draft final report, although the delays were due to authors themselves (Steiner 2000); and (2) adverse media publicity surrounded the WCD draft report. Negative coverage in the Thai press and on WCD's website began as early as late January 2000, prior to formal stakeholder review of the draft report, and almost a year prior to the November 2000 final report. Ongoing conflict over Pak Mun had intensified in May 2000, when protestors blockaded the powerhouse. Overall, both the WCD report and the media coverage caused project proponents EGAT and, to a lesser degree, the World Bank, to lose face. All of these factors provided EGAT motive and ammunition to attack the conduct and integrity of the process.

WCD in Thailand: Lessons for Gaining Public Acceptance

WCD did get EGAT and NGO stakeholders to nominate members to its study team but, with hindsight, more regular exchanges between EGAT's fisheries and power planning experts with the study team might have increased consensus on particular models, methods, and empirical findings. In short, EGAT's experts in particular needed to meet more regularly with the study team. Second, it was unrealistic and even naïve to promise that the WCD study could avoid becoming politicised or used by NGOs to argue for dam decommissioning. WCD could have warned EGAT more explicitly that this might happen, and secured their informed consent. Finally, the WCD Pak Mun case study retains tremendous value. Yet because of heightened conflict and the way the process unfolded, WCD's main report was rejected by EGAT and because of EGAT's leverage by the Chuan administration. This is truly unfortunate in light of the broader contributions its framework and knowledge base have made (WCD, 2000). Thaksin's decision-making process Pak Mun during Prime Minister Thaksin Shinawatra's administration can be divided into two phases. The first consists of a trial dam opening and evaluation studies set into motion in early 2001, shortly after Thaksin assumed office. The second and much shorter phase, the end-game, consists

of interactions between the AOP and the government, after the AOP refused to accept a September 2002 cabinet resolution allowing a 4-month seasonal opening of the dam gates. During the closing weeks of the second phase, Thaksin chose personally to intervene in the case, opening what appeared to be novel channels for deliberation and raising hopes for an outcome the AOP had fervently sought and campaigned for. In April 2001, the Thaksin government ordered Pak Mun Dam to fully open its gates for four months, with the stated purpose of facilitating problem-solving based on interdisciplinary fact-finding. It set up a Committee to Resolve Problems of the AOP, chaired by Deputy Prime Minister Pongpol Adireksan. Pongpol's Committee established four sub-committees including one to manage the trial opening. The latter commissioned one major new study, to be done by Ubon Ratchatani University. Anti-dam villagers initiated a participatory research project to document all fish they found after the trial opening. The new studies were attempts to generate different knowledge bases from which to argue different preferred choices: Should Pak Mun Dam remain open indefinitely, as the AOP had demanded? Should it stay closed to generate hydropower, as EGAT preferred? Should it, as a compromise, open seasonally and, if so, based on what evidence? The four-month opening became a one-year experiment after the trial-opening sub-committee accepted the argument made by its AOP representative that a full year was needed to observe all effects. The Cabinet voted in favour of this recommendation on December 12, 2001. On June 10, 2002, a few days before the one-year opening of the dam was to expire, EGAT surprisingly offered to open Pak Mun Dam four months, July through October, ceding approximately 52% of the river's total annual flow.

A network of local village and sub-district leaders with close ties to EGAT announced its support for this FMSO policy, arguing the flow release would allow the majority of important fishes to migrate upstream, spawn, and remain in the reservoir to be caught. They saw important benefits to impounding water the remainder of the year, such as hydropower revenues and water storage during the dry season. They asked for an expansion of the sparse network of irrigation canals that currently existed in the lower Mun basin. They claimed to speak for people whose opinion they sought at village-level meetings. The University concluded its study in late 2002. Under pressure, it released its first text. An Executive Summary with supporting tables in early September, six weeks before the full report was ready. The Executive Summary contained four options maintaining the status quo; a five-month seasonal opening; an eight-month opening; and a year-round opening for five years. The structure of this text a linear examination of the strengths and problems of the first three options, before concluding with the last. Suggests that the authors preferred the five-year full opening option. It argues that for the next five years, the dams chief benefit, improving electric power reliability in the lower Northeast could be derived by increasing imports of electricity along existing transmission lines. A technical substitute existed for the dam, whereas none existed for improving the security of community-based livelihoods (UBU, 2002).

Opponents of the dam echoed this argument. Other print and radio journalists accused the University researchers in particular the text authors of being in league with the AOP. Three weeks after the University issued its Executive Summary, Pongpol's Committee voted in favour of the four-month seasonal opening. Cabinet ratified the Pongpol Committee decision on October 1, 2002. However, arguing that it rarely met, and had never allowed the AOP to observe it anyway, a vanguard of some fifty villagers camped outside Government House in protest. Almost three months later, during which hired thugs raided their protest village, and three weeks after inviting 30 village representatives to a rare, highly-publicised roundtable, the Thaksin cabinet on January 14, 2003 re-iterated its resolution in favour of the FMSO, and announced new fish-stocking and irrigation canal projects. The Cabinet based its decision on new evidence. Immediately after the Prime Minister's roundtable with protester representatives (December 20), the Prime Minister's Office ordered the National Statistics Office to survey the attitudes of rural residents in the three districts of the lower Mun river. The agency completed this work in three days (December 24-26, 2002). The choice least disruptive to, and most favoured by, the 3750 adult household representatives sampled from 150 villages was the four-month, seasonal opening. This was the same option promoted by local authorities and of course by EGAT.1 Two weeks later the Bangkok governor evicted some five hundred demonstrators camped outside Government House. An important, even decisive chapter in the history of this case had ended. Unless the protestors, mostly older men and women, are ever able to gather in the thousands again to claim more of their river back, this compromise decision, made by a Prime Minister resoundingly confident in his electoral majority, will stand.

1Question 2.9 of this survey offered five choices: year round closure; year round opening; four, five, and eight month sluice gate openings. For each choice it asked people whether they would be negatively affected [*dued rawn*] (yes/no, and if so why). A separate, open-ended question asked respondents for their preferred management option. The top three responses were: four months (24% of total); the government sees fit (19%); and explicitly scheduled opening/closing (14%). These choices are not mutually exclusive.

Part 3: Is Ad Hoc Problem-solving Adequate for GPA?

Thailand has evolved ad hoc problem-solving committees for conflict management. Thaksin's process shows how this committee mechanism has been institutionalised, along with its strengths and problems. Problem-solving committees are usually appointed by the Prime Minister or the cabinet, and report back to them (as opposed to Parliament). The main committee may establish more than one level of subcommittee, which increases the chances that project opponents, academics, and other stakeholders may directly participate and observe. However, typically the

main committee (with decision-making power) includes only civil servants and elected politicians. This kind of institutional arrangement has several weaknesses: first, it turns decision-making about large projects into a series of one-off encounters. The perceived need for a problem-solving committee depends on whether the executive branch acknowledges a problem exists, which in turn often depends upon the ability of civil society stakeholders to argue and protest that it does.

Second, by its very nature, the one-off settlement depends little on rules of law. Weak stakeholders must rely upon their own and their allies' skills and resources. In certain political situations, problem-solving committees do deliver benefits to vulnerable stakeholders. Benefits however are highly contingent on political circumstances: stakeholders must be able to stage long-running demonstrations to press their case, which is most favourably heard when governments need to maintain flagging popularity (Foran, forthcoming). Receiving benefits also requires convergence on shared definitions of the problem and solution. To a certain degree, the FMSO represents such convergence. Although the AOP officially continues to reject it, most of its membership has chosen to live with it. The complexity of issues to be addressed for convergence on problem definition and solutions meant that it took a string of ad hoc committees (dating back to 2000) to converge on the FMSO. This is inefficient, particularly with respect to future contingencies.

Conclusion

This paper reviewed strengths and limitations of the WCD study (an MSP), and the Thaksin problem-solving committee (which included an MSP) as mechanisms for participation and deliberation in the Pak Mun case. During the course of the conflicts over PMD, we saw, alongside the continuation of repressive activity, a general increase in the importance of deliberation, including decision-making justified on the basis of expert knowledge as well as multiple stakeholders input. Some 20 years after conflicts over big projects first emerged, the Thai state has allowed democracy to deepen through non-violent conflict management and increased tolerance for deliberation. Although these are "positive" outcomes, systemic weaknesses remain as obstacles to gaining authentic public acceptance. In order to reduce conflict and gain acceptance, we need institutions that allow excavation of and debate on the basic values and policy narratives that underwrite the contestants. Positions. Neither the WCD Pak Mun study nor the Thaksin process allowed that level of deliberation. Both were overshadowed by protest, repression, and polarisation. They stand, however, as two examples showing that Thailand has the capacity to gain more experience with sophisticated processes for GPA. Thailand needs to move away from ad hoc public participation processes solely directed by the executive branch (Foran, 2003).

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Gaining Public Acceptance for Deduru Oya Reservoir Project in Sri LANKA

J.W.M.R.T.Seimon, Sri Lanka

Key Words: Involuntary, resettlement, replacement cost, compensation, quality of life.

ABSTRACT:

The Deduru Oya Reservoir Project in the district for Krurunegala in North Western Province of Sri Lanka was initially proposed as far back as early 1960's. But due to the main reason of the inundation of some 2000 hectares (ha) of developed land further studies on this project was not taken place. However, under several governments since then, the proposal was taken up and due to the opposition of the people who are to be displaced due to the construction of the reservoir; the idea had to be abandoned. In the year 2001, Irrigation Department prepared a pre-feasibility report and later on arrangements were made to obtain the approval from the North Western Province Environmental Authority. For this purpose, the irrigation Department was expected to prepare a Resettlement Action Plan as per the guidelines prepared according to the National Involuntary Resettlement Policy approved in the latter part of the year 2001. By this time the affected people have organised and formed a society named "The association of the affected innocent people due to the proposed Deduru Oya Reservoir". Since the preparation of the pre-feasibility report, the Irrigation Department and the Ministry organised several meetings in the Kurunegala District with the affected people. In the beginning there were great opposition, but after several rounds of discussion the affected people have now realised that this is a National Project, which counts to increase the Gross Domestic Product and they have now agreed provided that they are given an acceptable compensation package. In this paper the author wishes to elaborate the methodology adopted in wining the hearts of the affected people and to gain their acceptance for the project.

General

The proposed Deduru Oya Reservoir Project lies in the North Western Province of Sri Lanka. It involves two administrative districts namely Kurunegala and Puttalam. The population in these two districts is 2,254,000 as at year 2000.

In the North Western Province there are more than 3500 minor tanks and anicuts (Diversion weirs) receiving water from the two major rivers Deduru Oya and Mee Oya. Out of the flow in Deduru, only around 30% is utilised and the rest of the run-off flows to the sea (Indian Ocean).

The main problem faced by the farmers in Deduru Oya basin is the non availability of assured water supply for the irrigated agriculture. The water available with the rainfall and collected in minor tanks is not sufficient for the successful cultivation of the two seasons namely Maha and Yala. The average cropping intensity is around 1.0. Normally the farmers have to forgo Yala cultivation due to shortage of water. During the flood period large amount of water flows along Deduru Oya and falls to the sea at north of Chillaw in Puttalam District. The Deduru Oya Reservoir is proposed to regulate agriculture through the available irrigation infrastructure in Deduru Oya and Mee Oya basins. This is the main justification for the construction of Deduru Oya Reservoir in Kurunegala District.

The Project

Deduru Oya and Mee Oya are two adjacent river basins in the North Western Province. Deduru Oya is the fourth largest river basin in Sri Lanka and has a drainage area of 2620 square kilometres (Sq. km). Deduru Oya long-term annual discharge to the sea is more than 1000 Million cubic Meters (MCM) and this large quantity of water is yet to be harnessed. The adjacent Mee Oya, which has a drainage area of 1500 Sq. km., is in comparison in a drier climatic condition and Mee Oya presently discharges only 40 MCM to the sea annually. Therefore most of the water in Mee Oya basin had been exploited mostly for agricultural purpose in contrast Deduru Oya basin.

Project features

The Deduru Oya Reservoir Project envisages a construction of a 75 MCM capacity reservoir across Deduru Oya in Kurunegala District near Kurunegala – Padeniya – Anuradhapura road at Ridi Bendi Ela. Exact location of the reservoir is about 600 meters (m) above the existing Ridi Bendi Ela anicut.

The main components of the project comprise of the following:

Dam - An earthen dan 1900m long

Spill - Concrete Ogee type

Radial gated spillway with 7 gates

Left Bank (LB) Trans basin canal 33 km long

The Benefits

The reservoir has the benefit of providing supplementary irrigation for 2400 ha of existing lands under a series of

minor tanks and development of 300 ha of new lands under lift irrigation on the left bank of Deduru Oya with a 63 km long canal in Wariapola, Koneigane and Hettipola Divisional Secretary areas. The reservoir will augment the present supply to Magalla tank which as a command area of 2400 ha of existing lands and 600 ha of new lands in Nikaweratiya electorate, which is located in the right bank of Deduru Oya. The right bank trans canal of 33 km long will transfer 80 MCM of water annually to Inginimitiya reservoir in Mee Oya basin while augmenting 1000 ha of existing lands under minor tanks and 300 ha of new lands under lift irrigation enroute. In total about 7000 ha of lands in Deduru Oya and 4115 ha of lands in Mee Oya basin can be cultivated with paddy during Maha season and with other high value crops in the Yala season. In addition 8 Gega Watt Hours (GWh) of annual energy will also be generated through 1.5 Mega Watt (MW) installed capacity generators. The project will benefit around 14,000 families. In addition to above benefits the project will improve drinking water availability at major towns in North Western Province such as Wariyapola, Mahawa, Nikaweratiya, Anamaduwa etc.

The cost

The total cost of the project has been approximately estimated as RS 6500 Million (US$ 65 Million) inclusive of RS 1500 Million (US$ 15 Million) for compensation and cost of resettlement of the affected people due to reservoir inundation. The economic analysis in the pre-feasibility study shows an Internal Rate of Return (IRR) of 17.6% and Benefit – Cost ratio of 1.52.

Resettlement and Compensation for the affected people

Soon after the completion of the pre-feasibility study report, in year 2002 several meetings were held with the affected people in the Kurunegala District. In the beginning there were great opposition, but during the meetings it was announced that the affected people will be substantially compensated, but details were not given. Divisional Secretaries of the affected area (four Divisional Secretaries namely Maspotha, Ganewatta, Mahawa and Wariyapola) were given the responsibility of meeting the people by visiting all the households and explaining to them the benefits of the project (of course the major benefit is for the adjoining Puttalam District) and the compensation packages and resettlement programme. For this purpose the 15 Grama Niladharis of the affected area working under them were also deployed. However the affected people were not satisfied with the house to house survey. (Head of the District Administration is the District Secretary and the Divisional Secretary is under him. The Grama Niladhari or the Village Officer works under the Divisional Secretary).

National Involuntary Resettlement Polity (BIRP)

By this time the government approved the NIRP. The government has adopted this NIRP in order to address the adverse social and economic impacts on people who are affected by the acquisition of land by the State for development purposes. The policy establishes the framework for resettlement planning and implementation. This policy will apply to all development induced land acquisition and a Resettlement Action Plan must be prepared for the affected people.

Policy principles are as follows:

- Where involuntary resettlement is unavoidable, affected people should be assisted to re-establish themselves and improve their quality of life.
- Affected people should be fully involved in the selection of relocation sites, livelihood compensation and development options at the earliest opportunity.
- Replacement land should be an option for compensation in the case of loss of land,; in the absence of replacement land, cash compensation should be an option for all affected persons.
- Compensation for loss of land, structures, other assets and income should be based on full replacement cost and should be paid promptly.
- Resettlement should be planned and implemented with full participation of the provincial and local authorities.
- To assist those affected to be economically and socially integrated into the host communities; participatory measures should be designed and implemented.
- Common property resources and community and public services should be provide to affect people
- Affected people who do not have identified and given appropriate assistance to substantially improve their living standards.

Socio-EconomicSurvey

In year 2005 budgetary provision was made to this project for the first time and several meetings were organised in Kurunegala District with the affected people. The NIRP was explained to the people and a requirement of the NIRP; the necessity of a socio-economic survey was also explained. A district Project Coordinating Committee headed by the District Secretary was established. The other members were Project Director, Provincial Land Commissioner and the four Divisional Secretaries of the affected area. They had several meetings with the representatives of the affected people. Finally it was agreed to perform a socio-economic survey.

For this a committee headed by the relevant Divisional Secretary was established. The other members were Land Officer, Technical Officer from the Project Office, relevant Grama Niladhari and two members from the affected people. A house to house survey was done commencing from the mid February up to end of March 2005. During this survey, the immovable assets of the affected people were documented along with their valuation. The choice of the people, that is whether they wish to get the cash compensation or whether

Divisional Secretary	No. of land owners	No. of Households	Compensation by cash	Alternate Lands Kurunegala	Alternate Lands Puttalam
Maspotha	131	36	72	44	15
Mahawa	243	68	97	10	136
Genawatta	700	292	252	27	422
Waiyapola	1,110	307	537	164	415
TOTAL	2,184	703	958	245	988

they like to obtain alternate lands within the Kurunegala District or whether they wish to move highlands to receive project benefits were also obtained during the survey. The results of the survey revealed that there are 703 affected families and 2184 plots of land will go under water. The summary sheet will appear in the following table.

Acceptance of the people

After this Socio-Economic survey, the affected people have some confidence. More over they have realised that they should not oppose for this national project which will be beneficial to the country. At the same time they know that they will be able to re-start their life in the new places comfortably.

Work ahead

Authorities are now working on acquiring land in the inundation area and the alternate lands finalising the compensation packages and Resettlement Action Plan according to the wishes of the affected people. The representatives of the affected people will be participating at all stages of the re-settlement. The implementation of the project is planned towards the end of the year and initially the people living in the area where the dam is to be constructed and the people living in the earth borrowing area for the construction of the dam will be re-settled.

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National Involuntary Resettlement Policy.

Gaining Public Acceptance for Large Dams on International Rivers: The Case of Tipaimukh Dam in India and Concerns in Lower Riparian Bangladesh,

Md. Golam Kibria, Bangladesh

International Nature of Brahmaputra-Barak-Meghna basin

Rivers have no boundary. Only we humans draw lines and divide ourselves. Four-fifth of Bangladesh is made up of the combined delta of Ganges, Brahmaputra, Meghna and Barak river system. Barak River is part of Brahmaputra-Barak-Meghna basin – one of the largest river basins in the world. The mighty river Brahmaputra originates in Tibet and comes down to northeast India and then enters Bangladesh and finally empties itself towards Bay of Bengal. The Barak River is part of the Brahmaputra-Barak-Meghna river basin and the second largest drainage system in northeast India. Barak River originates from Lai-Lyai village in Senapati district of Manipur. The upper Barak catchment area extends almost entire north, northeastern, western and southwestern portion of the Manipur State. The middle course lies in the plain areas of Cachar region of Assam state, while the lower, the deltaic course is in Bangladesh, where it is known as Meghna. Two important rivers in northeastern part of Bangladesh –Surma and Kushyiara – are fed by the flow Barak River.

Impact of Tipaimukh dam on downstream co-riparian Bangladesh

The construction of Tipaimukh dam will have serious adverse impact on the downstream part of the Barak river basin, which is in northeastern part of Bangladesh, and known as Surma-Kushyiara-Meghna river basin. Institute of Water Modelling (IWM), an autonomous research institute in Bangladesh has recently conducted a study on the impact of Tipaimukh dam on Bangladesh. The study predicts that, the dam, once operational, will change the hydrological pattern of the Barak River. According to the report, the overall nature of impact can be summarised in six broad categories, like hydrological impact, impact on flooding pattern and on river-floodplain-wetland ecosystem, impact on morphology, impact on water quality, dam-beak and general.

Impacts on Hydrology

The IWM study estimate that once the Tipaimukh dam is fully functional, average annual monsoon inflow from the Barak River at Amalshid point to the Surma-Kushiyara-Meghna River system would be reduced around 10% for month June, 23% for month July, 16% for month August and 15% for month September. Water level would fall by more than 1 meter on average during the month July at Amalshid station on the Kushiyara River, while this would be around 0.25 meter, 0.15 meter and 0.1 meter at Fenchuganj, Sherpur and Markuli station, respectively. On the other hand, at Kanairghat and Sylhet station on the Surma River, average water level would drop by 0.75 meter and 0.25 meter, respectively in the same month. During relatively drier monsoon year, dam would have more impact on the availability of monsoon water in the Barak-Surma-Kushiyara River than the average annual monsoon year. Like for the month July, August and September, flow would be reduced as much as 27%, 16% and 14%, respectively, 4%, 2% and 2% higher than the volume reduction found for average monsoon year.

Impact on Inundation Pattern and River-Floodplain-Wetland Ecosystem

Sylhet and Moulvibazar district in northeastern part of Bangladesh will be effected more due to the Tipaimukh Dam operation regarding their natural monsoon-flooding pattern. For Sylhet district, total inundated area would be reduced by 30,123 ha. (26%) during post-dam scenario than it actually happens in pre-dam average monsoon season. For Moulvibazar district, this would be around 5,220 ha. (11%). 71% of the Upper Surma-Kushiyara Project area would no longer be flooded during average monsoon season for post-dam condition. The Kushyiara River would cut its connection with its right bank floodplain for around 65 km. reach. As a result the river at this part will become 'reservoir river'; rather than a most valuable 'floodplain river'. The Kushiyara-Bardal *haor* (wetland) on the left bank of the Kushiyara River would become completely dry during average monsoon year dry due to Tipaimukh dam operation. The Kawardighi *haor* (wetland) *would* also lose around 2,979 ha. (26 %) of its usual inundated land during average monsoon year. Impact on Damrir *haor* and Hakaluki *haor* would be relatively less in comparison to other *haors* of the Sylhet and Moulvibazar district. The above impacts on the river-floodplain-wetland would destroy the natural integrity of the ecosystem involved within these physical system, thereby, the consequences of that will be the loss of riverine habitat and species, lack of enrichment of land with the nutrient full silt leading to the ultimate decline in the natural productivity of the two most abundant resources of Bangladesh – land and water.

Impact on Morphology

The erosion just downstream of the Tipaimukh Dam would be excessively high and this erosion would continue as long as hundred kilometres downstream or more. This excessive erosion in the first 100 or 150 km. of Barak River downstream of the dam would increase the overall deposition in the lower Barak River, thereby, in the Surma- Kushiyara River system. Low flow during late monsoon and post-monsoon will accelerate this deposition in the region.

The probable deposition during late monsoon and post-monsoon season will raise the overall bed level of the rivers, and for an extreme case it would block the mouth of certain tributaries originating from the Kushiyara River. Bed level

would rise and that will induce the average monsoon flood to become a moderate to sever flood in the floodplain of the Surma-Kushiyara. There would be possibility of increasing erosion in the upper Kushiyara River, and this will cause more deposition in the downstream of Kushiyara River and in Kalni River.

Dam Break and Its Consequences

The communities living in the downstream of any dam remains in a constant threat of catastrophe being occurred by dam-bursts and dam induced other floods. The apprehension like this is intensified further when the very seismic characteristics, its activities as well as the instability of the Tipaimukh Dam site and the region as a whole is taken into the consideration. The claimed Reservoir Induced Siesmicity (RIS) is another important feature of any large dam project that should be considered in the analysis of safety ground of Tipaimukh Dam Project.

Construction of Tipaimukh dam is violation of co-riparian rights

India and Bangladesh share many rivers and water resources. The rivers that flow across the northern parts of India are mostly international rivers or their tributaries. In the North Eastern region, the Brahmaputra River and the Barak River are both international rivers. The joys and sorrows that these two rivers mean for the peoples of Bangladesh and northeastern India are shared. This issue has been well recognised and many efforts are in place to address this unhappy state of affairs. International water treaties have been made and even a Joint Rivers Commission was set up to examine and settle disputes. The Tipaimukh Dam project was entirely developed and approved without once informing the government of Bangladesh or involving its people in any meaningful exercise to assess the downstream impacts of the dam. This is clearly a gross violation of co-riparian rights of Bangladesh. The unilateral construction of Tipaimukh dam on an international river is also violation of UN Convention on the Law of Non-navigational Uses of International watercourses

Tipaimukh dam and WCD recommendation on Gaining Public Acceptance

Gaining public acceptance (GPA) of key decisions is essential for equitable and sustainable water and energy resources development. GPA has been recommended by WCD as the first strategic priority. Recognition of rights and assessment of risk to identify stakeholders, full access to information, negotiated agreements as the basis of demonstrable public acceptance of key decisions and guidance on projects affecting citizens of diverse social, ethnic, cultural and economic background by their free prior and informed consent are the underlying policy principles. The first Dams and Development Forum meeting acknowledged the need to have transparency in decision-making. The opportunity for all stakeholder groups to participate, fully and actively, in decision-making process should be enabled. In this process, the definition of stakeholders, establishment of norms for consultations and involvement of all stakeholders and means of dispute resolution is necessary. This whole process has an implicit assumption that all these happen within a national system. What if a dam is built on an international river and the impacts are also downstream in another independent state, like the case of Tipaimukh dam?

The first known official investigation on the possibility of Tipaimukh dams conducted in 1977-78 by NEC, CWC and report was ready in 1984. Till now, the Government of India has never officially informed the Government of Bangladesh or the people and communities living downstream about the construction on Tipaimukh dam. The Tipaimukh Dam project was entirely developed and approved without once informing the Government of Bangladesh or involving its people in any meaningful exercise to assess the downstream impacts of the dam. This is clearly a gross violation of co-riparian rights of Bangladesh. The experience of Tipaimukh dam raises a number of questions, which has to be answered if we are to develop mechanism(s) and policies for gaining public acceptance of large dams.

The way forward?

Any meaningful and effective policy and mechanism for GPA have to redefine the category of stakeholder to incorporate the idea that dams in one country could have impact in another country and stakeholders could be international. Access to information is essential for GPA and international stakeholder should be informed in all stages of construction of dams. Informed participation of international stakeholders, not only governments, but also, communities and citizens to be adversely affected should be made part of GPA mechanism. How do we ensure that is a question that still remains to be answered. One international mechanism that we can use is the UN Convention on the Law of Non-navigational Uses of International Watercourses. But, only 17 states ratified it, and no country with riparian advantages is among those 17 signatories. 35 countries have to ratify an international convention in order for it to be effective. So the UN convention is not yet an obligatory convention. In the case of riparian tension and conflict over large dams on international rivers in South Asia, including India and Bangladesh, the failure of existing bilateral and regional system is well documented and evident. We need to go further if we are to ensure sustainable development and meaningful peoples' participation in development. May be we need to develop an international clearinghouse of information and dispute resolution on dams, probably UNEP can take a lead in this.

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Mallipothana Reservoir Construction Gaining Public Acceptance - Case Study of Sri Lanka,

Badra Kamaladasa, Sri Lanka

Background of the project

Moneragala District is considered to be the most underdeveloped district in Sri Lanka. An average annual rainfall of the area is 55"-65" which is the lowest range in the country. However this area is believed to be the granary area of ancient Sri Lanka due to development taken place in water resources especially before 12th century. Government of Sri Lanka launched projects for restoration of ancient water resources schemes consisting of small reservoirs and barrages which are being identified as the basic requirement for Regional Development. This case study discusses the events that took place while planning and construction of a reservoir scheme where resettlement options were challenged in the courts.

Mallipothana Wewa was an ancient abandoned reservoir (original construction was believed to be in 600 A D), which had been investigated by the Irrigation Department in 1978. The proposal was to restore the embankment (height to be 41') to store water of 1530 Ac ft to cultivate about 600 Acs in both main seasons.

Beneficiaries

There were 20 families residing in the reservoir bed and on the embankment at the time of preliminary investigations. They have settled there for generations. A plot of about 80 Acs in the reservoir bed had been converted into rain fed paddy and this was the only income for the peasants. Under the rain fed conditions only a single cultivation per year is possible. Hence the villagers were below subsistence level and the majority of them were waiting for a continuous supply of water through irrigation facilities.

The settlers in down stream area are different to those live in reservoir bed. They are migrant settlers with diverse social and cultural background came from various parts of the country. They have blocked the river at two different locations one with temporary stick dams and other with a semi-permanent type concrete weir to divert water for irrigation for about 25 Acs during one monsoon season.

According to the government policy on re-settlement under the Irrigation development schemes, the displaced persons are given priority when allocating lands under project. Hence the settlers in the reservoir bed were assured for the land in down stream after the restoration of reservoir.

Project Implementation Process

The Irrigation Department (ID) is the developer on behalf of the government.

The activities taken place from the beginning are as follows.

- Pre-feasibilty investigation - done by a technical personnel in 1978 by visiting the site and interviewing the persons living in the vicinity.
- A cabinet paper was passed for inclusion of this item annual budget of the government. Accordingly Rs 5,000,000 project proposal was approved and fund was allocated in the 1979 budget.
- The ID continued soil surveys in the irrigable area, land use surveys and detailed geological investigations.
- Project launching ceremony -in April 1979. Access road construction was started.
- Budgetary allocation was not available in 1980 and the headworks construction could not be started immediately.
- In 1982, the Regional political leaders requested again funds for the scheme and a token provision was made available in 1982 budget.
- The ID prepared a new estimate for the total project phased out for 3 years. However no provision for the project in 1983 budget. The project proposals were shelved for nearly ten years as it was not pursued due to political and financial problems.
- The ID was again requested in 1993 to commence with the socio-economic surveys especially with the information of the families living in the reservoir bed and on embankment.
- Some of the settlers indicated that they do not want to leave their developed lands. Hence permission for access to the area for ID for investigations was sought through the Divisional Secretary.
- In 1995 ID requested to commence acquisition of lands for the development proposal from the relevant authority.
- The compensation to be paid has been estimated and included in the main estimate to ensure the timely payment of such dues.
- The preliminary intention notices to be sent to the land occupiers and the notices to display were dispatched by Secretary of Lands towards the end of 1995.
- The Survey Department was requested to demarcate the lands after providing all the necessary information.
- Financial allocation of Rs10 million was made available in 1996 National budget. With this funds

Irrigation Department started the construction of spillway.

- Consent of the settlers at the spill site was obtained before the commencement of the construction of the spillway as the land acquisition process was slow.
- The Divisional Secretary objected the construction while it was in progress, as the proper acquisition process has not completed. This dispute was later resolved by the intervention of the Secretary of the Irrigation Ministry.
- Requirement of Initial Environment Impact Assessment was raised, which was introduced recently. IEE study was conducted according to the requirement of National Environment Act of 1980 and the amendment 1988.
- The National Environmental Authority gave the clearance for the project after this report as there were no controversial issues raised by general public and other stakeholders.
- However the land acquisition was not completed due to many reasons and it was dragging till 1997. Intention notice for land acquisition was gazetted in 1997 April for the first time.
- The Divisional Secretary could not get the ownership of some plots due to non availability or non-acceptance of the notice by farmers.
- In 1999 a land owner who was a settler on the main embankment has made an objection to the construction of headworks. This dispute brought the whole project in to a halt and the financial provision made under the budget was unspent by the Irrigation Department.
- Instead of going for technical details in the field, Irrigation Department had to concentrate on the legal issues to resolve this dispute. The court order came finally allowing the acquisition of disputed land.

Unfortunately due to financial difficulties of the government, funds were not made available in the national budget to continue the project. Nearly 200 farmer families who were promised lands with irrigation facilities in down stream area were without irrigation or land even after 2000.

Issues

This is a very rare incident in Sri Lanka where water resources development project was challenged by an individual and the earmarked beneficiary group had to wait until the dispute is settled in the courts. The project planning was dragging for more than 20 years during which many political, legal, administrative, and technical changes took place. Shortcomings and limitations identified in the implementation process which made the project to become a failure are listed below in brief.

- Complexity in the land acquisition procedure
- Indistinct roles of stakeholders in the development process.
- Poor participation of stakeholders in the decision making process
- Lack of transparency in decision-making and implementation
- Lack of confidence on the government machinery on compensation
- Changing of political boundaries and change of priorities
- Changing of living pattern, social status
- Increased awareness/ concern on individual rights
- Addition of different new dimensions such as environmental issues

Conclusion

Disbursement of funds in time is a great challenge face by the government because of the above shortcomings. Hence project specific measures have been taken recently specially in infrastructure development projects such as highway projects, with special cabinet approval for accelerated procedure of payment of compensation, allocation of alternate lands and appointing conflict resolution committees involving all the concerned parties. Donors for foreign funded projects emphasis for this systematic and speedy process to achieve the set targets of programs. These ad-hoc arrangements have to be regularised by introducing legislative enactments to ensure smooth functioning of the project activities and rights of all concerned parties. The Environmental Impact Assessment (EIA) process and Land Acquisition Process (LAP) have to be detailed so that Social Impact Assessment is emphasised and appreciated. For this there need to be amendments to current legal frame work that specifies the EIA and LAP process.

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National Process on Gaining Public Acceptance for Hydropower Development in Nepal,

Eng. Dilli Bahadur Singh, Nepal

History of Environmental Assessment

Since 1980s, several acts provided a foundation for addressing environmental related issues. Nevertheless, the integration of EIA in development projects was largely donor driven and confined to larger projects only without any formal and uniform structure of EIA reports and not possessing any legal mandate. The Constitution of the Kingdom of Nepal, 1990; Water Resources Act, 1992; Electricity Act, 1992; Electricity Regulation, 1993 and Hydropower Development Policy, 1992 emphasised on the protection of the existing environment and stated that no significant adverse environmental impacts in terms of physical, biological, social, economic and cultural aspects should occur due to any development project. The government of Nepal introduced the National Environmental Impact Assessment Guidelines (NEIAG) in 1993. This guidelines provided a general methodology for conducting an EIA study but there was no approval process and legal requirements of an EIA study. Only after enactment of the Environment Protection Act, 1997 (EPA97) and the Environment Protection Regulation, 1997 (EPR97) the EIA study became legally binding and it is made mandatory for the projects to get approval from the Ministry of Environment Science and Technology (MoEST) for EIA and line ministries in case of Initial Environment Examination (IEE) study.

The Environmental Assessment Process

In Nepal, the enforcement of EPA97 and EPR97 made all projects mandatory of being considered for the application of environmental assessment. Each project under consideration is screened, and it is determined whether it should undergo an IEE or full-fledged EIA study. The rules that guide the application of IEE or EIA are provided in Schedule-1 and Schedule-2 of EPR97 and first amendment EPR99, which is as follows in case of developing power projects:

(i) Projects Requiring an IEE

It is a simple procedure that does not need to undergo a Scoping process. The following projects need IEE level study:

- Generation of electricity of 1 to 5 MW installed capacity
- Transmission Line projects of 33 - 66 kV capacity
- Rural Electrification projects of 1 to 6 MVA capacity
- Loss of single patch of up to 5 ha. of forest by the construction of project
- Displacement of 25 to 100 households by the implementation of the project

Public consultation process required during the IEE study includes:

- Field visits by experts and consultation with affected local people, NGOs, Community Based Organisations (CBOs) and local government officials/leaders and knowledgeable persons.
- 15 days public notice in a national daily newspaper about the project and request for comments, suggestions and concerns from the local people and other stakeholders.
- Display of notice in public places at local village/ district level about the project and request for comments, suggestions and concerns. Preparation of "Muchulka" (minutes/record of the notice display activity) is mandatory which should be included in the IEE report.
- Collection of the comments/concerns/ suggestions and recommendations of affected Village Development Committees (VDCs) or municipalities and incorporation in the IEE report.
- Incorporation of the issues raised by stakeholders and identified during the study and their solutions in IEE report.

Review and Approval Process

ii. Approval of Terms of Reference (ToR)

ToR for IEE study, in the format mentioned in EPR99, will be prepared by the proponent and submitted to the Department of Electricity Development (DoED) in case of hydropower projects. After examining and reviewing the ToR, DoED sends the reports to the ministry of Water Resources (MOWR) along with its comments and suggestions. In the mean time DoED sends one copy of the ToR to the Ministry of Forestry and Soil Conservation (MoFSC) and requests for their comments to be sent to the MoWR. After examining and reviewing the reports along with comments sent by DoED and MoFSC, MoWR approves the documents with or without any notes.

iii. Approval of IEE Report:

Based upon the approved ToR, and the prevailing law, the project proponent prepares IEE report and submits to the DoED in case of power projects. After examining and reviewing the reports DoED sends the reports to MoWR along with its comments and suggestions. The MoFSC is also requested to send its comments on the reports to MoWR. After examining and reviewing the reports along with comments sent by DoED and MoFSC, MoWR then approves the documents with or without any notes, if the reports are found to be of an appropriate standard.

iv. Projects Requiring an EIA

The following projects require an EIA study:

- Hydropower projects with installed capacity more

than 5 MW

- Thermal power projects with installed capacity more than 1 MW
- Transmission line projects with 132 kV installed capacity or more
- Projects lying in national parks, wildlife reserves, or conservation areas, regard less of the size of the project
- Rural Electrification project above 6 MVA capacity
- Loss of more than 5 ha. single patch of forest by the construction of project
- Displacement of more than 100 households by the implementation of the project

For conducting EIA study, Scoping exercise is the first step to be conducted and the Scoping report is prepared. Then a TOR is prepared incorporating the issues identified during the Scoping phase as per Schedule-4 of EPR97. The Scoping document and ToR are submitted to the Ministry of Environment Science and Technology (MoEST) through DoED and MoWR. Upon approval of the Scoping document and ToR, the proponent undergoes the full-fledged EIA study and submits the EIA report in the format mentioned in EPR97 and the first amendment EPR 99.

Project developer/promoter/proponent is responsible for preparing EIA reports and local public, project affected people, representatives of local governments, NGOs, CBOs, key informants and other stakeholders will be involved in different stages of the EIA Study (Annex-1) as prescribed by the EPR99, such as:

Public Participation during Scoping Stage

- Publication of a 15 days public notice in a national daily newspaper for seeking comments, concerns and suggestions to be incorporated in Scoping document and ToR.
- Group meeting with local affected people, representatives of NGOs, CBOs, VDCs, District Development Committees (DDCs), key informants and other stakeholders at site.
- Meeting with concerned governmental line agencies.
- Discussion and presentation to Review Committee Member formed by MoEST for particular project.

Public Consultation during EIA Study

- Field visit by the experts and consultation with local public, affected people, representatives of NGOs, CBOs, VDCs, District Development Committees (DDCs), key informants and other stakeholders.
- Meeting with concerned governmental line agencies and experts.
- Implementation of at least one Public Hearing Session in project affected area in the presence of project affected people and concerned government and non-government agencies. At this time, findings of the draft EIA report, impacts likely to be exerted by the project, their mitigative measures, compensatory measures for land/ property acquisition, resettlement programs and the benefits of the project to the society will be spelt out.
- Collection of response from the participants of Public Hearing Session.
- Preparation of final report including all the relevant issues raised/noted during the Public Hearing Session.
- Publication of a notice, by MoEST, in a national newspaper informing the general people about the EIA report publicly open for 30 days for the review and comments. The report is kept in Tribhuvan University library, MoEST library and other concerned places at central level and DDC Office and VDC Office at local level.
- Discussion and presentation to Review Committee Member formed by MoEST for particular project.

Review and Approval Process

Scoping Report and TOR:

The proponent submits Scoping Report and ToR either separately or together to the DoED. After reviewing and examining the reports, DoED sends the documents to MoWR along with its comments for further action. MoWR seeks comments from MoFSC also and reviews the reports and forwards them to MoEST with comments and suggestions. Then MoEST reviews the report, as well as the comments and suggestions from MoWR, and subsequently convenes the Report Review Committee meeting. Based upon comments made by the Committee, MoEST approves the Scoping Report and ToR with or without note.

v. EIA Report:

The proponent submits EIA report to DoED. The DoED initially checks for the following two legal requirements: (i) Organisation of a Public Hearing Session about the project in the area of the appropriate VDC or municipality, as well as collection of comments and suggestions. (ii) Submission of the recommendations of the concerned VDC or municipality. After reviewing and examining the reports, DoED forwards the reports with comments and suggestions to MoWR. After examining and reviewing the reports along with the comments/suggestions from DoED and MoFSC, MoWR forwards the reports with their comments and suggestions to MoEST for the final approval.

Then the MoEST publishes a public notice in a national daily newspaper inviting concerned public and stakeholders to provide comments on the report within 30 days. For accessibility of the public to the reports, MoEST places EIA

reports in concerned VDC and DDC offices, central libraries and at other significant public places. During that period, if the public provides substantial valid comments on the report, MoEST may instruct the proponent to address them. MoEST then, convenes an EIA Report Review Committee meeting represented by MoWR, DoED, MoEST, MoFSC, University, Nepal Environmental Impact Assessment Association, other professional organisations and/or independent experts. The Review Committee reviews the EIA report and the comments forwarded by MoWR, MoFSC and suggestions received in response to the public notice and submit a report on it. On the basis of the suggestions made by the Review Committee, MoEST then, approves the report within 90 days as per the law, provided that the report is of appropriate quality. In some instances, the proponent has also been asked to revise the report and resubmit the Final EIA report to the MoEST.

Conclusion and Recommendation

Constructing technically feasible, economically viable, environmentally sound, socially and culturally acceptable hydropower projects has been the present thrust of the nation, which help ***gain public acceptance*** in a greater extent. In the development of hydropower sector EIA has been the most effective tool in Nepal because during this period rigorous interaction takes place (at least five times as per the EPA 1997 and EPR 1997) between the project proponent and project affected people, local NGO/CBO/VDC/DDC and other stakeholders. With regards to the displacement issue, any project should avoid displacing the local people as far as possible even if the project structures gets changed or modified up to the acceptable limit. If it is not possible at all, then the displaces should be given a good compensation for their land and property at the replacement cost, compensation for their standing crops, hardship allowance, training and job opportunity and other intangible benefits. The development projects should adopt the motto of ***"Pareto Optimality"*** which means making one person better off without making any other worse off. Hence, the living standard of the displaces should be increased as far as possible, if not; in no case it should be decreased. The fruit of development should also be shared with the local inhabitants and the affected people. A good EIA study guided by a good legislative framework takes care of all these issues and provides good and implementable solutions that are acceptable to all the parties such as: project proponents, local inhabitants, financiers and the government. Implementation of projects based on such reports make the project definitely sustainable and it is inevitable to ***gain public acceptance.*** So, it is highly recommended that instead of flatly arguing ***for or against*** any development project or dam it is always good to go for an extensive EIA study, which will automatically determine the fate of the project.

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Operationalising the Rights, Risks and Responsibilities Approach to Stakeholder Participation,

Jeremy Bird, Larry Haas, & Lyla Mehta, UK

Background

WCD recognised that one of the key challenges in water resources management is to reconcile competing interests and balance social, environmental and economic considerations:

'We believe there can no longer be any justifiable doubt about the following: ...By bringing to the table all those whose rights are involved and who bear the risks associated with different options for water

and energy resources development, the conditions for a positive resolution of competing interests and conflicts are created.' (WCD, xxviii)

To do so, it proposed moving away from a conventional 'balance-sheet' approach, in which benefits to one group are numerically offset against adverse impacts to other sections of society, to a process of negotiation with the stakeholder interests involved:

'...the Commission believes that fulfilling development needs requires respect for fundamental rights, and not a trade off between them. We believe that an equitable and sustainable approach to development requires that a decision to build a dam or any other options must not, at the outset, sacrifice the rights of any citizen or group of affected people.' (WCD, p204).

'Recognition of rights' and 'assessment of risks (particularly rights at risk)' formed the basis of the WCD's approach to stakeholder analysis and more effective participatory processes, starting with needs and options assessment early in the planning process. In the event a dam emerged as the most appropriate response, or part of a broad range of measures, then the 'rights and risks' approach was seen as fundamental to negotiated processes around not only mitigation, monitoring and management measures, but benefit sharing and other steps to enhance the overall development performance of a dam project. It was envisaged as an integrating tool for economic, social and environmental dimensions.

Recently a number of initiatives have emerged supporting the 'rights and risks' approach, either with their origins in the WCD report or parallel to it, for example: national dialogues on WCD; adding 'responsibilities' to rights and risks – the 3Rs – in the World Bank's Sourcebook on Stakeholder Involvement in Options Assessment (World Bank, 2003); a central emphasis on human rights in the Extractive Industries Review (EIR, 2003); a proposal for operationalising the principle of free, prior and informed consent (Mehta and Stankovitch, 2000); and more widespread acknowledgement of entitlements of affected people in the Sustainability Guidelines of the International Hydropower Association (IHA, 2003). Nevertheless, tensions remain on the extent that stakeholder views should influence decision-making and how to reconcile differences.

As the focus of this initiative is on implementation, the third 'R' – responsibility – has been incorporated into the framework. By clearly defining obligations and responsibilities, a much needed focus on accountability is introduced into the negotiations. The rights, risks and responsibilities framework is subsequently referred to as the '3Rs'.

Proposal to pilot test the 3R approach

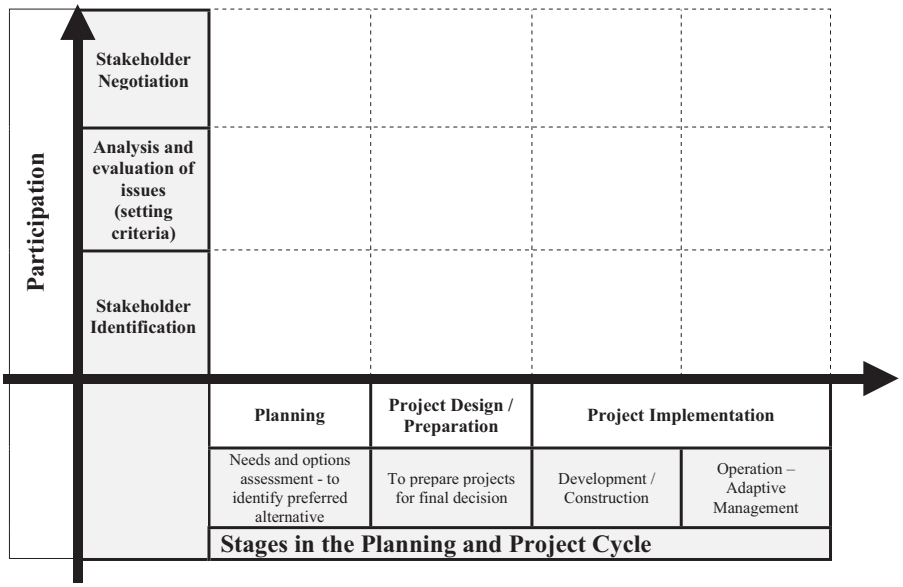
A proposal to develop operational guidance on the 3R approach has been prepared in the form of a scoping report and will be available through DDP, (Bird, Haas and Mehta, 2005). The next step is to identify suitable pilot projects on which to further develop and pilot test the 3R framework .

The 3R approach offers an operationally relevant mechanism for use at different stages of decision-making to:

i. improve stakeholder identification and analysis - by identifying more objectively the rights, risks (including 'rights at risk') and responsibilities of each interest group;
ii. define who must be involved especially those whose interests / losses have largely been ignored in the past – by recognising to what degree rights are at risk;
iii. improve criteria for evaluation of options and within project-alternatives - by enriching and expanding sustainability criteria related to development performance and reflecting stakeholder views;
iv. enhance consultation and deliberation based on those interests in order to reach a negotiated outcome – by providing greater clarity on the issues;
v. seek to achieve consensus-based equitable outcomes and turn losers into winners; and
vi. help redress power imbalances in decision-making – by achieving clarity and transparency on the rights, risks and responsibilities of interest groups.

The schematic presented in Figure 1 helps to visualise opportunities and challenges to operationalise the 3Rs. On the vertical axis are three steps of a stakeholder process (stakeholder identification, analysis of issues and negotiation). These steps occur at each of the various stages of the planning and project cycle portrayed on the horizontal axis (from planning through to project implementation). The influence that a participatory process has on a decision at each of these stages depends on the social and political context and is itself a major source of tension and debate.

Figure 1: Participatory processes in the planning and project cycle



Governments:	- politicians [national and local], policy makers, regulators, planners, ...
Dam developers/ owners/operators:	- public and private, utilities,...
Communities:	- adversely affected, beneficiaries, water users, CBOs, community level representatives [political and administrative].
Financiers:	- public, private, domestic, foreign, …
Other interested parties:	- NGOs, Private sector [consultants, contractors, suppliers], professional associations, academics, …)

At this initial stage, interest groups have been identified in five main categories. The first four are either directly responsible for, or affected by, the outcome of a planning or project decision, whereas the fifth group includes those organisations playing more of a supporting role and providing representation for aspects that have no direct voice, such as biodiversity concerns:

The scoping report looks at the conceptual and legal underpinnings of the rights and risks framework and the rationale for incorporating responsibilities as the "third R". Underlying each element of the framework are a series of tensions and challenges that need to be addressed in the operationalisation of the 3R approach. It examines the following questions:

- What rights?
- Whose risks?
- Why responsibilities?

The framework for the 3Rs outlining the generic description of rights, risks and responsibilities to be considered is presented in Table 1. Key tensions around rights, risks, responsibilities and governance and planning systems are presented in the scoping report.

Core questions to be addressed in the pilot studies:

- How can the 3R approach be used to assess and recommend improvements in the policy framework (nation or basin level) to promote more effective stakeholder participation / negotiation and application of the underlying principles?
- How can the 3R approach be best incorporated in planning systems in different governance settings to enhance participation / negotiation, e.g. in furthering the WCD core values and strategic priorities, integrated water resources management, sector assessment, basin planning, and project-level planning?
- How can the 3R framework and approach be best integrated into existing planning management and evaluation tools, building on current and emerging techniques in the various sub-disciplines (e.g. for stakeholder identification, analysis and evaluation of options, and negotiation throughout the planning cycle)?

These questions are presented with reference to the two dimensions of operationalisation introduced in Figure 1, namely:

- Decisions taken at different stages of the planning and project cycle ranging from needs and options assessment through to project operation.
- The key steps in participatory decision-making processes that feature at each of the stages in the planning and project cycle (i.e. stakeholder identification, analysis and evaluation, and negotiation).

A key focus of the Phase 2 study will be to identify practical ways in which the 3R approach can be built into existing tools and procedures from strategic planning – assessing needs and options – through feasibility study and environment / social impact assessment to project design and operation. The ultimate intention is to develop guidance that can be adapted to suit local contexts. The approach recognises the final decision-making authority of governments and aims to strengthen the basis on which those decisions are made.

It is envisaged that there will be three main stages to the Phase 2 study.

Stage 1: Development of a template and TOR for application of the 3R approach and identification of case studies (end December 2005)

The initial task will be to further develop the generic 3R framework proposed in the scoping report by preparing a template or matrix for use by each of the case studies discussed in Stage 2. The template will provide clarity on how the 3R approach can be used to identify stakeholders of a typical multi-purpose dam project within the context of a river basin. Draft TOR will be prepared to guide government officials, the project entity, consultant or NGO in implementing the 3R approach.

Stage 2: Practical application of the 3R approach – a series of coordinated case studies (2005-2007)

Recognising that planning and project development processes for dam projects often takes 10 years or more, the approach proposed here is to identify a series of separate case studies from different parts of the world that each focuses on one or more clearly identified tasks or processes. A number of governments and development agencies will be approached to explore interest in applying the 3R approach to specific aspects of planning processes and project development. Together they will cover the range from strategic planning through project design to operation and rehabilitation / modernisation. Case studies will be sought to explore and provide lessons on how the 3R approach can be used for analysis and evaluation of issues and stakeholder negotiations (see upper two rows of Figure 1). The case study concept is to work in parallel with real-life processes so it will be important to introduce the 3R approach at an early stage of the process design.

Stage 3: Dissemination of the 3R approach

Results of the case studies and application of the 3R approach into planning processes and tools will be presented at a number of relevant national, regional and international meetings. A discussion paper will be developed on how the 3R approach can be integrated into existing planning processes and tools and what enabling conditions and procedural steps would be required to accommodate such a shift from current practice.

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Table 1: Framework of Rights, Risks and Responsibilities (In specific planning or project contexts, this generic framework would be made context specific with references to provisions of prevailing legal and regulatory systems).

Interest Group	Rights	Risks	Responsibilities
Governments (politicians [national and local], policy makers, regulators, planners…)	- Constitutional rights - Right to development - Right to sustainable development - Right to develop water/ energy resources and protect the environment pursuant to national laws and regulations - Right to appropriate land in the name of 'eminent domain' or public purpose. - Rights resulting from international / bilateral agreements	-Risks related to the right and duty to formulate national development policies; -Risks inherent in undertaking dam projects against those of other initiatives and 'do nothing' options (given demand for water and electricity services, or food, and the role of these services in development, and flood or drought risk). -Macro-level and external risks, e.g. regional security, global economy, and climate change. -Risks of public rejection of government choices -Risks of failure of economic, public safety or environmental regulation	-Codifying international commitments into national laws -Responsible for establishing an enabling framework for provision of basic services for all citizens and public safety -Protecting the rights of individuals under national legislation and international agreements, including customary rights of indigenous peoples -Enforcing national laws and agreements including environmental protection and water resources management -Duties defined under the UDRD (Article 2(3)) - putting in place clear policies and legal framework to meet development needs and facilitate active, free and meaningful participation of all stakeholders in development processes -Providing enabling environment for information access, transparency, explicit procedures for stakeholder interaction -Providing enabling environment for grievance redressal and ultimate decision-making -Comply with agreements reached

Interest Group	Rights	Risks	Responsibilities
Dam developers/owners/ operators (public and private utilities…)	-Constitutional rights Statutes of public utilities -Rights of commerce (company law, land and property ownership, regulatory structures, etc) -Right to exploit water resources, subject to national legislation for concession agreements, water use licenses, permits -Right to develop property, subject to land acquisition legislation and planning controls, etc. -Contractual rights (contract law and arbitration procedures specified in contracts) - Investment rights, protection afforded by national legislation (e.g. freedom from expropriation of assets without compensation, etc.) -Intellectual Property rights	-Risk that rights established under laws, regulations and contracts are not upheld, which includes political risk; -Construction risks, hydrological risks and market risks -Risk associated with unforeseen impacts (e.g. environmental, social, reservoir sedimentation,..) -Financial risk -Reputational risk	-Conform to and comply with national laws and international agreements and policies -Act in accordance with corporate codes of conduct -Operate within industry standards -Follow the principles of Corporate Social - -- - Responsibility in which many human rights standards are defined -Comply with commitments agreed in the environmental management plan, resettlement action plan and indigenous peoples plan -Comply with benefit sharing agreements -Responsible to shareholders expectations
Communities (adversely affected, beneficiaries, water users, CBOs, community level representatives [political and administrative] …)	-Rights granted under national laws (right to livelihood, access to basic services, right to land and property including ancestral property, rights of access to natural resources (e.g. fishing grounds), right to information, right to participation, etc.) -Customary rights -Political, civil, economic and social rights in the UDHR and Constitution -UN Right to Development -Sustainable Development (Rio Principles) -Right to prior and informed consent for indigenous peoples (for parties to ILO 169) -Human Right to Water	'Involuntary risk bearers', especially displaced people, face risks to civil and political rights, social and economic rights (including the right to livelihood, development), property rights, and loss of cultural identity. -Impoverishment risks due to involuntary resettlement -Livelihood risks to upstream and downstream communities - Safety risks of dam failure or inappropriate operation -Risk to ecological integrity and livelihood options of future generations -Beneficiaries right of access to water / electricity can be at risk if projects delayed / cancelled.	-Responsibility to participate in, and respect outcomes of, negotiated decision-making processes -Comply with negotiated agreements including resettlement -Comply with provisions of agreements for service provision -Monitor implementation and notify authorities of compliance issues -Obligations of beneficiaries and host communities towards those involuntary risk bearers that lose land and livelihoods

Interest Group	Rights	Risks	Responsibilities
Financiers (public, private, domestic, foreign)	-Investment rights (as provided in mandates of international organisations, national commerce law, trade treaties, procurement regulations, etc) -Rights for recourse to arbitration prescribed in international agreements, or prescribed in contracts made in the country that invoke international charters (e.g. FIDIC) -Right to invest in property in accordance with national legislation	-Investment risk (composed of competitive risk, market risk, political risk and project risks) -Reputational risk	-Corporate responsibility, whether in the form of safeguard policies or responsibility charters, where they exist - compliance with transparency, reporting, disclosure laws and policies -Implement industry standards and international good practice (e.g. Equator Principles) -Corporate behaviour linked to national laws and international commitments, where they are codified in national law -Compliance with development orientation (for development finance institutions) -Principles and guidelines of the UDHR, best practice codes of MDBs -Responsible to shareholder expectations
Other interested parties (NGOs, Private sector [consultants, contractors, suppliers], professional associations, academics, …)	-Rights to freedom of expression (including representation of environmental interests as defined in international conventions and national legislation) -Right of access to information -Right to consultation and participation in decision-making processes -Rights under commercial law -Right to seek redress in case of violations of national or international laws / policies or of the rights of interest groups or contractual violations	-Risks to the environment - endangered species, public health, climate change, habitat loss, pollution - that can create an array of direct and indirect risks to people -Commercial risk -Reputational risk	-Accurate representation of the views of interest groups -Commitment to objective monitoring and analysis in their work Comply with corporate codes of conduct and professional ethics -Independence / disclosure of interests -Transparency; compliance with relevant national laws governing for-profit and non-profit enterprises Comply with negotiated agreements

Processes and Tools for Public Participation in Decision-Making at Different Levels of Project Planning,

Gopal Siwakoti 'Chintan', Nepal

Background and Legal Framework

Nepal is one of the richest countries in water resources. It has a huge potential for the construction of large dams. The harnessing capacity of hydropower is estimated up to 43,000 MW. Most of these dams, if built, will be joint projects mainly between Nepal and India. Some dams will also be built by trans-national corporations.

Gaining public acceptance (GPA) in any development project is a major legal and political challenge in Nepal. There were no any possibilities and opportunities to questioning any development projects in the country till the time of the restoration of multi-party system in 1990. The new Constitution under article 16 has categorically provided for the right to seek and receive information on any issues of public interest. The scope of this right has been widely expanded by the Supreme Court in various litigations that were brought before it in the past 13 years. The guarantee of this right can certainly be understood as the recognition of the right to participation and/or consultation of the Nepali citizens in any public activities or undertakings affecting their lives and interests.

Nepal's Environment Protection Act as well as Regulations also provide for access to Environmental Impact Assessment reports and an opportunity to make comments and suggestions. The Local Autonomous Governance Act is another legislation that guarantees the right of the local government bodies to participate in all decision-making relating to all development projects and activities in their territories. The same Act also provides for direct benefit-sharing up to 10 percent from any development projects. Various government policies and plans also mention about the need of public participation for better decision-making and success of different social, economic, environmental and development goals, objectives and activities.

In addition, Nepal's obligations under various international human rights and environmental treaties and agreements is another set of legal regime that provides for access to information and public participation in any government activities relating to human rights, environment and development. These instruments include the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966) and the Rio Conventions on Climate Change and, Bio-Diversity as well as the Agenda 21.

Understanding GPA in Nepal

GPA has funny practices in the country. Those in the government or decision-making, including the international financial institutions and TNCs involved in water and dam projects from their building, financing and construction have their own perception of GPA. Their belief and understanding is that just telling the people about the need or scarcity of water or electricity can already be considered as an automatic legitimacy to a project. Telling them further about some technical details of a project, e.g. the location, the size, the financiers, the construction companies, the date of completion, the output capacity and some rituals/meetings are already understood as the tools of public participation. Very often, the people present at the meeting place just listen to the speeches by some ministers or the project/government officials or donors and go. Sometime even those critical to the project are just ignored or not invited into these meetings. These meetings are normally held in open air where people just stand up or sit on the grass for some hours and leave. There is hardly any opportunity to pose questions and enter into discussion or debate.

Furthermore, most of the information provided in such meetings is only about how great the project is and how lucky that they are to have it in their place instead of having it in another village or district. They are told that they have to be careful with those who are 'anti-development' and they should not listen to them since they are just a bunch of environmentalists. The locals are promised everything from employment to their involvement in construction business as well as the profits that the project generates. They are told that they will be the most unfortunate one if they do not take the project as it is. At the end of the meetings, they are invited for tea with cookies and sweets and the job is done. In some cases, some little pamphlets or leaflets are also produced where they mainly mention about the positive aspects of the project. But surprisingly some of these meetings today are even held in big five star hotels in the capital as a public relation exercise and to neutralise the critical media reporting and critical advocacy. Sometime the local people find themselves in a most suffocating environment to express anything critical or they are simply brought there for bang-bashing against those who are raising critical voices about the project but are not directly affected. Most of the negative effects are by-passed in such a way as if they do not exist or they are just little things to be easily mitigated. This will be known as a great public participation exercise.

But when it comes to those who are familiar with the pros and cons of a water and dam project, they have completely different understanding and approach to GPA. They see it as an opportunity to discuss all aspects of the project and in public openly. They advocate and argue for the release of all project-related documents and information, including feasibility studies, economic and financial analysis, lending conditionalities, the EIA reports and mitigation plans, the provisions for land acquisition, compensation and resettlement, employment and benefit-sharing. They also

question the content and the language of such information and documents as well as the timeliness. The current reality is that no critical information and documents are released at any stage of the project which is crucial for a better decision-making. Those non-critical documents and study reports are also kept secret or can only be found in the Headquarters or in a project office once everything is decided.

In such a scenario, what actually happens at the end of it is that the local affected people and concerned groups keep on fighting for transparency till the time of the completion of a project. The reality is that it becomes almost useless to fight for any access to information and pubic participation when all decisions are already made. It also becomes insignificant in this stage to convince and mobilise the affected people that they can still make an influence into the project performance. Once the final decisions are made then a project is implemented at any costs which include manipulation of local leaders, use of the police and military, harassment and sometime even detention and filing of false criminal charges.

It means that GPA in Nepal in dam projects is far from a reality. The past 13 years of struggle even under the relatively democratic atmosphere has just been some attempt to have as much access to information as possible and encourage public participation in decision-making. GPA requires the availability of all project information and documents in a timely manner and in local languages if necessary for a more meaningful participation throughout the project-cycle. So far the public participation exercises are largely flaws and cosmetic and they are limited to pre-project period only. The case of recognition of rights and risks as well as the free and prior informed consent of the local indigenous and tribal peoples is even worse when these groups and communities are simply considered as subject to displacement and not even proper compensation and rehabilitation. The prevailing attitude is that they were always poor living a hard life and that they could do the same again for the benefit of 'development' of the 'nation' as a whole. The logic is that they are just a small minority and that they could easily be ignored. Furthermore, they are just supposed to watch what goes on, look for some petty works if possible and suffer further for the benefit of those who have never suffered.

The point here is that there will be no use of any public participation and consultation exercise in the lack of basic project documents and information on time and in the language that all multi-stakeholders can understand. There is also a big confusion about the meaning and scope of 'public participation' and 'public consultation' when the former generally means an invitation to attend a meeting and the latter as a process of actual involvement in decision-making with some ownership in it. It is only in this environment that a project can be called as accepted by the public, sustainable, democratic and right-based.

Practical Experiences

A. Arun III Hydroelectric Project

Arun III was Nepal's first most controversial dam project, 201 MW, proposed in the Arun Valley in early 1990s. It was an angel of the World Bank and the magic-sword for the Nepali politicians and decision-makers. The project was mainly challenged for the lack of transparency and public participation. In a public interest litigation filed by the author in which the Supreme Court gave a landmark verdict on 8 May 1994 in favour of the release of all project information and documents relating to the project. The Court also outlined some procedures for seeking and receiving information under article 16 of the Constitution to be valid till the time of the enactment of a separate law on the right to information by the Parliament (now dissolved).

The project in the next step was taken up to the World Bank Management followed by a first-ever filed claim before the Bank's Inspection Panel in October of the same year. The project was unilaterally cancelled by the Bank in August 1995 upon the critical findings of the Panel. The main issues of the claim were: the denial of project documents and information, the lack of effective and meaningful participation of the local affected and indigenous peoples, the flawed EIA and lack of adequate budgets for mitigation, the problem with cash to cash compensation to the traditional farmers and the complete absence of rehabilitation measures, the lack of guaranteed provision for employment and engagement in construction activities, absence of comprehensive option assessment and the lack of clear provisions on benefit-sharing. The Panel had found the allegations justly right and recommended the Bank Management not to go ahead with the financing unless the correction measures were undertaken, more specifically the public participation and EIA in that stage.

The main problem with Arun III was that no critical information of any kind was made available to the public even in English language. The public participation and EIA process were complete flaws limited to satisfy the Bank's operational policies and procedures. The battles fought from the Supreme Court of Nepal to the Bank's corridors and its inspection mechanism opened up such a floodgate of controversy that it was later proved totally unjust economically, socially and environmentally. The government and the financiers also failed to be engaged in the public debate and criticised the Arun III activists and experts as 'anti-development' groups. But at the end it turned out to be a boomerang for the promoters of Arun III and it further established a culture of debate in all water and dams-related issues and projects in the country which is even more vibrant today.

B. Kali Gandaki 'A' Hydroelectric Project

Kali Gandaki 'A' was another 144 MW project constructed in the mid-west of Nepal with the financing of the Asian Development Bank and the Japan's Overseas Economic Co-operation Fund (now Japan Bank for International Co-operation—JBIC). This project also involved the same issues of concerns as in the case of Arun III as described above.

On KGA, the performance of the ADB and the Nepal Electricity Authority (NEA) was relatively better than in Arun III. At least there was some openness with regards to access to some more details about the project, but not the basic and critical project information and documents. Some public meetings were also held in the project site and in big hotels in Kathmandu but they were largely selective in terms of who attends.

Despite all these setbacks, a kind of public acceptance in principle and on technical aspect of the project had emerged in KGA mainly due to the tolerance of project critics and activists. The local peoples have either been largely misinformed or manipulated. To suppress the critical voice from outside the project-affected areas, the government and project authorities used all tactics and prevented independent interaction with the local peoples. The local indigenous and tribal peoples had no clue about what rights and claims they could bargain for as the displaced communities. All kinds of promises were made from the level of Prime Minister and other high-ranking government/project officials to the 'donors' about their best performance. However, the end-result clearly showed that they were less concerned about the implementation side and legal and policy compliance.

When the local peoples realised that they were cheated by the 'donors' and the government/project officials and politicians, they started organising themselves in defending their interests and claiming for benefits as they were promised earlier. Despite several attempts for meetings and correspondence by the local elected government bodies and affected groups, the issues and problems were simply ignored both by the NEA and the ADB. The public hearings and meetings organised by the local peoples were interrupted throughout the project implementation period by the misuse of local government agencies and the police force. Activists and observers from outside the project area were repeatedly blocked from entering into the project site and, instead they were arbitrarily arrested and detained. Dozens of local peoples were also arrested and charged under the Public Offence Act for their demands of employment and opposition to the malpractice of the construction companies, mainly the Impregilo. There were allegations that the company was spending significant amount of money to buy the local administration and police force in the name of security and timely completion of the project. The story of non-compliance and bad practices can go on and on but the point is that the project later became a failure in ensuring not only the effective implementation of environmental and social mitigation plans but also ensuring economic benefits. There is now a case pending in the Supreme Court against the huge cost overrun over the project which is alleged as part of a systematic irregularities and corruption.

What it means is that the project has now become unacceptable to the public and for the nation as a cost effective one and socially/environmentally sound as an alternative to Arun III. The ADB also failed to keep its promises of making the project a model one in terms of transparency, monitoring and compliance. Once these issues were raised to the ADB with a threat to launching a massive campaign against its involvement in Nepal, mainly the case of Melamchi inter-basin diversion project, it investigated the matters by sending a high-level review mission in last September and came out with a critical findings of non-compliance. The ADB has assured to WAFED and the local affected groups that it would ensure all compliance within some months of time. As a result, there is a ceasefire at the moment on the acceptability of KGA as a successful project in the long-run. KGA was presented as a best practice project by the government during the WCD process.

There are several other projects in the country that have similar problems and some have even worse performance. They include: Khimti and Bhotekoshi hydroelectric projects (completed), Middle-Marshyangdi Hydroelectric Project (under construction), West Seti Hydroelectric Project (close to implementation with Australian Snowy Mountain Engineering Corporation-SMEC) and Pancheshwar Multipurpose Project (Detailed Project Report-DPR in progress) etc.

Positive Development and Lessons Learned

There are definitely positive aspects too regarding GPA in water and dams projects in Nepal. This includes a strong legal and human rights framework as mentioned above that requires the project developers to involve the affected peoples and the communities into the decision-making process and benefit-sharing. There are also internal guidelines being developed by the Department of Electricity.

The project developers also have learned some lessons about the consequences of non-transparent and undemocratic decision-making processes. They have learned that the projects face serious legitimacy problems at any stage as soon as the affected peoples and the communities realise that they were excluded from the process and that they were not benefiting as much as they deserved or promised. But again the fundamental question is the urgent need of institutionalisation of these gains and the implementation of lessons learned. The learning of lessons alone does not make any sense unless they are replicated into practice in future projects and are even translated into law and policy.

Conclusions and Recommendations

Some argue that large dams cannot be built if WCD's GPA framework is applied. They further point out that it would be even more difficult to build a dam if the criteria of free and prior informed consent are to be complied with. But even a more valid counter-argument is: Why a dam should be built at all if it does not have public acceptance and/or endorsement

of the local indigenous/tribal communities of the affected areas who are supposed to be the target or beneficiaries of development? If the whole purpose of a dam construction is for public good and the livelihood change of the local peoples/ communities then the proponents of large dams must ensure these benefits or just stop building bad dams.

The question in debate is not whether information dissemination and public consultations are done properly in the case of large dams. This, unfortunately, is the case in all water and dam projects whether they are big or small. It is more of a problem of top-down approach in decision-making and the lack of democratisation processes in development activities.

The following recommendations can be made to gain better public acceptance in water and dams projects whenever they are built:

- There has to be clear definitions and categories of directly affected stakeholders and concerned groups so as to understand and decide the level of their involvement in decision-making.
- The best way of holding meaningful consultations with all the peoples and the groups to guide project decision is the release of basic project information and documents without any restrictions in a timely manner and in simple local languages as necessary. Although the definition of timeliness depends on the nature and size of the projects, it at least has to provide sufficient amount of time in reading, understanding and digesting the information and documents so as to be able to express an independent and critical voice or concerns over the projects. In addition, all consultations should be held in a workshop and discussion format rather than a speech and seminar. The project developers must guarantee the democratic representation of all the concerned stakeholders and that there is no manipulation and selectiveness in choosing about who gets invited in the consultation.
- One main problem of the current practice of public participation and consultation is the recording and incorporation of views and concerns raised. In most of the cases, the project developers simply fail to reflect such views and concerns and they do so intentionally. As a result, the consultation becomes just a manipulation exercise for the cosmetic legitimacy of the projects and also increases mistrust and tensions among the stakeholders, particularly the developers.
- The best of way of making less controversial public consultation is the formation of multi-stakeholder forums at the time of the conception and feasibility study of projects. The aim of such consultations should be to decide whether the project should go ahead or not rather than putting a 'yes' stamp on it. Sometime even the majority decision can be a flaw resulting into more serious problems in the stated outcome.
- It has to be mandatory that there is a multi-stakeholder process and mechanism in resolving differences and settling disputes. The time-bound negotiated outcomes and their compliance will be a great achievement towards the smooth implementation and operation of the projects even if some disappointments and grievances still remain. But at the same time, the mandate of such process and mechanism should not be confined to one-time decisions but should be flexible to address and resolve any unexpected problems and difficulties during the implementation/operation phase of the project.
- There has to be a reasonable timeframe in GPA within the multi-stakeholder process to avoid open-endedness. This requires a clear understanding on the goals and objectives of a project and its justification in terms of ownership and benefit-sharing. The division of responsibility also becomes fundamental at this stage.
- The GPA process as recommended here cannot be achieved on an ad hoc basis or in an arbitrary manner. This process must be formalised, legalised and institutionalised through the development of country/project-specific guidelines. It is highly important that there is mutual trust and consistency in GPA exercise throughout the project-cycle.
- There can never be a guarantee that the decisions and guidelines are respected by all multi-stakeholders as developed in an equal manner. There can be serious violations of these guidelines and agreements even intentionally which may lead to worse forms of conflicts questioning the whole existence and operation of a project. So there has to be permanent dispute resolution mechanisms for monitoring compliance and accountability as a true expression of public acceptance in a project.
- As discussed above, ensuring access to information is a key to the success of any project without misunderstandings and conflicts. In addition to the legal guarantee of access to information, the law should also provide for penalties and punishment to those who commit violations resulting into bad decision-making and wrong outcomes.
- If any dam projects are to be made less controversial then the priority must be given to GPA process and its unanimous outcome. This requires a lot of time, patience and resources. Sometime it can also be a lengthy and painful exercise. But this is a key to the successful implementation and operation of a project without serious risks of its failure in the later stage. For this, the funding of all GPA-related activities must

be a part of the overall cost of the project, or it simply does not work and remains only in papers.

- In the case of Nepal, it is hoped that all these issues will be properly addressed and incorporated into the proposed national guidelines that the National Task Force on Dams and Development is developing with the support of DDP-UNEP. This becomes even more important for Nepal since it will be dragged into large-dam building by India both in Nepali soil or shared rivers, and India has not yet committed itself to the WCD framework. It can also be hoped that the past mistakes will not be repeated in the future so as to avoid both opportunity as well as economic cost of any projects in the country.

Processes Leading to Public Acceptance for Dam Development Projects: The Zambian Experience,

Geoffrey P Mukala, Zambia

Key words: Tools for managing public acceptance, stakeholders, dialogue

Abstract

The procedure used in gaining public acceptance of small and large dam construction projects in Zambia include: identification, feasibility study, engineering design, environmental impact study, public hearing, official acceptance, and implementation and post completion management stages. At all these stages consensus should be built before moving on to the next stage. The tools used include the National Water Policy; Water Act, 1949; Environmental Protection and Pollution Control Act, 1990; National Development Plans; National Water Resources Master Plan, 1995-2015; and project implementation manual. The degree of acceptance would greatly depend on how transparent the process was handled and how the community concerns were addressed.

Introduction

Zambia is a southern African country with a population of about ten million. The country lies on the Central African Plateau and receives rainfall from November to March. Annual average rainfall varies from 1400mm in the north to 700mm in the south. The major river systems are the Zambezi draining the western, southern and eastern portions of the country before flowing through Mozambique into the Indian Ocean. The northern portion is drained by two river basins: the Lake Tanganyika and the Chambeshi-Luapula systems. Most of Zambia's agricultural production is rain fed. Irrigated agriculture is not fully developed due to limited water infrastructure such as multipurpose dams and irrigation equipment. Out of the irrigable agricultural land available only, is developed. Hydropower generation has not been developed to its full potential. The national electricity grid has not covered the whole country. To accelerate agricultural growth and rural electrification there is need to build multipurpose dams and open up the rural areas with a good road network. These development programmes would need to be planned in such a way that they incorporate environmental impact assessment (EIA) studies and gain popular public acceptance before construction could begin. The mistakes of the past in the construction of Kariba Dam would not be repeated in this era since Zambia has put in place a legal framework to ensure that projects that would impact greatly on the natural environment should be preceded by an EIA before construction to determine the project impacts and how to mitigate against them.

This paper will try to outline the procedure followed in Zambia to mobilise and gain public acceptance of dam development projects. It will also identify the major components of the process and the tools currently in use to facilitate effective decision-making.

Public Acceptance

Communities would easily reach consensus on the need for a project if they see the benefits the project would bring and the improvement to their livelihood. When such consensus is reached that is what is said the project has met public acceptance. Public acceptance in many instances requires that the communities involved is given proper and adequate information and sensitisation to allay fears and doubts on what is being proposed. This should be done in a transparent manner and the project proponents should be of the same voice. Avoid contradictory messages.

Procedure and Components

The first step to public acceptance is to sell the project proponent to the public by building mutual trust and confidence. Local people are wary of strangers, Work your way to gain their trust by fulfilling and keeping part of the bargain you agree with them. Be a good listener and learn and appreciate their The second step is to engage the affected community in public discussions at meetings organised by local leadership to identify and prioritise the people's needs and how to realise them. To solicit other stakeholders' views on the project, place advertisements in the press and conduct radio and television panel discussions. Let these projects be **demand driven** and use **rapid participatory approaches** to allow the people identify problems and how to solve them from project formulation through implementation. In cases where the project is a big dam promoted by government, all the communities to be affected should be involved in dialogue explaining why the project is needed and its effects on the environment. Take note of they interests and agree on how these will be protected and promoted by the project. Anticipated positive and negative impacts should be discussed fully to ensure that the final decision would be made after the communities have been provided with all relevant information. From the outset, it is better to be open to the people's views and allow time to ensure that they understand the project implications and how they would be managed. This is **project identification.**

The third step is to conduct a **feasibility study** and talk to all local stakeholders on how the project should be developed

and implemented. This would culminate in a detailed report called **project feasibility report.** Various options would be considered and selection of the identified project would be taken as optimal. The selection criteria would be agreed upon by all stakeholders prior to evaluation of identified options. The report would also outline agreed roles and responsibilities of identified key players in the project and how to effect them.

The forth step is to design the project and allocate responsibilities. Reiterate the community's agreement on what their duties and responsibilities will be and what government and the nongovernmental organisations will do. The role of cooperating partners should also be spelt out and agreed upon. State clearly what contributions the community is expected to make before and after project completion. Ensure that the community understands this. Take time to convince them; show them success cases from other communities through documentaries and pictures. Study tours including influential community members would help to speed up reach consensus through exposure. Issues of resettlement of relocated people in case of large dams should be adequately covered as provided for by the Environmental Impact Assessment Study Report. A memorandum of understanding would be developed ready for signing before project implementation.

The fifth step is to conduct an environmental impact assessment (EIA) study of the project as per EIA Regulations. This would end in the EIA study report. The Report would identify both the envisaged positive and negative impacts of the project and how to manage them. Management of the impacts would ensure putting in place measures to mitigate the negative impacts and maximise the project benefits. The management of relocated people should be clearly elaborated and be incorporated in the project design document. Water right investigations will also be carried out on request by the project developer to facilitate acquisition of a water permit to impound water. This will result in the production of a water right investigation report.

The sixth step is to conduct a public hearing to allow opponents of the project, if any, to voice their opinion as to why the project should not take off (Water Act, 1949). Objections could also be submitted answering newspaper advertisements within fourteen days at project identification. The majority's positive view at the public hearing is usually taken as project acceptance.

The final step is to secure official consent from the local planning authority, the Environmental Council of Zambia and the Water Board. The decision-making tools submitted to these projects approving authorities include: project design reports and drawings; EIA report and EIA project briefs; and water right investigation report (Water Act, 1949 and Environmental Protection and Pollution Control Act, 1990). The community should be informed of the official approvals to maintain information flow and momentum.

In the implementation of the project, various committees are usually established to harmonise activities. The steering committee would oversee and coordinate all the project activities to their successful conclusion. To ensure transparency, it is better to include local representatives in these organs especially in the steering committee. Major decisions of the steering committee should be disseminated to the community at appropriate time and forum The overall project implementation would be governed by the project implementation manual developed before hand (National Water Policy, 1994).

Information Accessibility

Public access to information is usually on request especially from government resource centres, universities and national libraries. The public media and sector publications such as project reports, newsletters, websites, national development plans, poverty reduction strategy papers and water resources master plans. Other sources include stakeholder meetings, conferences, seminars and poster presentations. Table 1 shows the various sources of information.

Table 1. Source of Information

Type	Language	Format	Source
Water resources data and information	English	Hydrological Year Books, Project reports, Data spreadsheets, Database, Maps	Department of Water Affairs, Met Department, ZESCO Ltd, Zambezi River Authority
Environmental management data and information	English	State of Environment Reports, Project reports, Data spreadsheets, Database, Maps	Ministry of Environment, Environmental Council of Zambia, Zambia Wildlife Authority
Land use data and information	English	Land use reports, Maps	Ministry of Agriculture, Farmers Unions, Ministry of Lands, Town and Country Planning Authority,
Socio-economic data and information	English	National Census Reports, National Development Plans, Poverty Reduction Strategy Paper	Central Statistical Office, Ministry of Finance, UN country offices

Decision-making Process

Informed participation in decision-making process would be achieved through community involvement in all stages of the project. Mechanisms for public/community participation include holding of community development meetings, and establishment of functional community development, dam development/user and project steering committees.

Participatory decision-making mechanisms include consensus building through public debate on developmental issues, assessment of public opinion, use of questionnaires, rapid participatory appraisals and evaluation of public demands.

Demonstration of Acceptance

A project would be deemed accepted by the general public if the following were realised:

- Agreement negotiated and signed between the project proponents and the communities. Recently traditional leaders signed agreements with government to develop nine provincial farm blocks in their respective localities where dams, boreholes, electricity and road infrastructure would be provided to accelerate agricultural and small scale agro-industries.
- Lack of conflict in the project area. This could be achieved if the affected communities agree on dam operating rules and how the water and benefits would be shared. The issue of water rights is very cardinal. Who would own the water permit? What would be the role of the dam user committee in water allocation? What would be the community and individual farmer's contributions towards operation and maintenance of the dam? What would be the role of government? Would the rest of the community gain access to the dam water? Once these questions are clearly answered and all concerned commit themselves to agreed arrangements in operating and use of the dam there would be no conflict.
- Willingness to contribute towards formation of functional dam committees and construction of dam and auxiliary infrastructure would be testimony to public acceptance.
- Opening and maintenance of a bank account for dam preventive maintenance by the dam users committees..
- Ownership of the dam project process and outcomes would be demonstrated by the communities' proactive measures taken in maintenance works, functional dam committees and desire to undertake new community managed projects.

Conclusion

Successful implementation of community projects largely depend on public acceptance translated in community participation in decision-making and contributions in construction and maintenance of the water facility. The degree and rate of acceptance would depend on information availed to the effected communities and their appreciation of the project benefits; recognition of the communities rights and cultural values; and timing of the project activities so as they do not interfere with farming and festive seasons. All these should culminate in the creation and sustenance of community commitment to effective consensus building for implementation by participation in decisions (Global Water Partnership,2001).

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The Experience of Popular Participation in Decision-Making Processes and Elaboration of Criteria on Dams at the Uruguay River Basin,

Sadi Baron, Brazil

Background

The Uruguay River Basin is situated in the south of Brazil between the states of Santa Catarina and Rio Grande do Sul and also between Brazil and Argentina. This river basin is one of the most important in the region. This region has an extraordinary natural richness and it is occupied by peasants (most of them small farmers) that practice the subsistence agriculture and also some of them have integrated productions (integrated means with agro industry) all over the banks of Uruguay River and its tributaries.

In the end of the 1970s the construction of 22 dams in the Uruguay River Basin was announced. Posterior studies indicated 42 projects of dams for that region. These projects will displace more than 35 thousands of families. After the first announcement of the projects, the population started an organisation to defend themselves from the menace of loosing their land. The small farmers had already heard about other dams in different regions of the country, where people like them suffered a lot of damages.

The small farmers, with the help of the church, trade unions and universities, organised a Regional Commission of Dam-Affected People (CRAB), which represented this social sector called dam-affected people.

The struggle had always been against the construction of the dams' projects. The first dams on the list to be built were Iraí and Itapiranga, between the states of Santa Catarina and Rio Grande do Sul. Because of the fight and organisation of the dam-affected people Iraí was cancelled and the construction of Itapiranga had never started.

Because of the authoritarian processes in which dams used to be constructed, the only way that dam-affected people had to resist was to avoid companies to install themselves in the building site. ELETROSUL, the utility in charge of energy production for the south of Brazil, went to the high Uruguay aiming to build the dams of Itá e Machadinho. The resistance was strong. As it was very difficult to obstruct the dams' construction, the dam-affected started to claim for guarantees and just compensations.

In 1987, after strong fights and resistance, an **"agreement"** was made between dam-affected and ELETROSUL. This agreement was a group of criteria and rules that defined how the company must treat the population before the beginning of the building. This agreement was a historical conquest of that specific population. But it was also a historical moment for the history of the electric sector in Brazil, because it was the first time that conditions for the treatment of population were decided with popular participation.

The agreement defined alternatives for dam-affected people after displacements, which were the right of collective resettlement, land by land, and money compensation. Those who were not owners of the land (but who worked in that land by different traditional systems of partnership) would also have the right of resettlement. Even with the agreement, the company did not create conditions for the resettlements. Many times the building was suspended as a way to pressure the company to honour the agreement.

We can state that the population was heard, even if the process of building Itá and Machadinho was very controversial. The process of decision-making was changed cause the companies were obliged to hear and accept the claims of the population because of its pressure and organisation.

The company built the first resettlements. The quality of houses did not satisfy dam-affected people. So, a process of collective building of the resettlements started. The peasants made almost everything by their own hands: construction of houses, preparation of land, communitarian installations, etc. The process was simple: the company transferred funds to an association created by the dam-affected people and this association took care of everything (from the raising of costs, passing through the acquisition of material and finishing with the hiring of specialised labour force that was not available among the dam-affected). This practice created a very special situation: the company waste less money, the quality of the resettlements became 100% better and a spirit of collectiveness was born among dam-affected people.

The experience of decision-making and popular participation at the Uruguay River Basin destroyed the old concept that small farmers, peasants, do not have conditions to propose and elaborate a group of rules and conditions for their own displacement. This experience was forged in the struggle between opposite interests. During the process, the peasants realised that they had a class condition and they should unite themselves against the interests of the other side, which was the company. So, the experience also created a process of identity.

The experience created, too, a process of consciousness. First, it created the consciousness of the right to have rights. Second, the consciousness that just having something written it is not sufficient, like the agreement. In Brazil, as in many other countries, we have wonderful constitutions and laws that guarantee a lot of rights to population but usually they are not practised. Of course, the process of elaborating rules and conditions for the displacement is a guarantee for population, and consequently, a conquer of the people.

Laws, in countries like Brazil, talk very few about compulsory displacement. The Environmental Impacts Assessments

are very tendentious and justify the dams instead of raising the real social and environmental problems. They usually minimise impacts and maximise benefits. The assessments do not correspond to their main goal, which is the verification of viability or not of the projects.

The WCD final report shows that dam-affected people are usually the main damaged with dams' constructions. Dams generally do not achieve their goals: produce less energy, cost more and cause more damages than what is foreseen.

After a regional seminar organised in august 2003, it was stated that the dams built in the Uruguay River Basin did not promote the development of the region. The cities are in the same or even worst situation than before the dams. The lost of their population is one of the worst damages.

So, the process of regional development and country development must be decided in a responsible way. It is necessary to analyse whom benefits with dams' construction. Nowadays, it seems like only the equipment companies, dams builders, consultants and large consumers are beneficiaries.

Taking all this into account, there must be conditions for popular participation in decision making processes, especially, in deciding about regional and local development. Therefore, popular participation must start since the beginning of the decision making process. People must have the power of veto. The social character of natural resources must prevail. Rivers and land cannot be seen as a good but as means of survivor and welfare of the populations.

It is a role of the state to create rules and guarantees to populations in the decision-making processes over water and energy, understanding that these natural resources must be public services as means to generate quality of life for present and future generations.

Usually, processes of decision-making and participation are aborted and destroyed by the methodologies used by states and companies. Populations generally only serve to legitimate pre-stated decisions. Because of this, the Uruguay River Basin experience is very rich: it created the consciousness of class that pressures the authorities to sit with the people and discuss together what to do.

This grade of consciousness just appeared because the involved individuals were part of a movement where they coordinate, decide and have autonomy. To participate it is necessary to have the conditions, the means. These conditions can appear in an autonomous organisation, which should have clear views over wider process of development where it is involved. This is the experience of MAB that discuss the specific situations and also has a regional and national project of development.

To gain public acceptance it is necessary a strong process of information about the different aspects of the projects. Information is a crucial point in the process of participation and acceptance. During the processes of discussion and debate that dam-affected people create on the spaces of study and fight, we understand that it is necessary to use in a rational way the natural resources. Because of this, we are aware that we should discuss an energetic model that could create less damage to the environment. In Brazil, as in other countries, the use of alternative sources of energy (like from sun and wind) can avoid conflicts and allow the production of energy without destroying the environment. The future generations will thank us for this important step.

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