

**A learning process on three approaches
to sustainable development**



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First published: August 2012
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Both ENDS Working Paper Series – August 2012

Approach with Caution:

A learning process on three approaches to sustainable development

This paper describes the key results and lessons learned of a PSO funded project in which Both ENDS and the abovementioned partner organisations jointly set out to refine three existing approaches to sustainable development on the basis of direct experience, best practices, and a review of the literature. The paper aims to help strengthen these approaches and generate an agenda for action in developing each of them in the future.

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to sustainable development**

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1.0 Introduction: why this position paper?

The main aim of this paper is to set in motion a learning process aimed at improving the concepts, instruments and implementation of three key approaches to sustainable development. Both ENDS and partner organisations from a wide range of countries have been working for more than 10 years on the development of a number of approaches that set out to guarantee sustainable and equitable –inclusive– development. In these 10 years we have gained a wealth of experience in implementing and improving the approaches.

As a group, we have arrived at a point in the development of these approaches in which we realise that we are faced with a fair amount of questions that remain unanswered. In fact, the moment has arrived to reflect on all we know and have experienced and find out what the strengths of these approaches are, and where they can and should be improved.

On March 17th 2012, a group of organisations that have actively engaged in the development of these approaches met to reflect on the experiences of the past 10 years and look ahead into the future of the approaches. This document is the basis for reflection and learning during that meeting. It describes the concepts and instruments of three approaches that have been developed over the past years: The Negotiated Approach, the Rights-based Approach and Participatory Land Use Planning. The document is not complete, as it does not yet include the rich experiences of all organisations involved in developing our work. These experiences, and the observations and suggestions from the meeting, will be the input to finalise the summary descriptions for future outreach and identify key points of action to assure that the approaches will increase the capacities of local organisations to influence water and land management policies and practices.

The Negotiated Approach, the Rights-based Approach and Participatory Land Use Planning. These approaches are on the whole internationally well-known and current practice among many different organisations, therefore on the whole they are not new. However in some cases, such as the Negotiated Approach, an attempt has already been made to improve on existing approaches and considerable reflection has already taken place to define what is new and innovative about these approaches. Publications have been released and implementation has been field tested, so that there is already quite a considerable volume of material on which our ideas are based. In other cases, such as PLUP, we are venturing out into the area in the conviction that we are dealing with something very important, but we have a long way to go before we can precisely define what it is that needs to be done and how it can best be applied in practice.

Despite the varying different stages of development of these different approaches, there is on the whole a need for a shared evaluation and learning, resulting in a better understanding of existing approaches, analysis of failures and factors for success, and a more explicit description of the approaches as a basis for communication and outreach. The approaches that are being applied each have their strengths, and yet there is a strong need for clarification on a number of fronts that range from the conceptual through to the practical.

To focus the study being undertaken, a central learning question was formulated which attempted to capture the idea that a single approach can be used in a variety of different implementation contexts, and that each context presents its unique set of challenges. The central learning question was formulated as follows:

How can Both ENDS and its partners effectively transmit the complex knowledge and experiences of relevant approaches to the change agents¹ for their implementation?

In turn, the central question develops into three sub questions that are essential to answer the central learning question:

1. **Conceptual (What):** How can the working area or domain of these approaches best be demarcated?
2. **Tools (How):** Which are the most appropriate instruments that can be used to implement the approach?
3. **Implementation challenges:** what are the key obstacles to the effective implementation of these approaches?

As a result, funding was sought from PSO to enable a process of panning out from day to day realities in order to strengthen the approaches themselves and encourage learning processes within Both ENDS and between Both ENDS and its partner organisations. This paper takes on each of our approaches in turn, subjecting them to review in terms of key concepts, main tools and in terms of problems experienced with their implementation. As a 'position paper', its key result is an agenda for action, i.e. a road map for the strengthening of all three approaches both in theory and in practice.



¹ This relates primarily to CSOs, but also e.g. community leaders, (local) government representatives and donors.

2.0 The Negotiated Approach

The aim of the Negotiated Approach (NA) to IWRM is to shift the initiative for the development and implementation of river basin plans from the state to actors in civil society. While river basin plans developed by government agencies may claim to be in the public interest, there is no guarantee that these plans actually are in the public interest unless the contents of these plans have been developed by water users themselves. The Negotiated Approach seeks to improve the legitimacy of river basin planning by altering the process through which it takes place. It asserts that people themselves are able to manage their own resources, a local level but also at basin level.²

The NA therefore empowers local communities to improve their own livelihoods and works to create rules and regulations that assure their equal participation in decision-making processes.

The NA goes beyond standard participatory approaches, where people are invited to react to already developed plans. The NA chooses a different starting point and generates a power shift in decision-making: local communities create their own plans and propose these in multi-stakeholder processes with the long-term objective to take charge over the resources and manage them directly, especially in situations in which government and its agencies do not do what they are supposed to be doing.

Since 2002, the NA has been applied to river basins as a whole, which includes land resources, fisheries, agriculture and forests. Managing a river basin is clearly not only about managing water. In addition, the concepts and principles of the NA have been successfully applied by Both ENDS and partners in the field of adaptation to climate change³ and dryland management. The NA is thus not restricted to IWRM. However, for the purpose of this position paper, the concepts and tools described do focus on IWRM.

"The Negotiated Approach is an approach towards sustainable natural resources management aimed at enabling local communities to protect and fulfil their rights and propose and negotiate viable long term strategies to alleviate poverty and ensure healthy ecosystems"⁴.

2.1 Principles and concepts of the Negotiated Approach

The Negotiated Approach has both emerged and been developed in the field through the efforts of community-based organisations (CSOs) and non-governmental organisations (NGOs) in various parts of the world. They have applied the principles of Integrated Water Resources Management (IWRM) in a bot-

² See Both ENDS and Gomukh Environmental Trust with contributions from AEDES, FANCA, ECOA, and Telapak (2011); *Involving Communities*. A Guide to the Negotiated Approach in Integrated Water Resources Management, pg. 1 and pg. 5

³ see www.adapts.nl and www.dry-net.org

⁴ This formulation was taken from a Both ENDS fact sheet on the Negotiated Approach entitled "the Negotiated Approach towards inclusive, sustainable natural resources management". Amsterdam: Both ENDS (2011).

tom-up approach that is flexible, multi-dimensional and participatory, while maintaining a strong focus on location-specific issues. Their focus has been the achievement of equity and sustainability in the management of natural resources, and ensuring the empowerment of communities to manage their own resources.

Despite being participatory in design, IWRM is often implemented in a top-down and centralised manner in practice. When this happens, the interests and capacities of those living in the sub-basin or micro-catchment are not fully taken into account. IWRM tends to take a macro-level master plan as the starting point for management interventions. In such a master plan approach, the methods used become reductionist and based on a range of assumptions about local needs, water availability and flow characteristics, economic development projections and so forth. Because such master plans depend on the use of assumptions, they almost by definition tend to be in conflict with local realities. It is precisely the lack of attention to local needs and knowledge and local environmental realities that leads to a lack of a truly 'integrated' plan for water management.

In other words, the master plan approach assumes, in general, that:

- a) The basic responsibility of preparing a Master Plan, implementing and executing it, and eventually managing the systems is an exclusive preserve of the State and/or its Agencies.
- b) public participation is limited to filing objections and suggestions through a consultative process
- c) project authority/proponent may or may not include suggestions or accept objections,
- d) Eventual consent given by the community need not be based on free, prior and informed process.
- e) and lastly, that under the doctrine of 'Eminent Domain' i.e. the preponderant right of the State to take any decision of action it deems to be in "public interest"

The NA is a different proposal to such a master plan. The NA to IWRM provides an alternative approach to implement the (in *theory* sound) concepts of IWRM (see box below), based on the premise that people are able to (co) manage the water resources on which they depend.



Box 2.1 Key concepts of Integrated Water Resources Management

Perhaps the shortest synthesis of IWRM is the idea that it refers to the 'holistic' management of freshwater¹. The concept was placed on the international agenda at the International Conference on Water and the Environment in Dublin in 1992, a preparatory conference for the United Nations Conference on Environment and Development (UNCED) which was held in Rio later than year. At the Dublin Conference, stakeholders agreed on the principle that "water development and management should be based on a participatory approach, involving users, planners and policy makers at all levels"¹.

The concept of Integrated Water Resources Management has various definitions, most of which are related to the interrelatedness and interconnectedness of different water uses within a catchment. IWRM could be summarised as the attempt to integrate all aspects of interventions in water resources in a management plan at the level of a catchment. This replaces (politically determined) water resources management areas by (naturally determined) catchment areas. The provincial and district-based water resources management systems of the past are thus replaced by institutions representing sub-catchments within the framework of an umbrella catchment management agency.

Furthermore the concept of integration applies at four levels. Firstly, IWRM stems from the idea that water resources can only be managed sensibly and effectively at the level of the hydrological cycle. It is at the level of the river basin that atmospheric water, surface water, groundwater, estuaries and coastlines are connected. The catchment is a natural unit for water resources planning as it integrates all localised impacts on water resources in a catchment in catchment management plan. Secondly, IWRM attempts to take account of all aspects of the complex physical and ecological system within a catchment, including human effects, into planning. The attempt to integrate all these systems into a plan at catchment level requires many different kinds of knowledge: biology, geography, chemistry, town planning, etc. Therefore ideally IWRM must be interdisciplinary so that decisions relevant to the environment are as comprehensive as possible. Thirdly, planning and management should be participatory and teams should be accountable so that detailed information about the environment and the livelihood ambitions of local communities are accounted for in plans at higher levels (this seems to be the main area of intervention of the Negotiated Approach). Fourth, catchment plans needs to be flexible and adaptive to take account of continuous changes in human and natural environments, thus they need to 'integrate' temporally.¹

The NA is guided by ten key principles, which are:

- I. Prioritizing self-motivated local action to initiate the Negotiated Approach
- II. Empowering local communities to assert their basic rights to water
- III. Maintaining flexibility to negotiate at different levels simultaneously
- IV. Optimizing the use of water resources by integration
- V. Taking decisions by consensus at the lowest appropriate level
- VI. Up-scaling water management initiatives through iterative negotiations
- VII. Maintaining the integrity and resilience of ecosystems
- VIII. Working to achieve and maintain a gender balance
- IX. Using appropriate science and technology⁵ s towards sustainable development
- X. Promoting transparency and accountability

⁵ I.e. with consideration given to aspects such as indigenous/local knowledge and practice, local income levels, capacity to maintain infrastructure

The first three principles are specific to the Negotiated Approach and are described in detail below. The remaining seven are assumed to be well understood as they are also critical to the IWRM process in general.

The principle of self-motivated local action asserts that the community's role as an initiator, manager or co-manager of water systems is on a par with parts played by government agencies and other established institutions. The Negotiated Approach asserts that the community's role has to be in the form of a decisive, continuous and long-term sustainable management process.

The principle of empowering local communities recognizes water as a social good and the right of communities to access the resource as a human right (including quantity as well as quality aspects). This is incumbent on community empowerment, which means enhancing the community's ability to negotiate and make wise decisions based on both inherited knowledge and scientific data.

The principle of maintaining flexibility states that a flexible approach is imperative as IWRM functions in a dynamic environment where external and internal conditions continuously change. This is in line with adaptive management, where appropriate and applicable changes in strategies and interventions are made according to the feedback received from monitoring and evaluation processes. According to this principle, simultaneous and iterative procedures are needed at various levels, based on the recognition that water management takes place at multiple levels and that external changes at one level may result from internal changes at another level.

[Key concepts of the NA: Negotiation and strategic management](#)

The first concept that is essential to understand the Negotiated Approach is the concept of **negotiation**. The NA defines negotiation in a positive manner, emphasising that it is not about "battles over how to divide up a fixed 'pie'" but about "a creative interaction process that stimulates change and innovation"⁶. Participants in the negotiation process seek to arrive at a point at which they see their various interests reflected in a 'multi-merit solution'. Negotiation, in this sense, is a dialogue seeking to eventually achieve an optimal sharing of benefits among water users, or a win-win situation.

Yet, not all dialogues aiming to achieve benefit-sharing are automatically NA processes. Crucial within the Negotiated Approach are the *conditions* in which the dialogue is taking place. In a NA process it is necessary to guarantee adequate conditions and adequate spaces to ensure equitable participation of all stakeholders and different social groups. Women may for example not be able to leave their children at home, so during negotiation meetings child care should be provided. All stakeholders in the process should enjoy equal rights and capacities. These rights should jointly be discussed and established amongst the parties and needed capacity building support, for example in negotiation skills, should be provided before entering in a dialogue. The participation in negotiations *in itself* is also a process of capacity building for stakeholders. *Involving Communities* describes negotiation process as follows:

⁶ *Involving Communities*, pg. 62

“One essential aspect of the approach is that negotiations are viewed as a process of involvement, in which participants increase their understanding and capacity to solve problems to serve a common interest, and not necessarily as a process of bargaining. Negotiations thus refer to participation through open, flexible and creative interactions in which all stakeholders enjoy equal rights and capacities to join with the aim to find solutions in which their different interests are reflected and benefits are optimally shared”⁷.

A second concept that is essential to an understanding of the Negotiated Approach is the concept of **Strategic Management**, defined as a:

“structured, cyclic and iterative management approach aimed at continuous learning that encompasses all steps in the management cycle”⁸.

This conceptualisation of strategic management is multi-faceted and complex, and needs to be explained further. Two elements are highlighted in *Involving Communities*, i.e. *continuous sustainable negotiation* and *continuous learning*.

Continuous sustainable negotiation refers to both the *cyclical* nature of planning in the context of strategic management, and to its *iterative* nature. Whereas ‘classical’ IWRM is typified as a once-off or ad-hoc process, the Negotiated Approach is a cyclical management process, from the formulation of targets, the identification of interventions, options assessment and implementation, to monitoring and evaluation of progress and back to the targets and interventions. It is cyclical and continuous in that the planning cycle moves continuously through these phases. It is iterative in that feedback mechanisms are built into planning through monitoring and evaluation.

Continuous learning refers to the fact that each element of the planning cycle provides moments of reflection leading to findings which provide an input into the next cycle. Sustainable development and social change is a dynamic process which needs continuous adjustments and applying new insights (learning by doing). In this sense the planning cycle is also a learning cycle, and if well structured, strategic management therefore also results in continuous learning. Much emphasis is thus placed by NA on the flexibility of the process, i.e. that multiple perspectives are possible, that conclusions may lead to a review of objectives and interventions, and that evaluation criteria might change.

The sustainability of strategic management is related to flexibility: decisions need to be supported by all stakeholders if they are to be sustainable. Local communities located in different parts of a basin may find it difficult to comprehend or decide about an infrastructure project or a basin plan. In this case the rounds of discussion are divided into three or more phases: first a conceptual framework, then an options assessment and identification of investment projects, and finally integrating and weaving the different sectors/ ecosystems into a comprehensive plan. At each stage there is an element of ‘learning by doing’ and ‘growing with complexities’, which makes the process iterative and therefore cyclical.

⁷ See Both ENDS and Gomukh (2011): *Involving Communities*, Op. Cit, pg. 7

⁸ See Both ENDS and Gomukh (2011): *Involving Communities*, Op. Cit, pg. 75

2.2 Challenges with regard to the concepts of the NA

A first conceptual challenge is pinpointing the **difference between the NA and other participatory approaches on the one hand, and the NA and multi-stakeholder dialogues on the other**. The NA has the following to say about this:

- 1) The difference between the Negotiated Approach and many other participatory approaches lies in its starting point. Whereas many participatory approaches are initiated by an external agent, from the point of view of the Negotiated Approach, external forces cannot drive the process. It takes the local level as the starting point⁹. Participation in this sense is not about being able to react or 'negotiate' minor changes in *already developed* plans, but to jointly develop these plans, to determine the principle elements of a development strategy. This implies a power shift.
- 2) The difference between the NA and many multi-stakeholder platforms lies in the *active* and *equal* role of local actors in planning, action and monitoring. Equality implies all stakeholders should have access to the same information and knowledge, it often implies building capacity of local stakeholders, and it needs open, two-way communication channels, joint fact-finding and active involvement of local actors in institution building.

A second, related, conceptual challenge is **the term 'the Negotiated Approach' itself**. The term appears to have different connotations for different people. Not all negotiation activities are automatically a Negotiated Approach (see the specific features of an NA as described above). Negotiation is often seen as a method, while the NA is a broader approach which *includes* negotiation, as well as empowerment of local actors and creating political space and a level-playing field for local stakeholders to negotiate, etc.

Also, for many people negotiations imply that there is a conflict between communities and authorities/companies or between communities, while in fact the NA not always needs to evolve out of an existing conflict. The term 'Negotiated' in the NA implies all stakeholders are able to sit at the same table and talk about differences in understanding and develop joint, negotiated, plans. In this way, opposing interests can be discussed and conflicts avoided.

At the same time, CSOs note that it is useful to have an official (internationally well known) approach to work with. It helps with their credibility towards communities as well as authorities.

A third conceptual challenge is to clarify how enhanced participation promoted by the NA leads to environmentally sustainable IWRM and improved water governance. As the title suggests, the NA manual *Involving Communities* devotes the dominant part of its text to strategies for enhancing participation. In its own words,

"The NA stands in particular for the meaningful and long-term participation of local stakeholders in all actions and practices of water resources management"¹⁰.

⁹ This does not mean that an external organisation cannot be involved: if there is a clear mandate from the community for an external organisation to facilitate the planning process on its behalf, then an external agent can be involved.

¹⁰ Both ENDS and Gomukh (2011): Op. Cit, pg. x

If the NA aims to strengthen IWRM across the board, it needs to explain why it places such emphasis on participation rather than on all four dimensions of IWRM (see box 2.1. above). The response of the NA to this particular question is that:

1. The NA also takes the River Basin as the natural unit for planning (this is the first level of integration). Therefore, the NA is not just focused on participation but also on integrated planning of water utilisation;
2. Participation of local communities contributes to interdisciplinary planning (the second level of integration) by integrating traditional knowledge and local practices and solutions, as part of a variety of different perspectives (hydrological, climate, socio-economic, environmental expertise) into a river basin plan;
3. Strategic management involves regular evaluation of river basin plans and the correction of these plans in response to new insights. Therefore the NA responds to the fourth level of integration, i.e. temporal integration or flexibility.

Similarly, on page xii, *Involving Communities* lists some of the problems associated with IWRM to demonstrate the need for the NA. These include a number of governance issues, for which it may not be clear how the NA can contribute in solving them. These issues, as well as the response of the NA are:

1. Governments continue to work in over-specialised fragmented sectors, giving priority to their own production-driven sector objectives.

The NA promotes and advocates for institutional changes in the way in which water is being managed, notably 1) by taking hydrological (catchment, river) rather than geographical (region, province) boundaries as the unit of planning avoiding fragmentation, and 2) by taking the local level as a starting point and base planning on the needs and ambitions of local water users rather than priorities of sectoral government institutes.

2. There is a lack of constitutional clarity about who is responsible for what. Mandates and ownership are often unclear, while laws and regulations are insufficient to meet the needs of day to day management.

The NA aims to achieve an appropriate legal and institutional framework enabling communities to take charge of their own resources. Many cases all over the world have shown that proactive citizens demanding participatory processes can in fact change status quo and change these frameworks. The Freshwater Action Network-Central America (FANCA), together with other organisations and networks in Central America, for example has succeeded in changing various old or inappropriate water laws and regulations in amongst others Nicaragua, Guatemala, and Costa Rica. These laws now allow for decentralised, participatory planning which better responds to addressing daily realities.

3. Information is not easily available, out of date, incomplete and/or inconsistent.

By making use of public spaces or rights such as the Ombudsman, the Right to Information or claiming information through judicial channels, CSOs can collect and integrate key information. An enhanced participatory democracy will ensure CSOs are more able to claim adequate information, enabling them to combine, integrate and use this information effectively. Authorities need to respond to these claims.

2.3 Overview of the instruments of the NA

The NA has evolved based on positive experiences in the field, rather than being developed from the drawing board. There is no fixed set of instruments or steps that need to be taken in a particular order for its implementation: the NA is a flexible approach. Because each climatic, economic, political and cultural situation is unique, the strategy for implementation needs to be adapted to these realities.

The NA therefore does not prescribe a fixed roadmap. Instead, it offers a framework, based on specific premises and principles, as well as a series of 'building blocks' and elements which need to be addressed, often simultaneously and at various levels.

Three central building blocks can be distinguished in the NA¹¹:

- 1) Knowledge development
- 2) Empowerment of local actors
- 3) (Creating an enabling - institutional, legal, social – environment for) negotiations

Each of these building blocks include specific elements / activities which can be set in motion by using various existing tools such as Participatory Rural Appraisal, policy analysis, hydrological modelling, GIS, etc.

Wherever the NA is used, including in the ADAPTS¹² and Drynet programmes¹³, which implement the NA in the field of climate change and drylands respectively, relevant or new tools will emerge which will expand the shelf of options available for NA. Gathering and documenting all these options will result in a wealth of relevant tools, instruments and practices to use when taking up the Negotiated Approach. A first overview of different tools used by NA practitioners, and best practices to share, are gathered in the table included as annex 1. This table is still work in progress.

The three building blocks are briefly described in turn below.

2.3.1 Knowledge development

A crucial step is to understand and assess the historical and existing environmental, socio-economic, cultural and institutional context in which the NA is taken up. This includes, *inter alia*:

- a) Collecting and analysing (scientific and other) data and information on the status and trends in the natural and cultural system, the impacts of climate change or outside interventions on the availability and quality of water resources, the available local knowledge, the sectoral or river basin plans when available, and the distribution of access to resources, etc. Tools to be

¹¹ These three central elements are explicit in the 2008-2011 ADAPTS programme. *Involving Communities* describe all three elements but does not list them as such. In a workshop in Entebbe in 2011, the table was used as a basis for a gap analysis by organisations interested in taking up an NA. It showed them which elements they already pursued and which need (more) attention.

¹² See www.adapts.nl

¹³ See www.dry-net.org

- used include climate and hydrological modelling, policy analysis, power mapping, EIA, impact studies etc.
- b) Identifying local action and assessing the livelihoods, needs, solutions and ambitions of local communities and key agents of change. This is important because too often in the past, communities have had to rely on the understanding of government agencies who, based on second-hand, limited and oversimplified information, tell them what problems they should have and what solution would be best suited for them¹⁴.
 - c) Stakeholder and power analysis: A map of actors, policy of alliances (tactical, strategically)

Importance of both empirical and scientific knowledge

*** Working with academics, researchers and local professionals in the region has been important in our experiences. We can say that without them the strength our campaigns against certain megaprojects, and also the formulation of good environmental legal norms, would not have seen such positive results. Also access to lawyers and the Ombudsman has been relevant to access relevant and timely information and knowledge about investment projects, laws, etc. But also popular social knowledge has been relevant in several cases.

M'Bigua

*** In our experience in Costa Rica the alliance between the academics, NGOs and social organisations has been key. It allowed for the development of a process of elaboration of the water law bills with strict scientific and technical parameters. It allowed us to negotiate with governments, private sector and other stakeholders in the same conditions and sometimes in better conditions than them. But also the knowledge obtained from the experiences from the community water boards was fundamental. They were the ones pushing the process and who elaborated the bill with the collaboration of NGOs and networks like FANCA and ANDA.

FANCA

*** Subak is the name of water management (irrigation) system for paddy fields on Bali island. For Balinese, irrigation is not simply providing water for the plant's roots, but water is used to construct a complex, pulsed artificial ecosystem¹. Paddy fields in Bali were built around water temples and the allocation of water is made by a priest.

Subak had been described by Clifford Geertz, but it was J. Stephen Lansing who drew attention to the importance of the traditional system. He was studying Balinese temples, focusing on the water temples, whose importance tended to be overlooked by foreigners. In 1987 Lansing worked with Balinese farmers and agriculture officials to develop computer models of the subak, demonstrating its effectiveness. Officials finally acknowledged its importance.

Telapak

In gathering information both empirical and scientific knowledge are crucial and need to be combined. From there a first SWOT analysis and plan can be developed for the initiation of the NA. In annex 2 a relevant format for this knowledge development – otherwise known as the 'inception phase' - can be found.

¹⁴ See Both ENDS and Gomukh (2011): Involving Communities, Op. Cit, pg. 42

2.3.2 Empowerment

The empowerment of local actors to enhance their livelihoods and capacity to negotiate their interests with policy makers is a crucial part of the NA. Negotiation itself can be seen as a key instrument for empowerment. Through the process of involving communities, a learning process is set in motion which is empowering for these local communities. *Involving Communities* states:

“The NA creates opportunities for communities to conceptualize their development objectives and priorities in terms of water resources, as well as relation to land, biodiversity and manpower. It is possible for communities to use their acquired knowledge and time-tested traditional technologies as the building blocks for the development of water resource management strategies and plans.”¹⁵

Empowerment also means raising awareness on rights and policy developments, providing tailored information and appropriate technologies, building negotiation skills, investing in individual leadership and change agents, facilitating visioning exercises, supporting local institutions, facilitating unity building and improving people’s livelihoods by implementation of concrete measures on the ground (see tools include awareness raising campaigns, training, establishment of self help groups and information centres, conducting role plays, etc etc.

Water quality monitoring tool using *biotilik*

A member of the NGO *Telapak* in Brantas River Basin, Indonesia developed a simple tool to indicate the health of a river by identifying biota. *Biotilik* is a terminology that consists of two syllables *bio* and *tilik*. *Bio* refers to biota which is the small animal invertebrates that become the indicator of water quality. *Tilik* is the Indonesian word for supervising or monitoring.

It is easy for people to use the system since they are familiar with the biotas, such as dragonflies (*Odonata*), *Anggang- anggang* (*Gerridae*), *Bibis* (*ladybugs dish*) And crab (*crustaceans*). When people face a water crisis and seek for a good place to dig a well, they will use a hole of an insect called *yuyu* as indicator of source water. When there is high pollution, most of these biota just disappear.

It is important to communicate information to communities in an accessible, simple way so people understand and can effectively make a use of it. Local leadership is needed as well as leadership of a CSO who can take charge of the technical data provision, demystification of data and to support the link with banks or authorities.



¹⁵ See Both ENDS and Gomukh (2011): *Involving Communities*, Op. Cit, pg. 42

CAP instrument as basis for tailored capacity building programme

During 2008-2010, FANCA (Freshwater Action Network Central America) developed a strong process of capacity building targeting community water boards and civil society organisations which was an extraordinary example of empowerment of civil society at different levels.

The process starts with the creation of a baseline to determine the level of knowledge of the organisations in different areas. This baseline is elaborated applying an instrument called CAP, which allows one to collect information on Knowledge, Skills and Practices of the target group (in Spanish CAP: *Conocimientos, Aptitudes y Prácticas*). CAP collects both qualitative and quantitative information. With this information FANCA elaborates a program of skill training and capacity building in close cooperation with the beneficiary organisations.

Techniques used include direct exchange of experiences between local actors of different countries, field visits to see successful experiences, and local, national and regional workshops with experts. At the same time it is important to guarantee that participants return to their communities and replicate the knowledge acquired during the process. In order to achieve this, FANCA asked for a commitment of each participant that at the end of the process they will replicate it in their own communities. This commitment was documented.

Finally, it was important to design an instrument to assess and evaluate the new knowledge. FANCA is not interested in how many workshops or classes they received, but in the real new knowledge they gained in the process. So another instrument was applied based on the same CAP methodology to analyse the level of change and the level of impact of the process. And the results were extraordinary.

FANCA



Blogspots for awareness raising and community mobilisation

The so-called river defender groups set up by the network organisation Telapak in Indonesia are open, online voluntary groups, set up to raise awareness of people on water issues and mobilise them to take care of their water resources, for example by organising events to collect garbage from the river etc.

Examples are the Ciliwung Community in Ciliwung (<http://tjiliwoeng.blogspot.nl/>), Kampar River Defender in Riau (<http://kamparriverdefender.blogspot.nl/>) and Garda Brantas in Brantas River basin.

Telapak

2.3.3 Creating an enabling environment

Creating an enabling environment for negotiation includes advocating for appropriate institutional and legal frameworks where needed, as well as setting up or strengthening negotiation platforms themselves.

Creating a strategic and coordinating platform

Negotiations should take place in a setting which embraces *Strategic Management*, a key concept of the Negotiated Approach. To implement strategic management, it is necessary to establish a strategic coordinating platform.

A formal or informal strategic and coordinating platform could first be formed at the very local level, for example by setting up or strengthening local water user associations. Later on, these platforms could be scaled up to cover a (sub-) catchment or river basin (i.e. expanding the geographical scale and scope of operations of existing platforms or connecting local platforms in a river basin level platform).

The platform needs to facilitate the formulation of strategies by all stakeholders and to use these strategies to guide and coordinate interventions and flexibly adapt strategies to new findings and developments. In other words, the platform is involved in the three key stages of management:

- the formulation of strategies;
- the implementation of interventions and
- the monitoring and evaluation of the impacts of these interventions

Advocating for an enabling institutional and legal framework

The effective implementation of the NA often requires a legal and institutional setting allowing political space for local actors so that they can play a key role in natural resources management. This requires lobby and advocacy or making use of favourable rights, laws or policy changes, such as decentralisation processes (see also annex 1).

Success in advocating for an enabling environment

In Nicaragua and Costa Rica, FANCA successfully advocated for a new institutional and legal environment for water management in these countries. In 2005 they started to collect and document information on the number, functioning and impacts of existing community water boards in Central America, boards set up and managed by local communities in areas where the government was absent. In close cooperation with the community water boards, FANCA started a process to elaborate specific water laws, focusing on the strength of these social structures and their role in IWRM. Simultaneously, they started a dialogue with national authorities on the necessity to revise the current legal framework. This has in the end led to the approval of a community water law bill in Nicaragua. In Costa Rica it is being discussing in the legislative environmental commission.

Tools

Tools include establishing a process of strategic management, addressing the internal functioning of these platforms, linking to policy processes, lobby for the (recognition and/or implementation of the) right to water, etc etc.

2.4 Challenges with regard to the instruments of the NA

2.4.1 Flexible versus specific

The first general challenge with regard to the instruments of the NA is the dilemma of flexibility. The NA is comprehensive and flexible, and therefore it will inherently remain 'vague' to a certain degree. Reality simply does not come with a strict manual to follow. Therefore the challenge is to make the building blocks and relevant tools more explicit without suggesting a fixed road map.

In clarifying the tools a related challenge is to use clear terms in a consistent manner: concepts, principles, building blocks, elements and tools. The terms have proven to be confusing sometimes¹⁶.

An important note with relation to the NA toolbox is the *complementarity* of the building blocks and the elements which fall under these building blocks. All these elements *together* will constitute an NA. Setting up a multi-stakeholder dialogue without addressing power differences related to unequal access to information or negotiation skills is not a NA. Raising awareness of communities about their rights without creating political space for their voices to be heard is not enough. Neither is enhancing negotiation skills of communities without addressing people's direct needs and improving their current livelihoods. The specific context however will prescribe which elements needs most attention and when. NA is non-linear, so can be started anywhere in the process and different steps can be taken simultaneously. This may be confusing, but in fact makes you adaptive to reality, to new threats, developments or opportunities that arise along the way.

2.4.2 Collecting, documenting and sharing tools and instruments

In the already existing cases where the NA was applied, including the Both ENDS' ADAPTS programme focusing on climate change, various tools and instruments have been used and developed which are relevant in working with the NA. In conducting a needs assessment of communities' needs, practices and ambitions existing or new methods have been used, including Participatory Rural Appraisal, surveys, and Livelihood and Activity Analysis¹⁷. However, *Involving Communities* for example does not contain a description of these tools. The challenge is to ensure time and effort is put into the further structured collection and sharing of these tools in an appropriate way. The current 'toolbox' in annex 1 is a first attempt to do so (links and references still to be included). Also, the meetings organised as part of the current project which enabled the writing of this position paper are a good example of sharing and learning about relevant tools and practices. These efforts need to be continued in the coming years.

¹⁶ Regarding the various terms being used, it may be noted that this challenge is not typical to the NA. It is applicable to every single international document (UN/ World Bank) where even terms like 'sustainable development' and 'national sovereignty' have multiple meanings and connotation. But efforts at clarifying terms and bring about consistency are of course be welcome.

¹⁷ It should be noted that needs assessments are not relevant for local communities initiating the NA, since they are aware of their needs and do not need instruments to assess them.

2.4.3 Specific gaps in available tools

Another challenge with regard to the instruments of the NA relates to the need to further work on specific tools that are needed in implementing the NA. Some of these are described below.

a) Capacitating local community organisations

A specific challenge relating to the instruments of the NA is the role to be played by local community organisations. Since 'local communities' are the focus of the NA, considerable focus should be placed on the development of instruments for the strengthening of local organisations such as Water User Associations, which form the basic building block of IWRM processes. Also, local institutions are the brokers of local knowledge, traditions and culture and there is often a difficult knowledge interface between external bureaucrats or development agencies and local organisations. Local organisations need to be supported to express and document their knowledge in support of discussions with external parties such as government officials.

b) Dealing with power imbalances

Another question is how to ensure a real voice in negotiations for local communities against the background of power imbalances. In every catchment area there are powerful stakeholders who usually have the privilege of determining allocations and shaping planning. In order to ensure inclusive planning, the political status quo needs to be broken. What methodologies are there for the inclusion of poorer groups as well as to introduce and enforce non-discrimination? Some preliminary answers include:

- NA processes can commence where a local action group or a CSO/NGO forms a nucleus for initiating local action. Under this assumption, local communities take their place at the negotiating table without external assistance? Nevertheless what needs to be documented is the way in which powerful groups have adapted their ambitions to take account of the ambitions local communities, and whether this affected the position of the poor at all.
- With regard to addressing power differences, it is for example important to:
 - Appoint a neutral facilitator
 - Assure free flow of information
 - Ensure all actors recognize explicitly that power differences exist
 - Ensure meetings are organised in places and at times when and where communities can actually participate
 - Facilitate cooperation between local communities
 - Be clear on the traditional, socio-economic or formal rights of people
 - Recognise the basic rights of all to basic levels of access to safe water for domestic and subsistence purposes as a minimum starting point for discussions
 - Ensure negotiation is about interests, not people
 - Decide on grievance mechanisms

This should be further elaborated.

c) Creating an appropriate legal and institutional enabling environment

The NA needs to further clarify the building blocks that can be used to improve water governance: what are the recommendations of the NA with regard to the appropriate legal, institutional and administrative mechanisms that need to be in place in order to enable effective implementation of the NA? Which laws, institutional structures and administrative mechanisms have proven to be effective in creating a supporting environment for the NA to emerge?

Many NA practitioners have experiences and will be able to answer this question. This should be collected. Basic requirements of an NA appropriate legal and institutional framework include:

- Water management planning at catchment or river basin level
- Decisions on water management made at lowest appropriate level
- Ombudsman mechanism/ complaint mechanisms where local people can directly access decision making processes;
- Funding made available by the government to support engagement of local actors in negotiations (e.g. for capacity building, consultancies, time spent);
- Transparent functioning of the private sector and control by public sector;
- Right to Information

In India, together these three laws were powerful enough to make the NA happen.

- (National) Constitutional amendment '93 India, which empowered village communities to manage, plan and development their own natural resources.
- (State) 2005 Farmer managed irrigation system act, which enabled the formation of water user associations on all canals.
- Right to information act (RTI)

d) Addressing environmental sustainability

A final challenge related to the instruments of the NA is the question how the NA contributes to environmental sustainability. The NA is promoted as an approach to sustainable development. As such, it is necessary for it to contain recommendations on how to protect the natural environment within a river basin. At present, there are no clear instruments for environmental protection described in *Involving Communities* that aim to achieve this, while there is a wealth of instruments and institutional processes for the protection of upper catchments, wetlands, high conservation value areas, river embankments as well as flood control, protection against soil erosion, protection against point source and non-point source pollution, the stimulation of microclimates and the encouragement of groundwater infiltration.

In practice, clearly, the NA cases do show the importance of environmental protection. In South-America for example the key result of the proposals and negotiations from a large alliance of CSOs in the 5 riparian countries of the La Plata Basin, resulted in the recognition by the Environment Ministries of these countries of the Parana-Paraguay River System as an important, connected ecosystem, which requires an integrated plan for conservation and development. Other examples can be found in the box below and under chapter 2.5 Experiences with implementing the NA. Still, methods to mainstream ecosystem protection needs to be further developed with the NA. NA processes should always include agreements by all stakeholders how to protect and nurture the ecosystem and how each plays an active role in this.

Preliminary answers include:

- Scientific analysis of the flora and fauna of the (sub) catchment to identify ecosystems and species under threat and highlight both high conservation value areas and species which need special protection;
- Hydrological analysis of the (sub)catchment to identify areas prone to drought, groundwater level subsidence, floods, soil erosion and pollution and highlighting key areas for possible intervention to protect the hydrology of the catchment as well as its soils
- Cultural analysis of the (sub)catchment to identify natural areas of specific cultural and spiritual significance as well as existing cultural practices that reinforce public values related to nature and water;
- Maintain or increase pressure on government to assure basic access to water and land for communities to avoid them being forced to encroach on their immediate environment
- Create multi-stakeholder platforms with 'representation' of 'nature' taken up by a specific organisation or person; clear agreements about the division of roles among government departments and nature protection agencies about who is responsible for what aspect of the environment and how the organisations will cooperate.
- Assure objective information is available, via joint fact-finding
- Increase awareness
- Make use of existing environmental laws and regulations (national and international). For example in India, groups used the '72 wildlife protection act, the '60 prevention of cruelty to animals act and the national 2006 Conservation of Biodiversity Act, as they officially recognize the rights of animals, forests etc.

2.5 Experiences with the implementation of the NA

2.5.1 The contexts in which the NA can (not) be applied

Generally speaking, the NA can be implemented under most conditions, though each situation requires its own set of specific strategies. The only requirement is the existence of some form of local action or ambition to take charge of the resources people depend upon. No specific appropriate legal framework need to be in place to be able to start a NA: again, the NA is open, flexible and starts from the premise that everything is negotiable.

Current evidence suggests that the NA functions best in areas where government presence is weak and activity is limited: weak or inadequate management by the administration can also more easily mobilise people to take action. Here, it is easier for communities to take charge of responsibilities normally left to the state, and manage their own resources. However, this does not mean a permanent shift of responsibility to citizens: once a plan is in place and being implemented it can be scaled up to the various state levels again. This is not to say that in areas with well-settled administrative systems, the NA cannot also be applied. In these areas, local organisations and unions are also well established that provide a base in civil society on which to build. In such cases controversial outside interventions (e.g. large-scale dams or plantations or oil development) can trigger an NA, requiring local actors to take up an active role in managing resources.

In situations of war and violence, history has proven that negotiation is the only tool available to start bringing people together. In such conditions, a rights based approach is problematic because the law is overruled and most rights are not recognized. Negotiations take place essentially between people who disagree and therein lies its merit.

NA in a repressive regime

One of the best examples of the NA being able to achieve result under highly difficult conditions is Honduras, where there was a military coup and the regime is extremely repressive against civil society organisations. What FANCA and its partner organisations have done is to avoid working with the national government and focusing on the lowest levels. It was impossible to work with the national government because they do not respect the law and democracy, and corruption is terrible. There is no trust between civil society and government. But at the local levels this is different. The local governments are closer to the people; CSOs know them and are in touch with them. Here it was possible to develop a process of dialogue and negotiating. We are developing (micro) river basin plans and strategies, and empowering the community water boards to negotiate with the local authorities about the different uses of water in the micro river basin. In the end we achieved an important agreement the community water boards to use water in the micro-river basins to supply to their communities. So the NA principles are valid even in these conditions, but it will require flexibility and appropriate strategies that you apply to develop the process of negotiation.

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Still, clearly, the open and participatory process which the NA seeks to achieve will be difficult to achieve and can meet much resistance and even violence in cases where the government is repressive or intolerant of public meetings and other activities that are (correctly or incorrectly) seen to be undermining its position. In such cases, specific strategies are needed. Often, in these countries with low levels of trust and a weak legal or institutional framework or repression, negotiations at national level are impossible, but some political space for planning on livelihoods development may be found at the very local level (see box on Honduras). Initiating this process can be a powerful means to strengthen the capacities of local communities. A combination of the NA and RBA would be effective in this situation, because RBA will pressure the government or authorities to recognise and protect rights and the NA will initiate opportunities for negotiations.

2.5.2 Concrete examples of the NA and their success

The NA concept is based on a number of promising cases in various parts of the world, notably in India, Peru, Central and South America and Indonesia. It has also been applied in the area of climate change and adaptation in a number of river basins, in Ghana, Vietnam, Ethiopia and Peru, as well as in dryland areas¹⁸. Some short examples are included in boxes below.

Generally, the NA processes have resulted in:

- New institutions and platforms being set up. For example, network organisation Telapak in Indonesia has succeeded in establishing the Lamasi River Basin Council in Luwu Regency, South Sulawesi, enabling different stakeholders to express their needs and interests.

¹⁸ Each of these cases has strengths and weaknesses to learn from. Documented cases (/ summaries) can for example be found in the annexure of *Involving Communities* (<http://www.bothends.org/index.php?page=6&documentId=49>) and at www.adapts.nl

- More income for local people through livelihood improvements. For example, in Ghana the NGO the Development Institute supported communities to introduce small scale irrigation in combination with agro-forestry, buffer zoning and high value crops, increasing farmers' income fourfold.
- Resolution of long-term disputes. For example in the Cordillera region in the Philippines, negotiations stopped long-term disputes that led to tribal wars. The principle that water is available for everyone to access and use regardless of territorial boundaries was the uniting point that made the parties involved enter into negotiations.
- Awareness and prove that people can (co) manage their own natural resources and transfer of responsibilities to local people. For example, the NGO Gomukh Trust has been funded and commissioned by the government of the state of Maharashtra to prepare an Integrated River Basin Plan for the Wainganga River in Central India, covering an area of 13711.15 sq.kms. The Trust has been able to include NA to IWRM as a key element of its official mandate. In case of water and irrigation, the Maharashtra State in India has enacted a law in 2005 which transfers management of irrigation systems to farmers which also has seen fairly good success. See also the examples on the (co-) management of natural resources by communities in Costa Rica in the box.
- Increased trust and cooperation between CSOs, authorities and communities. For example, in Bangladesh, the NGO AOSED, local communities and local people collectively approached relevant government authorities to address the lack of proper maintenance of installed water purifiers in rural areas, which led to a constructive dialogue and increased trust between the parties.
- Enhanced sustainable resources management. For example, the NA activities in the Kolwan Valley in Central India facilitated by Gomukh resulted in the maintenance of year round environmental flows, the increase in groundwater levels, and significant reforestation.
- Up-scaling of local initiatives and proposals. For example, in Vietnam, an action plan developed by the NGO Center for Social Research and Development (CSR D) based on the adaptation needs, practices and ambitions of the people living along the Huong River Basin formed the basis for the governmental Provincial Action Plan developed as part of the National Target Programme on Climate Change and Adaptation.

Defining success in the NA is not straightforward. Success first of all relates to up-scaling of institutions, eventually up to the basin level, because the NA takes a river basin approach. Negotiations thus will push from micro catchments to basin level and involve the integration of sub-ecosystems within the River Basin.

Success also relates to the involvement of previously excluded groups in terms of poverty levels, ethnic background, gender, production sector etc. But not only excluded groups, it also related to the successful involvement of various state-led sectors/departments, local governments, academics and the private sector (especially small business and companies, but also multinational and big national enterprises).

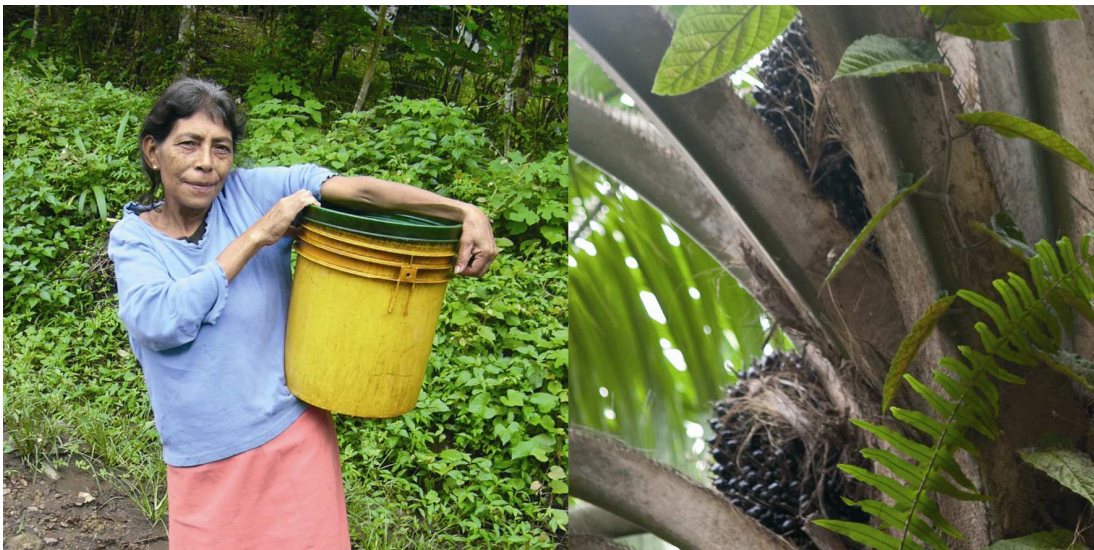
Communal water boards

In Central America the Community Water Boards that provide water to almost 15 million people in 30.000 communities of 6 countries have showed for more than 30 years that they are the best system to provide water to their communities. In the majority of cases they have better quality and quantity than the municipal systems in the rural areas for example. They are one of the best examples of the implementation of NA processes: they define their plans, elect their boards, approve or refuse financial reports, develop activity reports with participation of all users in the community (small private business, institutions like school, clinics, agriculture, homes, etc.) Plans are developed at the local level and in the last years have started to create networks to work in the regional level (in a river basin, in a province, in a region of a country), and also they have national networks or unions in El Salvador, Honduras and Nicaragua, all of them FANCA members.

Co-management in Cahuita National Park

In Costa Rica after many decades of conflicts between the Environmental Ministry and the community of Cahuita, finally with the support of organisations like FUDEU and others, it was possible to develop a participative process of negotiation that applied many of the NA principles to define the management of the Cahuita National Park. This Park was created in the 70s with high social costs due to the replacement of many families of their lands and the imposition of serious restrictions for all the communities which could not have free access to the beaches or lands of the park where they fished or hunted for many decades. There were serious confrontations and struggles and during many years the communities literally hated the National Park But at the end of the 90s there was a participative process based in the principles of NA that culminated in the creation of a structure of co-management of the national park, and nowadays this protected area has a shared administration between the local government, the Environmental Ministry and the community organisations. Now ecotourism and the national park represent the main source of resources for Cahuita and now is a real and extraordinary and beautiful example about how the NA can be useful to manage different kind of ecosystems.

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Some success factors mentioned by NA practitioners include:

- Be flexible and develop your strategy based on the specific context at hand. I.e. continuously analyse the situation to be able to develop and revise your strategy accordingly.
- Create and join networks. Put time and effort in alliance building.
- Strengthen the capacity of people and communities to understand e.g. the legal processes and ensure their needs and ideas are being taken in.
- Cooperate with scientists and specific experts
- Make use of the momentum of existing opportunities. i.e. decentralisation processes
- Organise specific events which attract the media

2.6 Challenges in implementing the NA

2.6.1 Dealing with transaction costs

Participation in water resources management institutions is associated with transaction costs: it is usually assumed that participation costs time, money and energy. It is interesting to note how the NA counters these risks:

First of all, transaction costs may in fact be remarkably low for the NA. Local communities usually share their own residences, food, local transport, and hold meetings late in the evening or night when so-called professionals are enjoying 'quality time'.

Also, participation should be based on people's needs and ambitions, and their recognition of the relevance of participation, not because they get paid to participate. Therefore the transaction costs if participation can be reduced if participation is made more relevant: the key to long-term participation is to create a strong people's organisation. The poor may not have money to share with but they have appropriate knowledge and best practices they can share besides their labour and local materials available to them.

Still, in many cases NA practitioners do see the lack of resources as a serious constraint to long-term participation. Important in countering this constraint is to optimise the conditions in which community representatives and others can participate. When meetings are held in the capital or in the big cities far away from the local communities, if the meetings are held during working days and working hours, negotiation processes could never be sustainable.

Long-term investments in local organisations

In Kulon Progo, Indonesia, Telapak supports farmers by strengthening the farmer organisation that already exists. It consists of 14 farmers who work together in the dry season to build a stone canal to irrigate their paddy fields. The kind of support provided is not to finance this canal as they requested. Instead, Telapak strengthens their local group so they are able to access the money and any support from the local government budget or any other mechanism to fulfil their right.

Telapak

In the end, it is the responsibility of the government to create the adequate conditions to guarantee permanent and sustainable participation at all levels, so they should invest resources and time in facilitating this participation, not the communities themselves (see example in Costa Rica in the box). NGOs and CSOs that promote the NA must be very clear about this from the start.

In Costa Rica, the Cahuita National Park co-management committee was created. This Committee is part of a wider structure called Regional Council of the Caribbean Conservation Area (Costa Rica is divided in 11 conservation areas) and this council is part of the National Council of Protected Areas (based in San Jose). To achieve that this structure works in practice two elements were important:

- 1) It is necessary to give real decision-making power to all these councils from the local committees to the national council. If they can only give opinions, elaborate proposals and discuss between themselves, the structure would never work. FANCA convinced governments, ministries and congressmen about the importance of elaborating laws enabling the councils to have real possibilities to take decisions.
- 2) To guarantee those structures could operate long-term, the government must recognise that they are useful to enhance governance, to reduce conflicts and to achieve agreements, and they must understand that is necessary to invest resources to guarantee real participation of the community representatives in them.

The Ministry of Environment used their vehicles to transport the local representatives to the place of the meeting. The meetings are planned as close to the communities as possible. The co management committee meetings are directly in the National Park, the meetings of the Caribbean Conservation Area are in the Regional offices of the Environment Ministry in the Caribbean. Only the National Council has its meeting in San Jose, the capital.

The fact that the meetings were held mostly on Saturdays, when people do not have to work, created other problems. Sometimes women cannot participate because their children are not in school on Saturdays, so it is important to for example guarantee a place for the children during the meetings.

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2.6.2 Involving and convincing policy makers

A serious challenge in implementing the NA is often related to communications with government authorities. Energy and personal investment is needed in a network of constructive relations with key public officials to build trust. It may be useful to start working with local governments first. Also, it is crucial to involve authorities from an early stage, and have a successful case or pilot to present to convince governments. Furthermore, ensuring scientific backing of findings or results is often crucial to get authorities interested, and in order for them to take the conclusions of CSOs seriously. Creation of an international back-up network is also useful.

Experiences in targeting decision-makers

The NGO FARN in Argentina tends to target decision makers at the local, provincial and national level as well as their advisors. This should include authorities from diverse public offices, not only the Secretariat of Environment, as this enables advocacy for the mainstreaming of environmental issues in all public offices. However, it is difficult to approach policy makers who do not understand these kinds of participatory processes and are too reactive and sceptical towards NGOs. They are used to the old ways to come to political decisions. In some cases experiences has been positive though.

Finding a policy maker with an interest in environmental issues is easier, usually there are a couple of them at the Parliament and we can work with them. Success was achieved was instance in the passing of the National Law for the Environmental Protection of Native Forests in Argentina. In the Matanza-Riachuelo Basin in Buenos Aires, it was only after the decision of the National Supreme Court of Justice that authorities became active and listened to NGOs.

FARN

The NGO Gomukh in India usually starts by confronting authorities with the existing governance and trust deficit caused by the relevant Government department and proceed by stating that efforts of the agencies/institutions have failed to deliver basic and legitimate benefits/rights. When asked, how then it should be done, we offer the NA. So far this has worked reasonably well with the forest department and the water resources department.

Gomukh

Policy makers are often interested in the costs involved. Clearly, the NA takes more time than a one-off master plan. The NA says this in the end will pay off due to a much more sustainable result, in terms of social and environmental benefits, but also economically. Can we provide proof that the NA pays off in the end off? Can we show the cost effectiveness? Do we *need* to show this?

2.6.3 Involving and supporting communities and other CSOs

Involving and supporting communities

Most CSOs working on, or interested in, the NA, indicate that they are able to reach communities (through field visits, radio, telephone, internet, etc). They do however often lack the resources to approach communities the way they would like to due to a lack of human resources, infrastructure problems (electricity / roads / transport means), and lack of sufficient materials, skills and technical knowledge about sustainable development practices and (inter) national law.

A common challenge is the fact that poor people tend to live day by day. If a dialogue process takes a long time, without producing concrete results in the short term, they may become tired. It is important to work simultaneously on livelihood improvement along the way, e.g. through small water projects, conservation measures, support for women's groups, not only for the communities themselves, but also to be able to show policy makers the potential of the area and concrete livelihood improvements based on local needs and solutions are feasible.

In addition, the timing and location of meetings with communities is very important. Since people may work all day long during the whole week, visiting communities in the evenings or weekends may be best. Meeting people at home or in communal spaces is also important, especially when one wants to reach and include women, who are often not allowed to travel far from the house (or at all).

Being aware of power relations within communities obviously is important. One must identify and may contact the 'chiefs' of the community first to be able to make them participate and start involving the rest of the community.

Illiteracy is another challenge which requires creative, tailored ways of communication.

[Involving and supporting other CSOs](#)

As mentioned previously, the NA is not restricted to IWRM, though many experiences so far are in this area. The NA is however also relevant for CSOs that are working on strengthening the position of local communities in participatory land use planning, adaptation strategies, dryland management, and creating sustainable livelihoods. Each field will have its own specific processes and challenges.

The NA is also relevant for CSOs working from a rights-based approach (RBA) and vice versa. In most cases, these two approaches are complimentary. For example, the legal Right to Water will ensure people are able to claim this right. Advocacy for, and the effective implementation of this right can be done through the NA. Depending on the situation, the NA or RBA can be emphasized.

2.6.4 Communicating about the NA

To further promote and implement the Negotiated Approach it is first of all important that the ideas that it wishes to communicate are made as clear and unambiguous as possible. This position paper is an important step in getting there, by clarifying the NA concepts and the differences of the NA with other participatory approaches, by describing the tools one could use and the experiences and challenges encountered in implementing the NA.

As Gomukh says: The message for policy makers, water experts, CSOs and others is loud and clear: *"If for some reason or another, legitimate basic needs or sustainable infrastructure or resources management has not been delivered to segments of the population (large or small) then the local community reserve the right to negotiate for direct management and/or development of resources (and not just mere participation)". In other words, the NA challenges the paradigm of Eminent Domain i.e. the State's absolute right to develop, manage, sell, or lease any (or all) of its resources 'in the public interest'.*

Tailored communication

The entire NA process when it is operationalised on the ground is demystified and converted into local languages or dialects, wherein we do not use words like 'tools', 'instruments', 'empowerment', 'dimensions', etc. which are part of the NGO jargon but utterly irrelevant to local communities. Real life experiences in vernacular languages are then (post facto) documented in case histories using the above words so that they can be understood by all, e.g. when all the cases documented in the two NA books, the case descriptions were made ex-post-facto in English. Essentially as documentation that could be read and understood by the international community/ NGOs.

Gomukh

The second challenge is to find best ways to subsequently communicate this message to others. In general CSOs have been able to find creative ways to communicate with local communities, authorities, scientists and the media, which are valuable to share as a way of inspiration to others.

The book *Involving Communities* is an impressive result of a joint process of NA practitioners from various parts in the world defining a shared vision and describing the key principles and concepts of the NA. Though it is an important document, it is felt by CSOs that the language used may be too scientific and difficult to understand for communities and NGOs. A shorter, popularised version in different (local) languages would be good to develop (e.g. a primer with illustrations and more empirical examples). Part of the texts in this paper could be used for such a document/primer.

Further, the 'toolbox' in annex 1 can be further developed and more cases and best practices could be gathered and made available, for example on an interactive website. This site could also contain the answers to a number of Frequently Asked Questions. This paper includes many of such FAQ (e.g. How is the NA different from other participatory approaches? Is the NA applicable in all contexts? How to start with the NA? etc.).

Documenting experiences through videos

Gekko studio (<http://www.gekkovoices.com/>) produces many videos related to our experience on the natural resource management. We put our lessons learned into audio visual material that help the public to get the message. It is also a good advocacy tool towards policy makers who usually do not have enough time to read a book.
Telapak

Video documenting and ensuring access to the media has also proven effective and should be further taken up. This includes creating a network of local journalists and contact with newspaper and newsletters etc.

Meanwhile, learning is known to be most effective not only by sharing documents and cases, but through real time exchange, through South-South exchange visits and interna-

tional sharing meetings for example. This should be further taken up within the context of the Ecosystem Alliance and other programmes.



3.0 Participatory Land Use Planning

The aim of Participatory Land Use Planning (PLUP) is to provide clarity on access to or control over land in situations where there are competing claims to this land or where different kinds of land use need to be reconciled with each other. In many cases, such as in the context of the recent emergence of 'land grab' in Africa, external investors together with state agencies lay claims to land at the expense of local land users who have historically used this land. Worldwide, the interest in agricultural land and 'unused' expanses of nature is increasing. In response to the financial crisis, the higher prices of land and agricultural commodities (partly as a result of the increasing demand for biofuels and biomass for industries), there has been a sharp increase in claims on private land, state land, expanses of nature and communal land.

However, land that is considered to be 'marginal' by state planners and investors (and therefore available for development) actually maintains important ecosystems, performs essential ecosystem services, and is utilised as an important source of food, medicines and materials by local communities. The drive to develop such areas is therefore in conflict with both environmental protection and with the rights of local communities. However, these rights are unfortunately often far from clear. Often traditional access to land is not formally registered, and when faced with the threat of expropriation and/or eviction, local land users may be forced to clearly define and register their legal claims to land as part of the process of defending their rights. In this case, participatory planning procedures emerge out of the need to protect poor people from being evicted and/or expropriated from the land they use and/or occupy. Similarly, the expansion of plantation agriculture, the development of mining, or the expansion of infrastructure such as roads and dams may threaten the conservation of nature, and environmental groups may be forced to take action to obtain clarity on the obligations of states and the duties of private companies to protect the rights of nature. Especially in countries where communal property land is not formally secured, or where the scope of nature protection obligations are not sufficiently clear, innovative ways are needed to legalise existing land uses.



In these cases, a **reactive** form of participatory land use planning can be useful to establish clarity on and register the existing claims to land. In other cases there may be competition between different functions of land such as land for settlement, land for productive activities, and land for nature conservation, and participatory planning can be used as a means to establish the balance between these functions that best serves the public interest. In this case, a **proactive** form of PLUP can be used to plan for the future and give expression to local ambitions with regard to land use.

3.1 A conceptual overview of PLUP

The concept of land use is central to participatory land use planning: different kinds of land use lead to different kinds of land cover within a landscape¹⁹. It is widely recognised that land use is affected by the kind of **legal arrangements** that define access to and control over land. For instance, land may be privately owned, owned by the state, held in trusteeship by a community or may be defined as being open to all. In each case, access to and control over the land may be regulated in different ways. Secondly, land use is also affected by **markets**: examples are property markets, markets for goods and services produced on the land and investments in land development that all affect the ways in which land is used. Thirdly, land use is affected by **social norms**: each culture has a set of traditions that determine how living spaces are organised, which areas have particular cultural or religious significance, how production is organised and how society interacts with nature. Fourth, land use is determined by the opportunities that are made available by the **landscape**: land may be fertile or infertile, steep or plain, moist or dry, rich or poor in mineral deposits, barren or biodiverse, etc.

Because land needs to perform many different functions and provide different kinds of services to different people, there is a need to plan the ways in which land will be used in such a way that it is used in the best interests of all. Traditionally, the role of planning in the public interest has been allocated to government agencies which in some cases operate under democratic control and in other cases are more or less authoritarian. However, tools such as maps which illustrate land use patterns have traditionally been used by elites to reformat and assert control over space. In most cases, there is limited interaction between planners and local communities in order to:

- Establish whether the assumptions of government planners about existing land tenure rights actually matches with the views of local stakeholders;
- Establish whether interventions that government agencies may consider to be in the public interest are actually seen by local stakeholders to be in their interests.

Participatory land use planning can be seen as an attempt to involve local stakeholders in land use planning in such a way as to ensure that interventions in land use take place in the public interest. Only through inclusive, democratic forms of planning and negotiation can outcomes be guaranteed that are truly in the public interest, that do not marginalise the poor or the voiceless, and that are institutionally and environmentally sustainable. Therefore, **participation** should be a key element of land use planning.

Definition

Participatory Land Use Planning is a multi-stakeholder process that should lead to the clarification of rights of access to and control over land, negotiated plans for improved livelihoods of local communities, and measures for the protection of ecosystems. As mentioned above, PLUP should include legal aspects, should include responses to market developments, should reflect local social norms and should be in harmony with the existing landscape.

¹⁹ The argumentation here is taken from FAO (2004): Participatory Land Use Development in the Municipalities of Bosnia and Herzegovina. Rome: FAO

Measuring participation

A participatory land use planning procedure distinguishes itself from other spatial planning procedures by the principle of multi-stakeholder participation. Between 1970 and 1980 'development practitioners', whether governmental or non-governmental, began realising that the success of true development could depend on the degree of participation of a variety of stakeholders.

Multi-stakeholder procedures can vary considerably in their degree of participation. The CDI distinguishes the following, in ordering of minimal to maximal participation:

1. Manipulation; the lowest rung applies to situations of 'non-participation, where participation is contrived as the opportunity to indoctrinate
2. Information: stakeholders are informed
3. Consultation: stakeholders answer questions and can have a say
4. Implementation: stakeholders form groups to implement activities
5. Consensus-building: stakeholders interact, and analyse problems of projects together
6. Decision-making: stakeholders make collective decisions
7. Partnership: exchange among equals working towards a mutual goal
8. Self-management: stakeholders take initiative

Each country, province or district has its own spatial planning procedures, with varying degrees of stakeholder involvement in its design and implementation. This makes it hard to describe the general characteristics, steps to be followed, or principles to adhere to. Ideally, in a proper multi-stakeholder process, the ultimate deal should advantage each party equally which may be reached only in a kind of partnership format (the number 7 in the above list).

3.2 Grey areas related to PLUP concepts

Participatory land use planning assumes that local communities have a long term commitment to the land they live on and/or utilise to generate a livelihood. On the basis of this commitment, participatory processes are set in motion in order to clarify rights and plan for the future. However, this commitment may not always be in place.

The first conceptual challenge for PLUP is to separate land use from land rights. Different kinds of land rights often lead to very different kinds of land use. If communities and individuals have insecure tenure, such as groups who have 'illegally' occupied land, they will plan very differently than communities and individuals who have a historical connection to the land and can legitimately claim that they have rights to this land.

The second conceptual challenge of PLUP is to link planning to land reform. Even if participatory land use planning is carried out in a perfect manner, there are basic inequalities within a community with regard to access to land, such as the gender breakdown of access to land or between elites and the poor. If planning of livelihood development is to be truly inclusive, it needs to create real opportunities for the poor and it is difficult to see how this can take place without some level of review and reform of the existing patterns of access to land.

3.3 An overview of PLUP Instruments

When dealing with Participatory Land Use Planning, it is important to recognise that PLUP can take place at very different scales of operation, i.e. village level, district level, provincial level and national level. Different instruments are required for different scales of operation, and the demands on participation change with each level of operation.

3.3.1 Participation in National Land Use Planning

National land use planning sets out the vision and broad objectives for national land use and refers to key trends that are taking place at the national level such as urbanisation, population growth, poverty statistics, environmental changes such as removal of vegetation cover, decline in animal species, land degradation, increases in water utilisation, and so forth²⁰. Input into national land use planning usually proceeds through 'apex' institutions that represent various sectors of civil society such as farmers, workers, umbrella bodies for environmental organisations, civic groups and so forth. Interventions by these groups usually take the form of challenges to assumptions made by government planning agencies about existing trends. This requires well founded research that serves to illustrate gaps in government planning or gaps between policy and implementation.

Box 3.1 National and Provincial PLUP in Argentina

Since the early 20th century Argentina has lost two thirds of its native forests, losing important ecosystems as well as a home for indigenous communities. Deforestation accelerated after 1998 to 250 000 hectares per year. From 2006, Fundacion Ambiente y Recursos Naturales (FARN) began to campaign with more than thirty NGOs for a national law protecting Argentina's native forests, resulting in more than 1.5 million signatures. Responding to the situation, the National Parliament passed a law on the protection of native forests in 2007. This law laid down minimum standards for protection of forests, placed a one year moratorium on deforestation and enabled a participatory process for territorial planning of native forests throughout Argentina, according to a system with three categories of high, medium and low conservation value areas. Further, it acknowledged the rights of indigenous peoples. At the national level, various aspects of the law were ignored such as inadequate funding for the fund for the enrichment and conservation of native forests. At the provincial level most provinces went ahead with the participatory planning of forest protection. Soon NGO concern became focused on the northern province of Salta, where the rate of deforestation was more than four times the world average. In 2008 the Argentine Supreme Court granted an injunction submitted by indigenous and local communities in Salta, and it suspended the administrative permits for deforestation in four provincial departments. Furthermore, it ordered a public hearing on the Salta case, after which it ruled that all deforestation permits in the province would be suspended until Salta had implemented its territorial planning. In response, the provincial government of Salta passed a law in December 2008 which approved a map adopted within the framework of the territorial planning of its native forests. By doing so, deforestation is from now on only permitted in 19.3% of the provinces' forested areas, dependent on the outcome of an Environmental Impact Assessment and a public hearing. In this way, participatory land use planning for forest protection and the protection of indigenous people's rights has been confirmed as the norm in Argentina.

²⁰ See FAO (2009): Sustaining communities, livestock and wildlife. A guide to participatory land use planning. Rome: FAO

3.3.2 Participatory Sketch Mapping

At the village level, participatory sketch mapping is a useful tool to stimulate discussion within a community about the availability of land resources in that community, about who has access to which resources, and about how the resources are or should be used. By jointly sketching a map of the land in which a community lives and inserting details such as homes, fields and paths into this map, clarity can be obtained about the distribution of access to resources. Furthermore, participatory sketch mapping can be used to achieve consensus about land tenure and thus can form the basis for the registration of land use rights at a local court if these rights are threatened from outside the community. By walking through the area, aspects of the map can be jointly corrected and updated with information which may be required by the group in its discussions.

3.3.3 Participatory GIS Mapping

In participatory GIS (Geographical Information System), geographical information technology is used as the basis for community discussions about the distribution of resources. Once the use of aerial photographs or three dimensional models of an area have been explained to communities, these sources of information can be used to support communities in their decision making processes. Also, through an iterative process, three or two dimensional maps can be made through discussions amongst community members with the assistance of technical specialists. The maps created through participatory GIS can function both as a planning tool and as a means for learning about the nature of the environment and the possibilities it holds. In the Netherlands, the sustainable agriculture institute Alterra has piloted interdisciplinary methods of GIS: biologists, soil scientists and ecologists are experienced in mapping land scape units, and used local people as source of indigenous ecological knowledge. Local farmers were trained with GPS, GIS, and participated in information gathering and drawing of vegetation or land-scape unit maps²¹.



²¹ See <http://www.alterra.wur.nl/UK/research/>

Box 3.2 Participatory Land Use Planning in Brazil

In Brazil, the NGO Instituto Centro de Vida (ICV) has been campaigning to hold the government of the state of Mato Grosso accountable to Federal policy that requires participatory land use planning. This planning, known as Ecological-Economic Zoning (ZSEE), is an instrument of long term territorial planning with the objective of balancing maintenance of natural capital and ecosystem services with economic activities.

Mato Grosso is the third largest state in Brazil, located in central-west Brazil zoning, and it has been rapidly colonised since the 1970s, leading to a rapid expansion of agriculture in the state at the expense of Amazon forest and the more arid 'cerrado' area. The area covered by soy increased from 15 000 to 29 000 km² between 1990 and 2000, and the cattle herd increased from 9 million to 28 million head between 1990 and 2011.

In Mato Grosso deforestation is a large problem, accounting for 40% of the deforestation of the Amazon in the whole of Brazil. Since 1990, Ecological-Economic Zoning has been compulsory in Mato Grosso, involving the placing of restrictions on expansion of agricultural land at the expense of fragile ecosystems. In the past 20 years, many technical reports were produced by the state government, which were challenged by technical reports commissioned by the agribusiness sector.

In 2008, a draft planning document was shared with the public in a series of 16 hearings at which some 7000 people attended. However, after a rapporteur had spent one and a half years compiling the inputs from this consultation into the planning document, the legislative assembly of Mato Grosso boycotted the official document as well as the technical reports. It produced its own report, which lacked any technical or consultative basis. Since this time, NGOs in the area have been campaigning to restore a more participative form of land use planning in the state of Mato Grosso.

3.4 Challenges related to PLUP Instruments

Experiences from Indonesia show that PLUP instruments also come with challenges. According to Pramono and co-authors, community mapping has positive effects, which are mostly related to the empowerment of communities. But they also note problems:

The first challenge to PLUP instruments is that maps can become an end in themselves and no longer function as a means to achieve political goals due to the technical preoccupation (of producing a map) within the mapping movement.

A second challenge to PLUP instruments is that mapmaking can be reduced to being a project, so that activities end as soon as funds for the project are used up and there is no obligation to come back to the communities. Also, the need to map the number of communities as set in the project proposals has led to speedy mapmaking process – lowering the quality of participation.

A third challenge to PLUP instruments is that NGOs come to the communities promoting the need to map their lands but do not explore much of the spiritual and social values of the lands that are strongly attached to culture. This point is emphasised in the conceptual overview of PLUP mentioned above: land use is strongly related to social norms, and therefore PLUP should pay attention to areas of cultural and religious significance.

The fourth and most significant challenge to PLUP, according to Pramono and co-authors, is that it has so far been unable to influence policies. Although hundreds of communities have been mapped, the mapping movement in West Kalimantan has hardly influenced the political landscape or formal decision-making at the district (*kabupaten*) level, not to mention provincial and national levels. This is a major weakness of counter-mapping movement in West Kalimantan, as well as in other parts of Indonesia. However, this lack of success in Indonesia is contrasted by success in influencing policy in Argentina. Linking local planning to policy influencing at the state or national level is therefore essential.

3.5 Experiences with the implementation of PLUP

Box 3.3 Participatory Land Use Planning in Indonesia

Both ENDS is presently involved in a PLUP pilot project, working as the project leader on a PLUP project in West Kalimantan, Indonesia, that involves several scientific institutions and civil society organisations. The aim is to develop a policy instrument that will guide palm oil production in a more environmentally sustainable and socially just direction. Through multi-stakeholder involvement, the project aims to create a way of land use planning that is participatory and promotes sustainable and equitable palm oil development in the area.

The communities that are threatened by large scale palm oil plantations had already drawn community maps with the support of local NGOs. During this process it became clear that the demarcation of land boundaries that was identified as 'community land belonging to the village' were not in line with official government maps that identified the same land as trust land suitable for large scale plantations.

In an effort to adjust the government land use plan such that at least the community land could be recognised as such, a multistakeholder process was initiated. The local government, the planning institute, various NGOs and farmers agreed to discuss ways to adjust the formal land use planning. Community mapping first emerged in Indonesia in the early 1990s, as part of a social movement fighting against the large-scale land dispossessions that Dayak people in Kalimantan were experiencing. It was embraced as a form of resistance against these dispossessions, challenging the claims by the state and commercial companies over indigenous territories. As it was a movement against appropriation by state and commercial actors, Nancy Peluso (1995) coined it 'counter-mapping'.



4.0 The Rights Based Approach

The aim of the Rights Based Approach with regard to poverty is to counter inequality through the application of the principle of equality before the law. Within the context of an economic system that generates inequality, equality before the law and the evolution of human rights provide an antidote that limits inequality. Poverty alleviation is then no longer a voluntary mechanism under the heading of 'development' but is an obligation of states and donors under international law. It is therefore a function of citizenship.

4.1 A conceptual overview of the Rights Based Approach

A rights based approach to sustainable development is a framework that integrates the norms and principles, standards and goals of both human rights law and the rights of nature²² into the plans and processes of development and conservation.²³

The RBA works at three different levels: it embraces the **concepts, instruments** and **modes of implementation** needed to create dependable and legally enforceable interventions. At a more concrete level, the RBA aims to replace ad hoc decision making with structured and reliable actions to which decision makers can be held to account. Very few development interventions and/or conservation interventions contain details of fixed commitments by decision makers, and if they do the means by which these commitments will be enforced and the decision makers held to account are rarely put in place. For environmental protection or poverty alleviation this is an unsatisfactory situation, as the reduction of greenhouse gas emissions or access to safe drinking water are important and urgent matters requiring clear, unambiguous and legally binding action. In fact, according to M'Bigua²⁴, almost all of the existing socio-environmental conflicts can only be approached through a solid legal-institutional approach.

In response to ad hoc interventions, the RBA creates political space by advocating for the articulation of clear, specific, legally enforceable and long term commitments backed up by procedural mechanisms for access to justice that empower civil society actors monitoring the implementation of these commitments to obtain access to information, access to mechanisms for participation in public decision making, and modes of redress should rights nevertheless be infringed. Conceptually, the RBA consists of **substantive rights** (the specific content of the right) and **procedural rights** (mechanisms for access to justice such as participation, information, and accountability) of (human) rights. For example the recognition of the human right to water and sanitation comes with a package of standards that specifies both process rights and substantive rights (such as the affordability, acceptability, quality, and accessibility of water, see table 1 below).

²² In practice, few countries have recognised the intrinsic rights of nature, although some countries such as Bolivia and Ecuador have done so. In other cases, such as Argentina, the rights of nature are expressed via human rights, i.e. through the right to a healthy environment. In most countries some aspects of nature, such as wetlands or biodiversity hotspots, are protected by law.

²³ Adapted from J. Kirkemann Boesen, T. Martin, Applying a Rights/Based Approach, The Danish Institute for Human Rights, 2011, p. 9.

²⁴ M'Bigua is a socio-environmental NGO based in Argentina that works, amongst other things, on wetlands and sustainable rivers.

Box 4.1 **An example of substantive rights**

The right to water is a human right, based on an interpretation of the Committee on Economic, Social and Cultural Rights in 2002 (General Comment no. 15). This fact was politically endorsed by a resolution of the UN General Assembly in July 2010, and related to the procedures of the International Covenant on Economic Social and Cultural Rights by the Human Rights Council. The right includes the right to **sufficient** water for drinking, personal sanitation, washing of clothes, food preparation and personal and household hygiene. It includes water that is **clean** (free from hazardous substances and whose colour odour and taste are acceptable to the user). It includes water that is **accessible** (water should not be accessed too far from the home, e.g. maximum of 200 metres in South Africa) and water that is **affordable** (priced such that buying water does not affect one's ability to purchase other key commodities such as food). Water should also be **acceptable** (i.e. provided in a manner that fits within local cultural practices and does not expose women to danger).

Human rights, by contrast, are legal 'trump cards': very often they occupy a high position within national and international legal frameworks and have a separate status as 'inalienable' rights that apply in all situations and function as a precondition for society to function properly. Until now, very few countries have passed legislation defining the 'inalienable' rights of species.

A further conceptual point is that the RBA is a means to create political space. Paradoxically, however, the objective of the RBA is to place certain sorts of decisions outside the realm of politics. This paradox needs to be explained.

Box 4.2 **An example of process rights**

A strongly process oriented right is the right to Free Prior Informed Consent (FPIC). FPIC is a principle that is laid down in amongst others the UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) in the context of consent to proposed projects which may affect land customarily owned by indigenous groups. 'Free' refers to the absence of coercion or outside pressure. 'Prior' means: allowing sufficient time for information gathering and discussion. 'Informed' refers to having all the relevant information required to come to a decision. 'Consent' refers to an unequivocal statement of agreement that is in keeping with local ways of communicating this.

Both poverty alleviation and ecosystem protection approaches tend to be susceptible to the workings of political will. Southern governments, assisted by multilateral and bilateral donors and NGOs, are affected by political interests. These include a fluctuation in political attention for aspects of poverty alleviation (hunger, disaster relief, gender issues, etc.) or for particular environmental themes (climate change, land degradation, biodiversity decline, deforestation, etc.), a fluctuation in the availability of funds for a particular issue, the political need to take account of the claims of powerful groups in society (and ignore the claims of others), the need to plant a flag on assistance ("donated by USAID", etc.), the relative marketability of certain aspects of nature conservation in comparison with others (panda bears and whales rather than bees and earthworms), the tendency to go for quantitative rather than qualitative targets, and so forth.

A RBA, by contrast, is based both on equality before the law and on the development of mechanisms that are independent of political will. Where the Millennium Development Goals for instance focus on halving poverty, the RBA focuses on *all* poverty and sets out governance mechanisms for non-discriminatory poverty alleviation. Traditional development assistance is charitable in its outlook and notoriously ineffective in reaching the poorest of the poor. Through the RBA, mechanisms are developed that provide **all** rights holders in a society with an equal chance of being reached, whether that person is urban or rural, male or female, traditional or modern, Muslim or Christian, and so forth. In addition, a rights based approach aims to provide a coherent legal and governance framework binding all interventions by governments, donors, the private sector and civil society together. It is **apolitical** in that it strives to replace the politics of ad hoc decision making by a fixed implementation framework. However, it is also **highly political** in that it creates clarity on the rights of citizens and of nature which states are duty bound to respect protect and fulfil. It clearly specifies how citizens can engage in the politics of decision making, based on their normative and substantive rights.

This is because (human and nature) rights are framed within the basic ground rules for society: they are 'inalienable' and therefore not subject to negotiation. In this way, the realm of decision making of day to day politics is restricted to that which will ensure the realisation of the fundamental rights of humans and of nature. Where this is not in place, the RBA seeks to put it in place. Where it is in place, the RBA seeks to ensure that it is implemented. The RBA is therefore not just a set of vague principles but is also a framework for action: it applies principles such as non-discrimination and equality; participation and inclusion, but also accountability and the rule of law. Law is at its most useful when it is sufficiently specific to indicate the minimum standards to which the management of a particular area of natural resource management and/or poverty alleviation should adhere. At their best, they should enable the judiciary to evaluate controversial concrete situations and pronounce judgement on how to proceed. Therefore, human and bio-rights are **governance norms** that provide clarity on how individuals and groups should be treated by their government or institutions.²⁵ They are those rules within (inter)national law that give protection to individuals. These rules are necessary in order to maintain or recover a minimum of personal morality and dignity as well as species and ecosystem survival.²⁶

Another distinction which needs to be made is the one between 'needs' and 'rights'. It is a central notion of the RBA that human beings have inalienable rights, and a denial of essential human needs can be seen as a denial of these rights. The fact that humans need food, water and shelter for their survival means that these needs are not only needs but also rights. Therefore where other approaches to development are only focussed on the need of human beings, the RBA offers a more holistic approach and gives a tool to fulfil these needs, by claiming them from their government as rights. They trigger obligations and responsibilities, where needs only trigger a moral obligation.

²⁵ J. Nickel, 'Human Rights', Stanford University, England, 2006, p. 1.

²⁶ J. Narrain, 'Human and Fundamental rights; What are they about?' The Liverpool Law Review, vol. 15, no. 2, 1993, p. 169.

Human Rights, as mentioned earlier, have a special status within the legal regime. Once a state has signed and ratified or acceded²⁷ to international human rights treaties, it cannot adopt legislation or implement policies that go against the commitments made in the treaty. Human rights treaties form a basis on which states can be persuaded to adhere to their international commitments and to be held accountable.

The system of human rights gives human being enforceable rights. Every human being in the human rights system is seen as a rights-holder. At the same time these rights place duties and responsibilities on a State. In the human rights system States are seen as duty bearers, who have the obligation to respect, protect and fulfil the rights of the rights-holders.

Is a rights based approach just an abstract philosophy?

The drafting of law and the definition of rights is in many ways a technical process. Many would argue that this process is far removed from on the ground realities. However, the technocratic formulation of rights is only 50% of the RBA. The other half is about finding concrete means for the realisation and implementation of rights in practice. It is here that civil society plays an absolutely essential role. After all, rights are intended for civil society! Therefore, without the ongoing engagement of civil society to define and shape the meaning of these rights in practice, rights are meaningless. Therefore, implementing a RBA requires a strong emphasis on capacity building and support to civil society to enable citizens to claim and enjoy their rights. Newell and Wheeler make this point strongly, emphasising that

“The conventional focus on the state has created an over-reliance on the law as a mechanism to generate positive social change, without looking at the ways in which social mobilisation also changes the law”²⁸.

Thus the Rights Based Approach is not just an abstract and technical process developed by legal specialists: the ultimate purpose of the law is the realisation of people’s rights and therefore civil society should be at the centre of rights based thinking. Community mobilisation is a key tool in ensuring that rights are realised in practice.

The idea of civil society ‘claiming’ its rights may sound rather confrontational. However, it is precisely to avoid conflict that rights need to be in place: rights clarify the rules of the game and establish clear procedures through which answers can be found to existing problems. Therefore demanding accountability of a State, for instance, which is a basic right, does not always mean seeking a confrontation with a State. Through a RBA, support is offered to duty bearers to clarify their roles and responsibilities and to construct mechanisms through which they can exercise these responsibilities and meet their obligations. The violation of rights by States is sometimes caused by factors such as a lack of awareness, knowledge or capacity, even if

²⁷ Accession’ is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification, but is not preceded by an act of signature. The formal procedure for accession varies according to the national legislative requirements of the State. To accede to a human rights treaty, the appropriate national organ of a State – Parliament, Senate, the Crown, Head of State or Government, or a combination of these – follows its domestic approval procedures and makes a formal decision to be a party to the treaty. Then, the instrument of accession, a formal sealed letter referring to the decision and signed by the State’s responsible authority, is prepared and deposited with the United Nations Secretary-General in New York.

²⁸ Peter Newell and Johanna Wheeler (2006): Rights, Resources and the politics of accountability. London: Zed Press

the political will is there to respect, protect and fulfil rights²⁹. Of course if rights are infringed in practice, citizens may end up in court in order to state their case and present the facts, but even litigation need not be confrontational as it is a means to clarify the way forward.

Secondly, a RBA is also aimed at empowering civil society to define, claim and realise rights in practice. It is precisely because local community claims are not respected that there is a need to strengthen local input to the decision making process. Only when development interventions are explicitly non-discriminatory can the poor, women, marginalised ethnic groups, indigenous peoples be reached.

A RBA does not only offer a legally binding framework that commits governments to realising development goals, but above all ensures a sustainable outcome

Thirdly, a RBA is not only about changing the law or putting laws in place and giving specific standards, it is also about awareness raising on community level and building networks and lobbying to strengthen the rights put in place (implementation). Only by a strong civil society and organized community the implementation of rights can be achieved. Otherwise, rights remain rhetoric's. In this respect it is important to note that the recognition of rights does not mean that the rights of each person or natural area will be realised immediately. In the context of development cooperation, it means that governments and donors have a clear, transparent and non-discriminatory plan indicating who will be reached when on the basis of existing financial and personnel means. Citizens have the certainty that they will be treated equally and have means of redress if they feel that these rights have been infringed. However, they also have clearly defined duties

The RBA can therefore be summarised as a conceptual framework for the process of development that is **normatively** based on (human and bio) rights and standards and **operationally** directed at promoting en protecting these rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress. So in its essence RBA is about advancing social and environmental justice by legal means.

Summarizing it can be said that:

- The RBA is about the advancement of social justice by legal means.³⁰
- The RBA sets out the procedural and normative rights or entitlements on the basis of which the poor and their representatives can make claims.
- The implementation of rights based approaches are a means to
 - Empower people in the exercise of their voice such that they can influence processes of change and social transformation as well as reap direct personal benefits such as access to services;
 - Assist institutions of government to clarify their respective duties and responsibilities towards citizens in terms of respecting, protecting, promoting and fulfilling rights
 - Assist donors in identifying means to support pro-poor change and sustainable development;
 - Help translate the lofty principles of international declarations and conventions into practice.

²⁹ J. Kirkemann Boesen, T. Martin, Applying a Rights/Based Approach, The Danish Institute for Human Rights, 2011, p. 12.

³⁰ Dutch Ministry of Foreign Affairs, 'Report of the Seminar on Human Rights and the Millennium Development Goals', The Hague, 25-26 May 2009, p. 14.

4.2 Grey areas related to RBA concepts

Since the late 1990's, the Rights Based Approach has rapidly emerged as a force which demands a fundamental review of development thinking. However precisely because of its recent arrival on the scene, many aspects of the RBA are still unclear and require refinement.

The first conceptual grey area of the RBA is the contribution that it can make to environmental conservation. When reference is made to the RBA, it is usually interpreted as meaning a *Human Rights Based Approach* (HRBA). Using this interpretation, human beings are central to the RBA and it is not at all clear what the status is of the rights of nature or what needs to be done to protect nature in the interests of human rights. On the contrary, human beings are (again) placed at the centre of policy concerns, rather than the protection of nature. A group of academics and NGOs is vigorously linking nature protection to human rights in the conviction that these two areas need to be linked to each other, but it is not clear whether this will achieve anything in the long run. Others recognize that it is hard to find a balance in every day practice and therefore often work with 'alternative scenarios', trying to abandon more radical positions and dichotomies such as conservation vs. development to support the implementation of the dimensions of sustainable development: social, environmental, economic and institutional.³¹

The second conceptual grey area of the RBA is the role of civil society in claiming, clarifying and ensuring the implementation of rights. The bulk of RBA thinking is oriented towards technical analyses of legal documents and their meaning. The role of civil society mobilisation to claim for their rights, to strengthen the law and to ensure accountability of duty bearers is mostly absent from the literature on the RBA and from the day to day practice of donors investing in the approach. This gap is often filled by the work developed by civil society organisations, which, through their legal-technical expertise develop capacity building processes to raise awareness and ownership of rightsholders so that they are able to claim and ensure the implementation of their rights.

4.3 Instruments of the RBA

In this section we move from concepts to methods, describing the range of tools or instruments that can be used when working within a RBA. The mix of tools being used depends on the particular context in which the RBA is being used, and on the objectives that one has in applying it. It is important therefore, before applying the RBA, to clearly understand what the key objectives are in applying it.

In this section an overview is provided of the kinds of instruments that are used, in tandem or independently, to further the implementation of the RBA. However before doing so it is important list some of the key objectives for which a RBA can be used.

³¹ Comments added by FARN. FARN is a civil society organisation based in Buenos Aires, Argentina. Its main area of work is the defence and enforcement of socio environmental rights at the municipal and provincial levels.

Overview of objectives

1) Advocacy tool: it opens opportunities for dialogue around sensitive issues. Because the RBA depend on rights it can help inform the choices and decisions that policymakers need to make. They are reminded about the commitments they made and to follow through with these commitments;

(2) Accountability tool: human rights bodies provide transparent mechanisms to monitor government efforts. But also national Courts can help in holding government accountable on the basis of rights;

(3) Analytical tool: (human) rights encourage understanding of the underlying root cause of development problems;

(4) Programming tool: (human) rights help identification of specific priorities and benchmarks. We will elaborate further on this in Chapter 4. Moreover, the framework aims at involving rights-holders (people/communities) as active agents of social changes. They are empowered to claim their rights. In that sense the approach helps to ensure that governments serve the interest of all rather than cater to the privileges and perspectives of a few. However a side remark has to be made. For a RBA to be fully operational at all levels an efficient and fair system of law or arbitration is required, which is open to all. That is why a RBA will not work for all countries and specifically in those countries where there is no democracy.³²

Overview of tools

a) Interpreting international and national law

International and national law contains the norms and standards that define what level of protection the state should offer and individual or a species, what the obligations of states are to ensure the respect for protection of and fulfilment of rights, what individuals can do if the rights are infringed, and so forth.

On the basis of interpretations of the law, clarity can be obtained on the commitments that a state has made vis a vis its citizens and the area under its jurisdiction.

b) Legal and policy advocacy

NGOs and CSOs undertake advocacy work to ensure that rights are clearly embedded in legal frameworks and that the rights of local communities and individuals as well as species and ecosystems are specified. Actions are aimed both at advocating for the development of legal frameworks and advocating specific content. Examples of strongly developed legislation from one country or area of work can be used to advocate for the development of similar legislation elsewhere: there is no need to reinvent the wheel when developing policy and formulating legislation. In other cases the legal and policy environment is well developed, but government institutions are not adequately implementing these laws. In the latter case strengthening of the capacity of civil society organisations is needed to ensure ongoing accountability of a government to its people.

c) Court judgements and other authoritative interpretations

Court judgements set precedents with regard to the interpretation of laws which may be ambiguous in various ways. On the basis of court judgements it is possible to strengthen the arguments for a particular course of action in legal and policy

³² Department for Development Cooperation, 'Rights Based Approaches', July 2003, p. 1.

advocacy, i.e. by pointing out to policy makers and legal drafting teams what current practice is and how it can be used in practice. Other interpretations such as General Comments issued by Committees responsible for the implementation of international conventions offer authoritative interpretations of law which can be used to support policy development in a particular direction. NGOs can influence court judgements in several ways. One is by being party to the case itself, i.e. by defending the case directly or by providing information that is crucial to the case. Another way is by submitting so called Amicus Curiae presentations to the court³³. In this case an NGO can submit information which it considers to be relevant to the court to help the court in its decision making. In this case it is up to the court whether it will admit the submission and this depends much on the reputation of the NGO in question.

d) Highlighting rights infringements

Advocacy oriented NGOs can use specific cases of environmental mismanagement or human rights infringements to campaign against government and/ or private companies for improved protection of rights through legal means, through improved monitoring systems, through compensation measures, and through existing complaints procedures and mechanisms of redress. In the case of investments by multilateral banks, complaints procedures exist within the management structures of the bank and although these are not legal mechanisms, they serve to create publicity for the issue at hand and they do provide an avenue for complaint and redress where others are often absent.

e) Training on rights

To increase the resilience of local communities to outside interventions, training is often needed on their basic rights. Depending on the issue at hand, training programmes can be developed and implemented to train communities on land rights, rights of access to other natural resources, process rights vis-à-vis government decision making, the contents of government laws pertaining to natural resources, etc.

f) Defining and formalising rights

Often the rights of local communities are known locally but are not registered formally. Similarly national, provincial and local governments often do not have sufficient knowledge of local rights of access to and control over natural resources, or may choose to consciously ignore these. In these cases formalising rights through participatory planning processes such as the Negotiated Approach and Participatory Land Use Planning helps to define these rights and register them formally

g) Ensuring access to information

In order to participate fully in the exercise of rights, citizens need to know what these rights are and need to know the details of projects and other interventions that are relevant to their livelihoods and ecosystems. Much of the work related to a RBA consists of pursuing authorities and investors to gain access to information on intervention plans, and ensuring that interested and affected parties obtain access to this information. In the longer term, advocacy to ensure structured access to information (which is the ultimate responsibility of government) is needed. Furthermore communities need to be made aware of the plans to intervene in local ecosystems and livelihoods where this is relevant, so that they can decide for themselves how they wish to respond.

³³ These are instruments used for instance by FARN, the Environment and Natural Resources Foundation based in Argentina.

Box 4.3 Reform of the Provincial Constitution, Entre Rios, Argentina

In 2008 civil society organisations in the province of Entre Ríos, Argentina, engaged in the reform process of the provincial Constitution. Through this process they achieved the establishment of important legal guarantees not provided before in the old Constitution: recognition of fundamental principles of environmental law (examples), environmental legal instruments (e.g. Environmental Impact Assessment, Territorial Environmental Planning), the recognition of the right to water and sanitation, the prohibition to privatize water services and the protection of the wetlands system from any large-scale infrastructure project which may affect its functioning.

The Constitutional reform was an initiative of the previous government, which, through the Law No.9768, issued on May 2007, declared the need to partially reform the provincial Constitution. The law also indicated which articles and subjects could be changed.

Since the beginning, M'Biguá Foundation, leading part of the socioenvironmental movement at the provincial level, headed the reform process regarding the socioenvironmental aspects of the constitution. The Foundation, together with other CSOs, presented proposals of new subjects and articles to be integrated into the Constitution. The reform process was open and democratic. Public consultations were broadly held and civil society participation was strong enough to influence the process. Civil society engagement on socioenvironmental issues was particularly strong due to the large environmental awareness caused of the Pulp Mill case which was brought before the International Court of Justice in 2006*.

*The Pulp Mill dispute concerned a judicial case which was brought before the International Court of Justice, The Hague, by Argentina against Uruguay concerning the construction of a pulp mill at the Uruguay River. As the waters of Uruguay River are shared between Uruguay and Argentina, the pulp mill would cause major negative environmental impacts at the Argentinean side. Before the ICJ Argentina argued that Uruguay authorized the construction of the pulp mill without prior consultation with Argentina. The ICJ issued its final decision in pointing out that Uruguay failed to comply with the all procedural steps of consulting its neighbouring country. [△ International Court of Justice docket: Pulp Mills on the River Uruguay \(Argentina v. Uruguay\)](#)

4.4 Grey areas related to RBA instruments

Despite the reasonably elaborate framework of existing RBA instruments, a number of key areas are still relatively unclear.

The first grey area of the RBA's instruments is the question whose law is being enforced. In many countries, there are differences between formalised and codified national laws and traditional law applied at the local level through traditional institutions (legal pluralism). A single country may have dual legal systems and there may not be sufficient clarity on the relationship between these two legal traditions. Different legal systems may have conflicting interpretations of rights of access to and control over natural resources. Therefore when applying a RBA the question can be asked whose law is being applied, as this is not a politically neutral choice. In many cases traditional law may have an inferior status, especially because it is not codified or sufficiently accounted for at the national level.

The second grey area of the RBA is (often) the lack of specificity of rights. Rights can only be enforced through law if they are specific enough to stand up in a court of law. Taking the example of the human right to water, the water law of Benin

recognises the human right to water but does not mention how much water, how often, for what purpose, at what quality and so forth. If a citizen of Benin were to go to court with the claim that his or her right to water is being infringed it would be difficult for the court to pass judgement. In South Africa by contrast each citizen has the right to 25 litres per capita every 24 hours at WHO quality standards for drinking, washing and cooking purposes at a maximum of 200 metres from the household. Of course passing a judgement on infringement is much easier here.

This is a crucial issue for the RBA because many governments have the tendency to recognise rights but to do so in such vague terms that they are not 'justiciable'. It is up to civil society organisations to push for clear and specific legislation as well as clarity on how citizens can access the legal system when they feel their rights are infringed and what the redress mechanisms are.



This leads to the third grey area of the RBA which is the link to governance frameworks. It is all very well to have precisely formulated legal text expressing international or national law. However, the reason for the existence of this law is that it should be applied, and unfortunately for a whole host of reasons there is usually a large gap between policy and implementation. One of the key hurdles for effective government policy is the translation of law into strategy documents or governance frameworks which allocate budget and personnel to a range of activities designed to give effect to policy. Without governance frameworks, policy and law are meaningless. Therefore in the pursuit of the Rights Based Approach it is crucial for NGOs to indicate how policy should be implemented and to help design realistic governance frameworks that indicate which activities should be carried out by whom to achieve the desired outcomes. In practice, just as it happens with other approaches, RBA depends much on local realities: institutional strength, CSOs access to media, legitimacy of civil society leadership and representatives, among others.

Box 4.4**Protecting the Matanza-Riachuelo Basin in Argentina**

In Argentina, five organisations in civil society worked together to protect the most polluted river basin in the country, i.e. the Matanza-Riachuelo basin. Through a rights based approach, these organisations have initiated a process aimed at the reduction of pollution and the gradual rehabilitation of the river and have obtained legal clarity on the duties of various state actors to protect the resource.

The Matanza-Riachuelo subcatchment falls under the jurisdiction of fourteen municipalities as well as the Provincial government of Buenos Aires, the government of the Autonomous City of Buenos Aires, and of course the National Government of Argentina through the Secretariat for Environment and Sustainable Development. The river suffered from large scale pollution from industrial and municipal (sewerage) sources, but this pollution continued for many years without being regulated by the various responsible authorities.

In 2002, residents of La Boca neighbourhood in Buenos Aires City approached the Ombudsman to request its intervention in the pollution of the basin. In turn, the ombudsman cooperated with a range of NGOs, an academic institution and the Ombudsman of the City of Buenos Aires to conduct studies into the precise nature of the problem. The information contained in these studies was later incorporated into a lawsuit against the National Government, the Province of Buenos Aires, the Municipal Government of Buenos Aires and 44 private enterprises for damages suffered as a result of the pollution of the river. The case came before the National Supreme Court in 2004, leading to a judgement in 2006 that ordered the defendants to submit a clean up plan for the basin as well as requesting reports from the private enterprises detailing the measures they would take in order to halt and reverse the pollution of the area.

The response of the authorities was to be presented before public hearings, of which the first was held in September 2006. During this hearing, the Riachuelo Basin Clean-Up Plan was presented, and an inter-jurisdictional Committee on the Basin was created to enable integrated planning of the management of the river. In 2008 this was followed by a Supreme Court ruling that determined the liability of the various authorities and indicated the obligations of the various government bodies in cleaning up the river. Moreover the court ruled that the National Ombudsman and the NGOs participating in the case could establish a Chartered Body which exercises control over the clean up plan. Because the National Government has been slow to provide access to information, the NGO FARN established an online monitoring platform providing citizens with information on the state of the river.



5.0 The role of Communication

The aim of effective communication is to use words and images to exchange thoughts and ideas from one individual to another or from one group of people to another. Unfortunately, when complex messages are communicated between individuals or groups, these messages are not always transmitted effectively and it is easy for misunderstandings to arise. Therefore, no matter which approach an organisation is using, ensuring effective communication is an important challenge in itself.

In trying to effectively implement projects, NGOs and CSOs communicate with many different parties in order to build bridges between. They often communicate in very effective and inventive ways, sometimes without even giving it a second thought. It can sometimes be useful to reflect on communication as a separate part of a project, and to even make an action plan for it. Communication choices need to be made in to get a project underway, in order to ensure that the goals of a community are achieved, in order to understand with whom one needs to communicate, and why as well as how.

Because experiences, reflections and expertise on communication might be of help to other NGOs and CSOs, we have tried to make an outline of the most common strategies used by the NGOs which have worked on this document.

It would be useful for CSOs working on participatory natural resources management to eventually find answers to the following key question on communication and outreach:

What are best means of communication & dissemination or: how to equip change agents with the best possible information?

There are different reasons for communicating with different groups, and different ways to do it. In the section below we try to give an overview of the different communication methods that are being used by the NGOs that participated in this project. The information below was extracted from the interviews held with representatives of various NGOs, as well as from the outcomes of project meetings in Marseille on March 17th and in Soesterberg on June 2nd 2012 and from the inputs already provided on the position paper.

From the information we received about communication practices and tools, it became evident that communication within the three different approaches (NA, RBA and PLUP) has a lot of overlap and similarities. That is why it was decided to write one chapter on communication in general, instead of dividing it in three different chapters on communication for every approach. It was confirmed in Soesterberg by partners that there is no need for each approach to be treated separately in terms of communication.

5.1 Unique selling points of each approach

Despite the degree of overlap between the communication styles used in each approach, it must also be recognized that each approach has its own 'Unique Selling Points' (USPs). In presenting these selling points to individuals or to a group, it is important to think about who you want to convince and why. In the workshop on the 2nd of June 2012, the following USPs were suggested for each of the approaches.

Negotiated Approach (in this case selling it to policy makers):

- 1) Create a sense of urgency, for instance by focusing on the development of water scarcity: the USP of the NA is that it is a very adequate approach to avoid and reduce conflicts (over water).
- 2) Personal gain: The NA is a participatory approach; therefore one of its USP's is that one can increase one's popularity by involving people in one's decision making.
- 3) Economic argument: the NA leads to a stronger sense of community ownership over water resources, therefore the USP are that water infrastructure will be better maintained because people feel more responsibility towards something they had a say in, i.e. it is more cost-effective than other approaches.

Participatory Land Use Planning (in this case approaching a community)

- 1) Personal gain: PLUP is an instrument for the prevention of conflict, therefore one of its USPs is that it can protect land
- 2) 'Tailor made': PLUP can also be sold on the basis of efficiency arguments, i.e. its USP is that it allows for the best and most beneficial approaches to a problem: (Involve the community in an actual mapping exercise.)

Rights Based Approach (in this case convincing lawyers and other legal professionals)

- 1) Effect: The RBA can be sold using its effectiveness as a USP, the message being that what you cannot achieve through court cases, can be achieved through community mobilization on their rights
- 2) Reach: The RBA can be sold using its *reach* as a USP Not all areas of a country are reached by the law, and for these areas the RBA can be applied
- 3) Involving communities: The RBA can be sold by using its capacity building effects: its USP is that it empowers communities to understand and claim their rights

Also, because CSOs often communicate with so many different parties, groups and stakeholders from different parts of society, they should be in a position to play different roles: they wear different hats depending on who they talk to. It is very important to take into account both the tone of voice and one's physical appearance in communication in every specific context. For example, in order to be taken seriously by authorities and officials it could be better to dress formal and emphasize the expertise of the organisation. In order to gain the trust of the community on the other hand, it is important that one act and dress as one of them or at least not too official: this might raise suspicion. If the organisation has several officers, it might be good to seek the most suitable person to do the communication in every specific situation. For contact with media one needs other skills than those needed to communicate with scientists. The same goes for communication with local communities or with officials. What do you want to reach? Does the situation require a humble approach or should a firm statement be made? Is it formal or informal? Before starting communication with a certain party, it is useful to find out a little more about their background, customs, and ways to communicate in order to make the biggest impact possible. Listening, understanding and adapting to the audience and occasion are a very important part of communications.

5.2 Communication between NGOs and communities

The most important group that an NGO needs to communicate with is of course the communities themselves. Of course it is important to note that communities are rarely a homogeneous whole: there are power differences and local politics which will influence developments and it is important to ensure that no one is marginalized. For any NGO it is crucial to identify the most influential persons within the community to communicate with. Often, the most influential persons are the elder, so NGOs tend to address them first. Sometimes the NGO goes into the community first, for example to raise awareness about a certain infrastructural project which might have negative impacts on the community. Mostly, however, the CSO gets into contact with the community only after having been contacted about a certain issue by the community itself or 'agents' and informants who often are within the community.

Communication with communities can in some cases be very difficult. There can be physical barriers: for instance in remote areas lacking good infrastructure or access to electricity, it can be difficult to obtain or to spread the right information. Why is it essential to have good communication with (certain key members of) the community?

- **Communication with the community to gain trust of all community members:** In order to even be able to get into and be allowed to work with the community, NGOs must be trusted. The NGO must demonstrate its good intentions and that it is worth working with. Within the community, sometimes a few persons may be opposed to the actions the NGO suggests. These are often the most powerful people in the community, who might for example have been offered money by investors and would thus personally benefit from proposed developments in the area. It is therefore very important for the CSO to gain the trust of the rest of the community, so that it has a strong backing when it faces opponents. Trust is usually gained by working closely with the elderly and with influential individuals within the communities. Because most projects are large in size and have a big scope, they tend only to show results in the long run. At the same time, communities, who are often poor, need to see direct benefits in order to stay connected to and confide in the NGO. Small steps that have positive results need to be built into the planning of the main project. If the CSO would for instance start by planting fruit trees together with the community, it might show the benefits of and pave the way for further cooperation.
- **Communication with the community to exchange information and raise awareness:** Often communities are not aware of their rights or of possible solutions to the problems they face because of external factors. NGOs can play an important role in bringing these to the surface. Communities often lack not only technical information and / or skills on certain issues but also a good network or contacts to help them find out what they should know on things as rights, negotiation skills, who to approach for what. Learning is best done when ideas and experiences are shared, which is where NGOs can come in: they can play a role as an external agent in bringing communities together and getting them in touch with other relevant parties such as academics, alliances, and/or authorities to exchange information. The CSOs themselves often receive relevant information from the communities, which can be used in other communities and other contexts as well.

CSOs have meetings with key-persons in the community, often consisting of community elders and/or traditional leaders. These meetings are either organised by the NGO, or the NGO finds synergy with an already existing meeting that the com-

munity might have. It is important to take into account the daily schedule of the people in the community when planning a meeting: they often do not have much spare time. Especially when the CSO wants to focus on engaging women in the process, a meeting should be organized around the many tasks they normally have.

A common way of spreading information during community meetings is a workshop. The good thing about workshops is that they are interactive; people have to immediately bring into practice what they have just learned from others. Sometimes role-plays are used to train negotiating skills; other times an alternative land- or water use plan is designed by the community to have a sustainable answer to the original plans for the region, or the current situation. It is also important to have 'train the trainer sessions', to teach community members how to spread their knowledge and skills to others in or outside the community.

In rural and remote areas often the only means of (broad) communication is the radio. Radio broadcasting can thus be a very effective way to spread a message, for instance to announce a community meeting or a protesting campaign. In this case it is very important that language barriers be taken into account: the message should be broadcasted in the language(s) of the target group.

CSOs often have specific contact persons in the area in or near the community. From the side of the community often the elderly perform this intermediary role. . Through this intermediary person, the community will receive trusted information on what is happening on policy level outside their community, but also the CSO can be alerted when new developments or threats occur. In many areas it is possible to stay in touch with this key-person by mobile phone, but if not, the key person will have to be enabled to regularly meet both the CSO and the community. This can be quite difficult and expensive.

- **Communication with the community for consultation:** After having informed the community about the plans in their region or about the possibilities to change the current situation, the NGO should find out the community's opinion on the plans. What solutions would they prefer, what are the most urgent needs they have and what is less important to them? A needs assessment is crucial in the process.

From here an action plan can be made, and this may even go to the extent of drawing up an alternative plan to officially present to the authorities. Of course, in order for the community to plan, the intermediary NGO needs to have explained the original governments or investors plans in a very accessible and understandable way. Very complex matters must sometimes be explained using drawings, simple images, photos, videos and drawn maps of the region. Modern technology such as 3-D models and satellite images are being used more and more often in community consultations in the last decade. In this way, illiteracy is no longer an issue: once informed, community members are very much capable of forming a solid and well founded opinion.

- **Communication with the community to mobilise local resources and to stimulate activism;** People should be motivated to voice their needs and ideas. Once informed, people need to see that they will have to take action if they want things to change. Sometimes it is difficult to stimulate activism among community people, because they might have been threatened and repressed in the past or even in the present. Bringing various groups together may help to reduce this fear, as the bigger the group, the stronger it can act: there is power in numbers.

People can be mobilised at different occasions and public events. Very often NGOs make use of religious gatherings (in church, mosque, temple, etc.) to stimulate communities to take action and to inform them. It is a very good way to get in touch with the entire group. Also, groups of people can be mobilised at festivals or other institutionalised gatherings. Here, communities themselves could also speak and motivate each other to take action on certain issues. Some NGOs organise community theatre and role plays in public to make people aware both of existing problems and of possible ways to solve them. A very good way to make people aware of problems, but more importantly of possible solutions and the benefits of acting on them, is an exchange visit of community members to other communities. In this way they can learn from each other and see what results of action can be. Broadcasting (in) a (local / regional / national) radio programme can sometimes also be very effective in making people aware of their situation and mobilising them. When funding is possible, sometimes collaboration with other partners is established.

5.3 Communication between NGOs and other organisations

For NGOs it is very important to communicate with other NGOs because this can strengthen the common message and power. These could be NGOs working in the same region, or working on the same issues, but also a lot of communication takes place between CSOs on an international level. Many organisations working on participatory natural resources management are network organisations themselves, so communication with other CSOs is inherent to their work.

- **Communication between CSOs to share information;** For CSOs it is crucial to share information, to share (sources of) information and experiences and to strengthen themselves and each other by taking part in a network. This way CSOs working in the same area or on the same issue, know what is taking place politically, in terms of news on violations, etc. at the local, regional, national and even international levels. (politics, news, violations, etc). Together, NGOs have more power. By communicating with each other, NGOs can learn and build their capacity. They will be better informed about what is needed by different communities, they share real experiences from the field, best practices and do's and don'ts. This all helps NGOs in doing the best and most effective job they can do.

Some CSOs have extended websites that are continuously updated with relevant content and the latest news. The relevance of having such a website differs from CSO to CSO. Some organisations do not have the means (time, money, expertise) to invest in their online communications. For CSOs which mostly work with communities face to face, the first priority is to do that as well as possible. Others, like network organisations, would not function well without good online communication. Websites from other CSOs can be very useful to find information on certain topics.

It takes less time, money and expertise to share thoughts, information and experiences through social media than through a website that was specially constructed for that purpose. It is easier to ride along with an already driving vehicle than to build your own. That is one of the reasons that many CSOs choose to be active on Facebook, YouTube, LinkedIn or other groups. Another reason for this is that social media are interactive, which creates the opportunity to really start a dialogue or a discussion with people and groups from all social levels and – in theory – from all over the world. This is an aspect of social media which is very important in cam-

paing activities as well: some CSOs are very much depending on the online communication means to raise support for their cause.

- **Communication between CSOs to avoid competition;** Dialogue and communication are also needed to avoid competition between CSOs working in similar areas. Building trust is important; sometimes CSOs do not seem to cooperate but rather to compete with each other. To change the system and to present alternatives to the establishment and authorities, CSOs should complement each other instead of competing. This way CSOs will not only have a bigger power play, but dividing tasks and focusing on their field of expertise will help to better build the capacity of the community. The best way to get to know each other is of course through face to face meetings. Exchange visits to see what other CSOs do can help a lot in building a relation of trust and to understand everyone's drives and motives. Also it is easier to know where various organisations can complement each other or see possibilities to work together in the same project.

When, due to circumstances (distance, means of transport) it is not possible to organise exchanges, of course mailing lists and social media (above) are used.

5.4 Communication with academics and universities

In order to be heard by authorities, communities want to be taken seriously. Research must be done to give proposed plans and methods a solid, scientific base. Although many officers in NGOs have a scientific background, they often do not have the means to conduct profound research themselves. That is one of the main reasons that cooperation is generally sought with the academic world.

- **Communication between CSOs and academics to do research;** In order to obtain information about specific aspects of the community's territory (e.g. water quality, land quality, crop growing, land rights, etc.) scientific research often is key. To ensure this, cooperation with universities is needed. Not only for knowledge, but also because in general research institutions have more means and better access to funds.

The most common way to cooperate with scientists and universities is to start joint projects. Sometimes there is a link with both professors and students, depending on the topic and the scope.

- **Communication between CSOs and academics to be taken seriously** In order for the CSO and the problem to be taken seriously, it is very important that the facts are right. If these come from scientific research, this tends to carry weight. Also, the project is more likely to succeed if the expectations about its outcome have been scientifically projected. Academics often get more (media) attention than CSOs, which might also help to get the issue on the agenda of policy makers.
- **Communication between CSOs and academics to learn about processes;** Since CSOs have to deal with many different aspects (human rights, social justice, how to activate groups of people, technical information about the environment and economic benefits, raising funds, management plans etc), it is almost impossible to have all necessary knowledge within the team. Therefore, additional information must be obtained from outside.

When linked to the academic world, it is easier to obtain access to already existing scientific data. It can also be very helpful to call in the expertise of academics on certain topics such as how to draw up basin plans, learn about useful mapping methods (maybe even borrow the equipment to use), obtain guidance on national and international rights relevant to the case, etc.. This does not only help the community, but also builds the capacity of the CSO itself. Researchers can be invited to visit the area to get a better view of what exactly is going on.

5.5 Communication between CSOs and authorities

In order to change policies, laws, rules, polluting practices and the way natural resources are managed, CSOs need to communicate with authorities, be it on local, regional, national or sometimes even international level. To be taken seriously and to be regarded a serious party at the negotiation table various tools can be used.

- **Communication between CSOs and authorities to gain trust and be taken seriously.** To even be able to speak to the authorities, CSOs must be taken seriously by them. Gaining trust is the key to this process. It helps when the relevant government official(s) is/are already interested in humanitarian issues and nature to some extent. Often the first person in the government that is contacted by the CSO is known to be fairly interested in these matters. Often however, the support of a broader range of government officials is needed to obtain support for the plans of the NGO and to move the process forwards a few steps. This can be difficult in practice NGOs need to position themselves as open-minded, cooperative experts on the matter, to avoid giving the impression of being activists without clear solutions
- **Communication between NGOs and authorities for cooperation, and support (money / material / permission / access to data and to key persons);** When authorities are convinced of the benefits (also for the government itself: for example, through election results) they are more likely to provide the NGOs the resources needed to resolve the problems or to change the situation. Involving authorities in an early stage can thus be beneficial.

It is best to already have a result to show before even going to the authorities. It's best to show alternative plans with a first positive example of a possible bigger solution even if it is small. This helps policy makers to see the way forward and to trust that the process started by the NGO is in good hands.

- **Communication between NGOs and authorities to raise awareness;** CSOs can enter into the habit of informing authorities about the impact of the decisions they make, of the projects they give permission for and of their policies on natural resources management on local communities.

Apart from all other kinds of communication, a good way to make an impact is by inviting a representative of the government into the area / community. This helps to gain trust, to involve the authorities, and to make the problem real, human and visible.

- **Communication between CSOs and authorities to collect official data;** In order to properly analyse the problem, CSOs should not only work with scientific data that might have been obtained during their cooperation with universities, but also with official data which are provided to them by authorities., Combining all this information, CSOs can have very strong cases.
To get access to this data, CSOs don't just work with politicians, but also use civil servants and the knowledge of technical institutions that the government trusts.
- **Communication between CSO and authorities in general:** Keeping the authorities involved through continuous dialogue is key to bring them along in the process. Authorities should be made responsible for the policies they implement, and this will only happen if they are genuinely involved. In this way, changes in legislation, access to means and resources, information, and formal permission can be obtained more easily. In more difficult situations with less cooperative authorities, campaigning and protesting can be ways of pressuring. The press can also play an important role in putting pressure on a government, especially when the government is unwilling to cooperate with the CSO / community or to acknowledge the problems that are put on the table. CSOs sometimes invite journalists to visit the area to take photos and videos, interview community members, write an article etc.

5.6 Communication between NGOs and other parties

To reach its goals, the NGO may decide to communicate with other parties than those already mentioned. Some examples are given below.

- **Communication between CSO and the public to raise awareness, to get support, to raise funds;** In order to get support for a cause, it is important that people know about it. If people feel connected or are touched by a certain issue, they are more likely to support, either with money or with actions.
The extent to which the public knows about a certain issue can increase using media like radio and television, and social media and the internet in general. Also CSOs make use of educational projects in schools, universities and on public meetings.
- **Communication between NGOs and private companies to raise awareness / understanding / create dialogue;** For NGOs it is often difficult to get through to private companies: many companies are multinationals, and their officers are very distant from the often harsh realities caused by their actions/ investments. Also, they tend to be suspicious of the motives of NGOs and will not usually easily accept an invitation to a meeting. To change this, it is crucial they are made aware of the consequences of their actions.
Especially with multinationals, support from outside (like from Both ENDS or other international CSOs) can be needed to make dialogue possible. There are good examples of roundtables where all stakeholders are represented to make a joint effort to come to sustainable and just solutions. Sometimes, however, companies have to be forced to listen and take responsibility: for example by exposing compromising facts about the company. Companies in general are very sensitive to negative publicity. In these cases it is useful for the CSO to have good connections with journalists and the media.

5.7 Future actions and possibilities

During this project a many experiences and best practices were shared, but also many questions were raised. The general feeling was that 'we are not finished yet'. CSOs have expressed the wish to continue sharing experiences on the three approaches. Almost all participants feel that their organisation could use extra support and skill building on communication.

Since this project has officially ended, we should reflect, all together, on ways to do this.

Future actions on the communication of the approaches - provided that funding is found - could be:

- 1) Drawing up a communication plan to 'sell' the three approaches in an understandable way to official institutes like embassy's, policy makers, scientific institutes, but also to possible donors, funders and to other CSOs. This plan may contain the following components:
 - Producing an attractive outline of the position paper for distribution
 - Working together with one or more journalists who could visit local communities and tell the story of positive change through working with (one of) the approaches.
 - Organising an official 'launch' of the position paper and getting attention from the media.
- 2) Creating a 'toolbox': an online platform / digital library on the approaches, available for anyone interested, where documents, films, photo's, best practices etc. can be uploaded and shared. The best and most cost-effective ways to do this should be looked upon, as well as the feasibility. (Creating new website / integrated in already existing website like the online legal database of Waterlex: <http://www.waterlex.org/waterlex/en/resources/online-legal-database> / using Dropbox, Youtube, Vimeo etc.)
- 3) Organising workshops and / or exchange visits to learn more about communication and ways to effectively reach the target audience.
- 4) Creating a list of all organisations involved in this project, containing not only contacts, but also the tools they already use for communication. This way, all participants can easily use each other's expertise on communication, if necessary.
- 5) To actively keep communicating about these approaches as a group to take their development and dispersion to the next level. Various ways could be thought of, like a closed group on Facebook, an online discussion group, etc.

All options require further discussion and analysis on impact for the overall needs and would have to be looked at in terms of possible funding. Because at the moment there is no budget available, all participants should think of possible ways of funding to be able to take this project further.

6.0 Synthesis: is there a unified approach?

Until now, each approach has been treated as if it was unique and as if it had no relationship with the other two approaches. Of course, in practice there is considerable overlap between all three approaches. Or, as one commentator put it, the three approaches can all be used together, at different times, by NGOs, to achieve their objectives. We therefore have a toolbox containing many different kinds of tools, and the question is: can we use these tools together to build what we want to build or are they not suited to each other and do we need to modify the tools so that they complement each other better? This chapter aims to bring the three approaches together in a unified vision.

6.1 Finding the common ground

Ultimately, all three approaches represent an attempt to challenge inequality and to ensure sustainability in a range of different contexts. Every human being on this earth has the right to a sustainable livelihood and needs to have access to natural resources to make this possible. Every human being also has the right to a healthy environment. Unfortunately, economic change at the global level but also at the local level often threatens the sustainable access of local communities to natural resources and to a clean environment.

These threats can come from the private sector where private actors claim natural resources that are already being used by local communities. They can also come from the government where the planning of infrastructure threatens the livelihoods of local communities. They can even come from both the private sector **and** the government where government offers concessions to the private sector to cut down forests, develop agriculture, develop mining, and so forth.

When faced with such threats, the response depends very much on the governance system in place. The fact that communities are deprived of their means of existence is mostly the result of **economic** developments, but the struggle to obtain the right to use or control natural resources is often a **political** process. All three approaches confirm this trend: the problems local communities face are often caused by economic developments, and the approaches aim to respond to this by empowering local communities with the **political** means to achieve social and environmental justice, but they each do so in different ways.

- Through the NA, communities are challenged to define what they consider to be in their interests in order to prevent outside actors such as state agencies from taking decisions which are not in their interests and then claiming that these decisions **are** in the public interest;
- In a similar way, PLUP can lead to a common vision on the best possible allocation of land use in the public interest, and this vision can be used to challenge external planning that is in conflict with such a vision.

- For the RBA, much depends on whether there are rules of the game, and on whether the rules are respected and enforced. **If** there is a legal system in place, **if** this legal system is implemented and enforced, and **if** the government plays by its own rules, then justice can be sought through the courts. Although expensive, this route is relatively straightforward because there is a functional system of justice in place and if the claim is legitimate, the outcome should generally be positive. In cases where PLUP is used to clarify and formally register traditional rights of access to land, water and other resources, it is a useful tool to strengthen justice in an already functioning legal system.

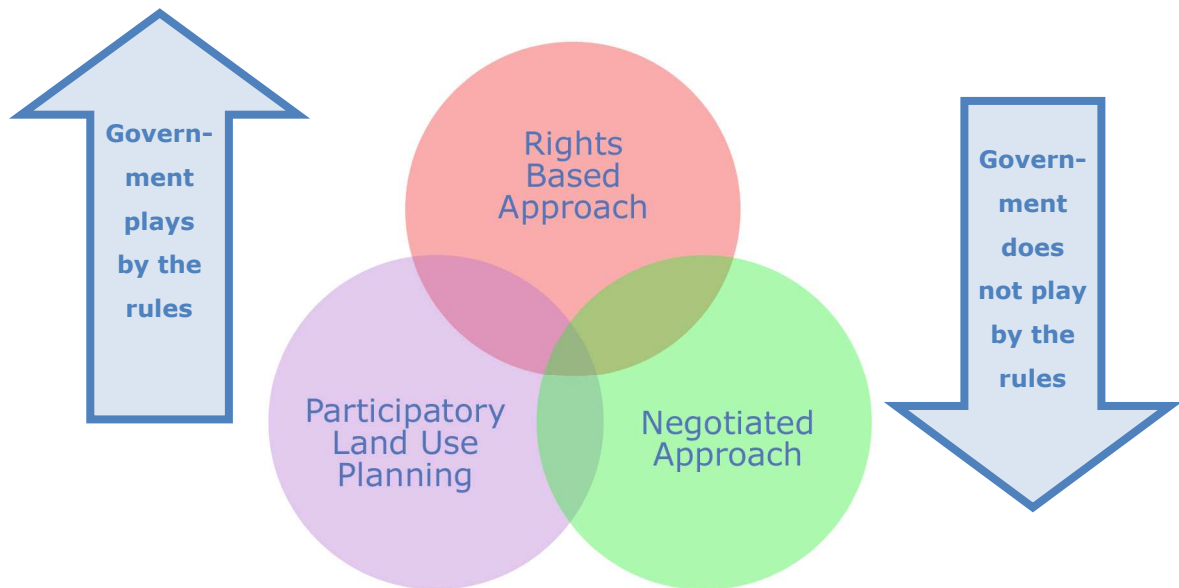


However in most cases, of course, life is not that simple. In many countries and states, court rulings are simply ignored, government agencies do not play by the rules, the private sector has freedom to act with impunity, donors focus their investments in areas which are already privileged such as urban areas, and obtaining justice is not an automatic process whereby a negative input automatically leads to positive output.

Therefore, obtaining social and environmental justice does involve some form of community mobilisation and political action. This does not have to be direct political confrontation, because joint planning exercises such as the NA and PLUP are mostly proactive and positive, generating concrete suggestions for livelihood improvements and measures for environmental protection which are often difficult to disagree with if they are in the public interest. Often it is enough simply for a community to go through a process whereby views are exchanged and a common way forward is negotiated until a degree of consensus is reached.

If government plays by its own rules, mobilising communities to develop alternatives to existing government places some pressure on responsible officials to demonstrate that they have taken account of community needs, and this can only be done by accommodating the demands of communities to some extent. If it can be clearly shown that the community not only does not want a particular project but also has a clear and well developed alternative, it is difficult for government officials to ignore this and continue with business as usual. Ensuring on-going contact with government officials on the basis of well-developed local plans for natural resources protection is an important condition for government action that is in the public interest.

Figure 6.1: relating the three approaches



6.2 Uncivil government, uncivil society

However, government may not play by its own rules or it may not even have rules. It is often the case that pressure from local elites or from foreign or local companies induces government to act against the interests of local populations and to undermine the conservation of nature. In these cases unfortunately local empowerment through negotiation and planning is not enough, and the legal system cannot be depended upon to come to the assistance of local communities' rights. In such cases, strong, decisive political mobilisation is needed to challenge existing power structures and to claim the rights of poor and marginalised groups in society. Civil society can only really be 'civil' if government itself acts in the public interest. In other words, uncivil government leads to uncivil society. Mobilisation is essential in order to communicate clearly that the existing practices are not in the interests of a peaceful and just society and nor are they sustainable in any way.

But the objective of such mobilisation is always to return as fast as possible to a society in which there are basic rules of the game which are accepted by all. The end of the road is a situation in which the distribution of rights and duties is clear, in which each citizen knows who is responsible for what, what his or her rights are, and what to do in order to get certain things done. A just and sustainable society is a rights based society: this is of course the ultimate aim.

6.3 Beyond the approaches, beyond the law

A just and sustainable society is not just a situation in which the aims and rules are clear. The aim of the Negotiated Approach, Participatory Land Use Planning and the Rights Based Approach is not to have a clear plan of action for natural resources management, or to know how to distribute resources equitably in the public interest. All of these are means to an end: they aim to lead to a society that is in balance with itself, which takes care of its members, and ensures a future for the next generation. Humankind makes plans in order to move forward, and makes rules in order to be free.

Annex I NA building blocks and tools

The Negotiated Approach is a comprehensive, flexible approach, which therefore inherently does not prescribe certain fixed, sequential steps to take or a blueprint to follow. The implementation of the NA is guided by the specific context and opportunities at hand, and multiple activities at different levels (community level and policy level) usually take place at the same time. Still, a number of key elements to address can be distinguished. For each of these elements, below arranged under three headings/building blocks (knowledge development, empowerment and negotiation), several existing or developed tools and concrete experiences are available to use and learn from.

Knowledge development can be seen as the basis to start from. First you need a good overview and insight in the current local practices, ambitions and needs of communities in the basin, the legal and institutional structures in place and the current distribution of the water resources, etc. (see below). From there, both empowerment at the local level (enhancing local people's knowledge, skills and livelihoods) and the creation of an enabling - institutional, legal, social - environment for local voices to be heard need to be addressed. For each of the elements listed below, a number of available tools are mentioned. *Note: the elements are not sequential steps to take, and the tools are just a number of examples. Note 2: the steps are all important and should be seen as complementary. The table is still work in progress and needs further discussion and elaboration. Your feedback is highly appreciated.*

Knowledge development	Tools	Cases/practices
<p>a. Assessment and documentation of local communities' and organisations practices, knowledge, needs and ambitions (gender differentiated)</p>	<p>Participatory Rural Appraisal (PRA: http://www.iisd.org/casl/caslguide/pr.htm http://enviroscope.iges.or.jp/contents/eLearning/wat_erdemo/bhandari_m4.pdf, http://cec.vcn.bc.ca/cmp/modules/par-tech.htm , includes community meetings, interviews, surveys, etc. Participatory video documenting CEDRA (Climate change and Environmental Degradation Risk and adaptation Assessment): http://tilz.tearfund.org/Topics/Environmental+Sustainability/CEDRA.htm</p>	<p>CSRD Vietnam ADAPTS, assessment of local adaptation strategies in Huong River Basin: http://www.adapts.nl/perch/resources/communitybased-adaptation-strategies-for-enhancing-resilience-to-climate-change-in-the-huong-river-basin.pdf Participatory learning and action tool kit (ELCI) Record of indigenous knowledge (FLT) Module of FPIC developed by AMAN (aliansi masyarakat adat nasional) (Telapak)</p>
<p>b. Based on above: identification of knowledge needs</p>		
<p>c. Vital statistics on water availability and resource potential in various scenarios, including climate scenarios</p>	<p>Literature studies, databases, weather station data, climate scenarios, GIS, hydrological models like STREAM and WEAP (http://www.weap21.org), engagement with environmental experts, etc Telapak: Module of using GIS that develop together with FWI (Forest Watch Indonesia)</p>	<p>STREAM modelling in DAWA river basin Ethiopia: http://www.adapts.nl/perch/resources/1299760122r1101a.pdf</p>
<p>d. Knowledge of (formal and informal) institutions, policies and legal frameworks relevant to river basin planning, i.e. collecting relevant information from sectoral plans (forest, land, energy, water, agriculture, etc), inventory of local institutions and organisations, etc.</p>	<p>Policy and legal analysis, institutional power/ capacity mapping, common database for the compilation of sectoral information Education and training manual on environmental legislation and water resources, FANCA</p>	

<p>e. Mapping of distribution of access to resources and carrying capacity of the environment, i.e. identification of stakeholders (including the ecosystem) and their resources use and needs</p>	<p>Stakeholder analysis, resource mapping (gender disaggregated), Consultative stakeholder meetings Environmental flow analysis</p>	<p>Telepak: Livelihood Analysis and Analysis Activities (LA & AA) Guide and series. These series consist of the following documents: 1. Getting a Water User's Perspectives, A Guide for Analyzing Livelihoods and Economic Activities in the Context of a Negotiated Approach to Integrated Water Resources Management. 2. Field Report on Testing the Livelihood and Activity Analyses in the Lamasi River Basin. 3. Problem Analyses of the Lamasi River Basin 4. Case Description of the Air Bengkulu River Basin</p>
<p>f. Knowledge on (gender differentiated) impacts of current and future interventions</p>	<p>Impact studies, Environmental Impact Assessment, Strategic Environmental Assessment, Cost Benefit Analysis etc</p>	<p>Gendered impacts of Bujagali in Uganda. Economic Valuation of the Proposed Tana Integrated Sugar Project, Kenya.</p>
<p>g. Compilation and analysis of above information into various scenarios and overview of key challenges, SWOT</p>	<p>Inception report format drafted by Vijay (annex 2)</p>	

(Community) Empowerment	Tools	Cases / practices
a. Knowledge of IWRM principles and implementation	IWRM training, awareness raising	
b. Making knowledge (as detailed in 'knowledge development' in above section) accessible to communities (tailored)	Sustainability School (NAPE) Training, awareness raising sessions, popular guides to legislation and policy. Paralegal training Translation of information to indigenous language.	Radio important tool in rural areas
c. Building capacities and negotiation skills	Mentoring, lobby training, learning by doing (engaging in negotiation processes (table to the right) in itself is empowering!), role plays. CAP instrument as basis for tailored capacity building programme (FANCA)	Theatre and role plays (JVE) A guide on advocacy (JVE) Linking to (pro bono) lawyers, exposure to media. Providing radio and phone to communities. Exchange visits
d. Strengthening local initiatives and institutions	Formation and strengthening of people's group/organisation	
e. Identify and invest in individual leadership/ local change agents	Identifying and engaging with proactive community leaders / youth. South-South exchanges. Training of Trainers	
f. Develop community vision exercises, unity building towards a common goal/aspirations	Local agenda 21 (http://www.environ.ie/en/Environment/LocalAgenda21) Mapping, strategic planning	ELCI: Strategic planning manuals JVE: write down book of requests (dams dialogue)

g. Mobilisation of communities	Awareness raising, campaigning Village meetings, training of local leaders, translated literature on subject matter, information materials. TV and Radio documentaries. Public action.	ELCI: A community entry strategy, baseline and needs assessment reports. FLT
h. Improving people's livelihoods! (Self-help groups, training, market access, market chain development, small scale irrigation, agro-forestry, buffer zoning, alternative livelihood income development, etc.)	Market studies Standardization & Certification guidelines. GIS resource maps	http://www.adapts.nl/perch/resources/adapts-market-survey-ghana.pdf (market study Dayi river Ghana) ELCI: Product and market information survey reports FLT: Rights awareness to avoid exploitation and participation in projects. Natural resources management skills. Telapak: Cooperatives module that we develop on some communities in comlog (community logging) ³⁴ project.
i. Protecting the environment	Discussing the need for environmental protection, detailing concrete commitments to engage in restoration and protection activities	Training guides on sustainable wise use? (ELCI) Woadze model in Ghana, DI: http://www.adapts.nl/perch/resources/the-woadze-model.pdf

³⁴ Community Logging (well known as 'comlog') is a phrase that deliberately created to contrast with illegal logging. Community logging is essentially an environment and social movement to allow public independently manage their own forests sustainably. Although there is a word logging on it said, but it is not intended to manage wood alone. The comlog includes management of timber and non-timber forest products.

(Create an enabling environment for) Negotiation	Tools	Cases / practices
a. Up-scaling local initiatives/platforms or initiate platforms for negotiation (Build on local actions. Expand geographical scale and scope of operations of existing platforms)	Set up local water user associations Handbook how to do a dialogue by GTZ (JVE) ELCI: Tool kits for resource mobilization and resource mobilization strategy.	Adjaralla Dams Dialogue Togo UNESCO study From Potential Conflict to Cooperation Potential (PCCP) in Mono Basin
b. Establish process of strategic management (iterative and cyclical: from planning, to implementation and M&E)	Table 8.1 and 8.2 <i>Involving communities</i> http://www.bothends.org/index.php?page=6&documentId=49	
c. Act as or find good facilitator (non-partisan, authority, skilled, trusted)		
d. Creating internal enabling conditions	See subjective and objective conditions on page 60 <i>Involving Communities</i> http://www.bothends.org/index.php?page=6&documentId=49	
e. Ensuring well functioning of internal mechanisms of the platform, addressing institutional arrangements, knowledge management, transparent communication and continuous learning & capacity strengthening	Chapter 8 <i>Involving communities</i> http://www.bothends.org/index.php?page=6&documentId=49 Communication: Listserves and databases. Websites/blogs/e forums Payment of participants?	

<p>f. Ensure buy-in from government and other stakeholders at appropriate moment / Obtain recognition for platforms – formal mandate</p>	<p>Link up to existing institutional structures or decentralisation processes Personal contact, formal notes, informal emails, institutional position documents, public statements published in newspapers, appearing on the media.</p>	<p>Include governments from the start: www.adapts.nl Active participation and involvement of policy actors; Organize joint activities with policy maker and other stakeholder; Participate and organize local, national and international events</p>
<p>g. Networking with potential allies</p>	<p>Networks, media, international actors, Personal meetings with journalists, appearing more often on TV or radio; we also use social networks</p>	
<p>h. Outreach and communication</p>	<p>Websites, video, film, newsletters, articles, etc</p>	<p>Ecocitoyen: weekly television programme of JVE (http://www.youtube.com/watch?v=aFfDcZOkNVO) Telapak has developed media infrastructure such as local TV, community radio and news portal (http://www.asteki.com/) in some provinces in Indonesia. Telapak's film studio Gekko: producing video's to document lessons and get message across. http://www.gekkovoices.com/</p>
<p>i. Make use of favourable institutional and/or legal arrangements or lobby for the right institutional/legal frameworks to achieve political space for local actors</p> <p>E.g. claiming the Right to Water or the Right to Information, make use of decentralisation processes or new Laws requiring basin level planning and enhanced participation.</p>	<p>Letters to relevant ministries. Questions in parliament. Stakeholder meetings.</p>	<p>Telapak: use decentralisation process in Indonesia to initiate NA FANCA: lobbying for the Right to Water</p>

Annex II Format for the Inception Report / Negotiated Approach to Integrated Water Resources Management

The Inception Report is an attempt to understand and assess the historical and existing context within which the plan is being undertaken, and to arrive at objectives for the plan. It assumes, by definition a 'Project mode' where a timeline and a budget line is envisaged and determined.

The process requires the stock-taking of the existing resources (material, financial, human and natural) and the assessment of reports and conducting a strategic secondary survey in order to map the conceptual, physical, institutional and social dimensions within which the project is being initiated. Apart from secondary surveys, discussions with key actors and agencies concerned with the project region are also a crucial element of the mapping exercise in order to determine the status, quality and scope of participation of communities in the process of change. However, the process is restricted to mapping for determining the framework and guiding principles on which the further reports (Draft Interim Report, Draft Final Report)³⁵ will be structured.

The recommended structure for preparing an inception report is as follows,

PART A

1. Conceptual and Ideological Framework

Brief description and orientation of the Project with the conceptual or ideological framework which will give the guiding principles for constructing the Inception Report. It also sets the conceptual vision for the Project.

2. Statement on the history and the status of development in the region

- a. Assessment of social and political history of the region, resource use and management strategies, describing the chronology of events which lead to the current land use
- b. The current status of development in the society in general with respect to the resource use
- c. Assessment of environmental dimensions of the resources
- d. Assessment of existing infrastructure, investments, approaches for resource use for its efficiency, sustainability

³⁵ A Draft Interim Report normally includes the detailing of suggestions and proposals made by the stakeholders, identification of projects, and a plan of activities, while the Draft Final Report includes an Action Plan, Financial/ investment Plan, Environment Management Plan, Disaster Management Plan, a time schedule and the expected outcomes of the plan. It also includes a benefit sharing mechanism.

3. Description and status of natural resources

Geographical Area, climate, geology, hydrology, biodiversity, historical land use, etc.

4. Policy and Statutory Framework

Identifying, understanding and evaluating the current policy and statutory framework for its strengths and weaknesses in the context of strategic planning for sustainable development and management of the resource

PART B: Preparation for the Negotiated Approach

5. Identifying the key actors and agents of change with respect to resource management

1. Description of the diverse segments within the community, de-bundling and classifying the socio-economic sphere (Government, Private, Civil Society, socio-economic classes, etc.) with respect to the access, control and influence over the use and management of resource(s).
2. Description of the existing Institutional or Organisational structure for use and management of resources, and its broad assessment
3. Identifying the issues of concern and topics of agreements and disagreements, synergies and conflicts amongst the various stakeholders
4. Identifying the nuclei of local action and the agents of change at the micro and macro level (e.g. Interventions by organisations/individuals which are working for change, changes in policy at the national/state level, etc.)
5. Mapping the various aspirations and expectations by various stakeholder groups with respect to the resource in particular and development in general

PART C

6. SWOT analysis in the context of NA to IWRM

1. The strengths or weaknesses in the context NA to IWRM refers to the network of actors and their competence in negotiating and resolving issues. Here, having strong local action groups, strong or weak social networks, status of literacy, enterprise, etc. in the community will play a crucial role in determining the process and success of negotiation. The existence (or absence) of community participation, the level of participation and involvement in decision making
2. Opportunities and threats in the context of NA could range from the intervention of new policies, new actors, etc. to the natural assets in the region (existence of groundwater, high aesthetic value of the region, places of cultural importance, etc.) and the uses (increased tourism, increased investments within the region, etc.)

7. Determining the objectives of the Project

On the basis of the secondary surveys and discussions with the various stakeholder groups and the assessment of the basic mapping of the various dimensions of the resource under question, the objectives and scope of the project can be determined.

The processes and platforms for trade offs, consensus solutions, choosing technical options need to be determined. The nature of platforms (hierarchical/non hierarchical), organisational structures are determined through discussions, dialogue, and negotiations.

The decisions regarding the management aspects such as co-management with the government agencies or independent management by communities should be taken while determining the objectives.

8. Stock-taking of the resources for implementing the Project

The project implementing agency should conduct a survey of the availability of manpower, technology, organisational network, finances, etc.