

# P O L I C Y

**IUCN – The World Conservation Union**  
Regional Office for Southern Africa  
**Regional Policy Programme**

## **POLICY FORMULATION AND IMPLEMENTATION PROCESSES IN SOUTHERN AFRICA**



**Proceedings of the Regional  
Workshop held at Randburg  
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NETWORKING AND CAPACITY BUILDING



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## **EXECUTIVE SUMMARY**

The two-day regional workshop on Policy Formulation and Implementation Processes in Southern Africa was held on July 9 and 10 2002 at the Randburg Towers Hotel, Johannesburg, South Africa as part of the Regional Networking and Capacity Building Programme (NETCAB), which is co-ordinated by IUCN-Harare in Zimbabwe.

NETCAB was launched in October 1995 through a collaborative agreement between USAID's Regional Centre for Southern Africa (USAID/RCSA) and IUCN's Regional Office for Southern Africa (IUCN-ROSA). The objective of NETCAB is to enhance the capacity of southern Africa's government institutions and NGOs to address environmental policy and management issues relevant to increasing natural resource productivity through co-ordinated regional initiatives and networks. Capacity-building is supposed to be at all levels (community, NGOs, national and regional).

The programme has a number of specified inputs and outputs, responsibilities for which are divided between institutions in the region. The Regional Workshop on Policy Formulation and Implementation Processes in Southern Africa falls under the organisation's Regional Policy Programme.

IUCN-ROSA had commissioned six case studies to assess the policy formulation and implementation processes in Botswana, Malawi, Mozambique, South Africa, Zambia and Zimbabwe. Workshops were held with key stakeholders to discuss the case study findings and to formulate recommendations on how policy formulation processes could be made more effective so as to improve regional environmental management.

The studies focused on the level of stakeholder involvement in the development of the following policies:

- Botswana: National Conservation Strategy
- Mozambique: Natural Resource Management policies
- Malawi: Forestry Policy Act 1997
- South Africa: National Environmental Management Act
- Zambia: Wetland Strategy and Action Programme
- Zimbabwe: Environmental Management Bill.

The Johannesburg workshop brought together 32 key stakeholders in the policy formulation and implementation process from Southern Africa, including experts, representatives from civil society and industry, government personnel and IUCN.

The main objectives of the workshop were:

- To share experiences and lessons from the six case studies and from other countries in the region among governments, NGOs, community representatives and the private sector.
- To develop recommendations on how to influence national and regional policy formulation processes so that they are more effective and inclusive.

## **RECOMMENDATIONS ARISING FROM THE WORKSHOP**

The six case studies repeatedly highlighted four issues in which there were gaps that participants agreed compromised effective formulation and implementation policies in the region.

These issues were

- **policy development and formulation**
- **policy communication and related capacity-building,**
- **policy implementation**
- **policy impact.**

Each of the issues had a specific dimension. In the case of **policy formulation**, there did not seem to be any consensus let alone understanding of the processes of policy formulation in the region. It was also felt that that terms were used interchangeably, leading to a confused use of terms such as policy, strategy and action plan.

Participants also noted that there was no accepted logical framework within which policy formulation and implementation occurs.

In the areas of **policy communication and related capacity-building**, the need for intervention was identified in several areas. These concerned information on dissemination (pre- and post- development communication); decisions on communication media; awareness; education; networking; sustaining interest, and maintaining institutional memory.

Issues in the areas of **policy implementation** were: ownership (rights and responsibilities); decentralised governance; integration of policies across sectors; relevance and size of programmes and projects; fragmented institutional capacity, institutional roles and responsibilities; the often-uncertain role of civil society in implementation; legislative arrangements for policy implementation, funding and post-development awareness.

In the area of **policy impact**, the need for a qualitative and quantitative assessment of the impact of policies was stressed, as was an eventual identification of indicators. Participants felt that post-enactment workshops

should also be considered in order to determine how people are impacted upon by policies.

In line with these four key issues, three break-away groups were formed . Terms of reference were developed for the groups to discuss the issues in more depth.

A set of recommendations emerged from these discussions. They fell into four broad categories: **developing a logical framework, enhancing broad-based participation in policy formulation, policy implementation and other cross-cutting recommendations.**

In terms of the **framework**, it was felt that an acceptable process for environmental policy formulation should be developed. User-friendly guidelines on policy formulation, implementation and evaluation are necessary. There must be thorough research prior to policy formulation. The results of that research should be built into the formulation process. Policy development should be cyclical, and carried out systematically and scientifically. Policy development must be properly funded, with adequate budgetary resources allocated to the validation process. Include a budgetary plan when a new policy is being developed.

It was suggested that policy formulation be flexible and adaptable to accommodate diversity and change at different levels. Policies should be issue- and area- specific. The roles of all institutions and stakeholders involved at each step of the process must be clearly defined. There must be guidelines to ensure that stakeholders are participating effectively.

Policies and their impact must be monitored and reviewed, participants said. Mechanisms must be developed to do this – including a mechanism to update and validate the policy.

Participants said that **participation** could be improved by involving all stakeholders, including local communities, in developing policies. All stakeholders, including local communities, must be involved in developing policies. This will ensure support and collaboration at the implementation stage. Adequate funds must be allocated to allow for wide stakeholder participation. Internal and external stakeholder networking should be initiated, participants recommended, and the media must be engaged.

It was recommended that **implementation** of policies be improved by getting all stakeholders to participate in their formulation. Funds should be provided for this.

Conflict management mechanisms and mechanisms for alternative dispute resolution must be used, delegates said. Similarly customary practices and indigenous knowledge should be used as far as possible, together with existing institutions.

Participants said that strong legislation should be developed to support the implementation of policy. Where possible, this should be harmonized with existing legislation. Harmonization should occur at the regional level (e.g. in trans border natural resources management (TBNRM), for livestock disease control). Policy implementation must be monitored. Clear indicators must be used during monitoring processes. Impact monitoring should be carried out at this stage at the local level. Monitoring results should then be used to update policy.

Benefits should be immediately evident to the local communities. Implementation strategies should make use of multiple ways of communicating (including traditional methods) as well as current learning theory. Success case story studies could be drawn up.

Other recommendations included the need for institutional capacity-building on advocacy and analysis. Participants felt that information concerning policies, strategies and plans must be disseminated in an appropriate manner to all key stakeholders, including at local community level. It should be a two-way process. Policy monitoring and evaluation are essential. It was recommended that policy evaluation be carried out at all levels by a third party.

Policy formulation remains the responsibility of government, however, inputs must be solicited from broader society, especially grassroots stakeholders who are impacted upon by policy. Government should facilitate the integration of inputs from various stakeholders.

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## **BACKGROUND AND INTRODUCTION**

### **Saliem Fakir, Director, IUCN-South Africa**

Welcoming participants, Mr Fakir said that he wanted to share some ideas and views about policy issues from an IUCN perspective that would stimulate discussion later in the workshop.

#### **Policy: a definition**

Mr Fakir said that policy-thinking, such as is being conducted by institutions like IUCN as well as governments, corporations and NGOs cannot be viewed simply as research and knowledge-gathering. Fundamentally policy needs to be seen as a **transformative tool**, changing the way we think about the world and in so doing changing peoples' behaviour and responses to environmental situations.

Policy has to be **innovative**, both conceptually in terms of what we think and understand (as ways of generating new thinking about the world) and in the ways policies translate into action.

There is no such thing as policy without practice. To talk of policy as research without translating it into action makes no sense if you want to bring about change.

With its membership of government, secretariat, and NGOs, IUCN is deliberately constructed to allow the maximum convergence between policy-thinking and practice.

The role of IUCN's secretariat is not only to generate policy-thinking, but also to pursue practical politics and to drive initiatives that lead to tangible action.

#### **The media**

It is important to engage the media. Policy researchers and policy thinkers need to have their understanding of reality dispersed to wider society.

Policy-making and thinking has been taken over by NGOs, churches, political unions and corporations. It is largely a dispersed industry that is not confined to the state as it used to be.

These bodies are often more efficient because of the level of resources and networks that they command in gathering information and formulating and disseminating information.

The role of government should be to facilitate this process and to derive the best elements from work that has been done by external agencies and to use that in an effective way.

## **Making policy research more responsive**

A study of the military and other corporations can be instructive. It is important to try to grasp the external environment through scenario-planning and strategy. By anticipating what is likely to come in the future, this should assist in identifying pioneering research. When these changes do occur, policy can thus inform strategies for adaptation at a political level and across society.

The process of policy is about heightening awareness of issues that are going to emerge and empowering our decision-makers to be able to respond more effectively to a changing environment.

## **Proposal for a regional centre for environment policy and research**

IUCN is looking to launch a regional centre for environment policy and research and advocacy. The hub is likely to be based in Gaborone in close proximity to the SADC secretariat. The centre will have satellite bases in surrounding countries.

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## **REGIONAL POLICY PROGRAMME OVERVIEW AND PURPOSE OF THE WORKSHOP**

**Carmel Mbizvo, Programme Co-ordinator, IUCN Regional Policy Programme.**

### **IUCN-ROSA's primary objectives**

Ms Mbizvo outlined IUCN-ROSA's three main objectives:

- knowledge generation
- improved environmental and natural resources management (NRM) policies and legislation (to influence and support the development and implementation of environmental and NRM policies at national, regional and global levels)
- IUCN-ROSA operations

### **Policy formulation and implementation processes in Southern Africa**

Since IUCN's role is primarily to facilitate and support, the organisation works mainly through partnerships with members, neighbours, SADC and partners, the private sector, and other regional institutions.

Broadly IUCN's Regional Policy Programme focuses upon:

- capacity development (technical and organisational)
- policy support (development, implementation, review and advocacy)
- environmental law

- conflict management

### **Capacity development and policy support**

IUCN works on the provision of technical skills and also organisational development. The focus is upon improving performance amongst IUCN members (both government and NGOs).

This is being done mainly through **training programmes** on issues such as governance and leadership and information management (including strategic communications). Focus has also been on management practices, planning, monitoring and evaluation and so on.

On the technical level, short-term training workshops have been held. The focus has been on things like policy analysis, advocacy and looking at how to bring social science perspectives into natural resource management.

At the community level IUCN-ROSA has worked on some framework legislation. Based on the training workshops the organisation has come out with “handbooks” to support capacity-building. Training programmes on environmental advocacy are also held for middle-management levels.

At the **trans-border natural resource management** (TBNRM) level, IUCN has played a facilitation role in supporting government and stakeholders to come up with trans-border natural resource management **agreements**.

### **Environmental law**

IUCN-ROSA runs an **environmental law programme**, aimed at strengthening environmental law in southern Africa. The focus has been on internships with young law graduates from universities in the region.

The organisation also supports law graduates to do a Masters in Environmental Law at the University of Natal. The Commission on Environmental Law is basically an advisory committee that helps with monitoring and advises on the projects. IUCN-ROSA has also assisted with reviews of national legislation.

Efforts are also being made to try to see how universities in the region can be supported to come up with curricula on environmental law.

### **Assessment of present status of policy formulation and implementation processes in Southern Africa:**

This is one component of IUCN-ROSA’s Networking and Capacity-Building Programme (NETCAB), which is funded by USAID’s regional centre for southern Africa.

Its objective is to help Southern Africa's governmental institutions, NGOs and community-based organisations (CBOs) to address regional environmental policy and natural resource management (NRM) issues effectively.

NETCAB aims to achieve three intermediate results:

- improved performance of IUCN and its member partners working in environment and NRM programmes
- developing of environmental policies that support improved NRM practice.
- increased knowledge and awareness of sustainable environment and NRM practices

The "Assessment of Present Status of Policy Formulation and Implementation Processes in Southern Africa" initiative aims specifically to support the development of new inclusive participatory approaches to policy formulation that adequately address local realities.

To try to achieve that objective, six case studies were commissioned. This was done in collaboration with IUCN's country offices in South Africa, Botswana, Mozambique and Zambia. In Malawi work was carried out in association with the Co-ordination Unit for the Rehabilitation of the Environment (CURE).

Ms Mbizvo said that the aim of the workshop was to share experiences and lessons from the six studies and also from other countries represented.

It was hoped that through learning and sharing experiences and challenges from the six case studies it would be possible to develop a framework for participatory policy formulation and implementation processes in the region.

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## **THE CASE STUDIES:**

### **BOTSWANA'S NATIONAL CONSERVATION STRATEGY**

**Masego Madzwanuse for Lin Cassidy, IUCN-Botswana**

#### **Background**

Botswana's National Conservation Strategy (NCS) was passed by parliament in December 1990. The formulation process took seven years, beginning in 1983. This was longer than any other previous policy in Botswana.

Although conflicts over natural resources may already have been present at the time that the NCS was first thought of, inequalities in access do not appear to have been the primary reason for the initiation of the policy. In the early 1980s Botswana's population was still small. There was more concern over environmental degradation than whether natural resources were evenly distributed among the various population groups. The main conflict at the time was between livestock-rearing and wildlife as forms of land use.

#### **Origin and conception**

The NCS was based on the formulation of the World Conservation Strategy by IUCN in 1980. IUCN played a major role in the sense that it provided the initial momentum behind this formulation, through provision of senior advisors and consultants and they worked very closely with UNEP, NORAD.

#### **Methodology used in compiling this paper:**

- **Key informant interviews** were carried out with six people who were members of the original NCS task force (when the NCS was being initiated). This was in order to establish the process of formulation as well as the perceptions of these people in terms of the implementation phases working out.
- **Review of the National Conservation Strategy**, the policy document and supporting documents (all the reports that were put together during the consultation stage and fact-finding missions and reports from the various workshops that were held). Ms Cassidy also looked at the draft field notes that were put together by those who were collecting data at the time.
- The paper was subjected to a **peer review process** as opposed to a national workshop. Botswana's approach was to put together a team of peer reviewers who reviewed this paper.
- Findings were summarised and analysed to form the contents of this paper.

## **The policy formulation process for the National Conservation Strategy**

Formulation was through an extensive consultation process which lasted for five years.

- **Extensive consultations:** representatives of virtually all sectors of Botswana society were formally consulted. They were asked to identify the main environmental problems, and to suggest solutions and action proposals. Central and local government, village organisations, donor agencies, NGOs, educational establishments, public companies, church and voluntary organisations, and commercial interests were all asked to contribute their ideas.
- **Household surveys:** some 2,700 households were interviewed, and asked to give their own perceptions of the environmental issues the country faced. The findings were taken back to the communities for verification and for them to confirm the consolidation.
- **Fact-finding review:** a fact-finding review of the Botswana environment was undertaken. Leading environmental experts were tasked with taking stock of the state of the environment at the time and highlighting what problems were likely to emerge. The review was carried out jointly by the University of Botswana's National Institute of Research (NIR) and the Free University of the Netherlands.
- **Consultation workshop:** the Botswana Society organised a consultation workshop for the private sector and NGOs. Different stakeholders were given the chance to say what they perceived to be the environmental problems of the time.
- **Follow-up seminar:** this was organised by the Botswana Society.
- **Key informant interviews**
- **Document review**

### **Policy implementation:**

#### **NCS Advisory Board and NCSCA**

The NCS is implemented through the functions of the NCS Advisory Board and a co-ordinating agency, the NCSCA. The board has been in existence for at least 10 years, but with a very limited function. Members fail to meet as regularly as they should – for example, a meeting held in 2000 was the first to be held in nearly three years, despite the fact that they are supposed to meet at least three

times a year). Because of members' busy schedules – the minister is a member of the board – they find it very difficult to make time to meet. This was noted as an area of weakness in the policy implementation process.

The intended duties of the National Conservation Strategy Coordinating Agency are:

- the preparations of regular State of the Environment Reports
- ensuring that proper environmental impact assessments are carried out
- advising government ministries and local authorities on how to discharge their environmental responsibilities at both national and local government levels

Like the board, the NCSCA also experiences difficulties in carrying out its co-ordination role because there is still no legislation to give it that authority. For more than 10 years the NCSCA was seen as an institution that was outside formal government structures. It was neither a department nor was it clearly related to any government ministry that formal government structures could identify with.

The NCSCA policy is also not very flexible to accommodate either temporary variations or long-term changes. Because the formulation process took such a long time, changes occurred. By the time the policy document was in place, some of the elements of that policy were outdated. At the time at which most of the community consultation was being carried out, Botswana was going through a most severe drought. This wasn't the case at the time the NCS was drafted. An update of the NCS plans to take into account those changes.

### **An effective process?**

With that very long and elaborate consultation process, was it really effective? Several pros and cons were mentioned.

- **Laying down the basic issues:** the consultation process provided the basic issues upon which the policy is based. That in itself was an achievement.
- **More people reached:** the household surveys were effective in the sense that more people were reached as opposed to the *kgotla*, or traditional public meetings, which were sometimes poorly attended.
- **Consultation during formulation:** the consultation process during the formulation phase is seen by many as the most successful part of the NCSA.
- **Insufficient verification of people's perceptions:** people's perceptions were taken as given and went straight into the policy document.

- **Public participation limited:** many people see a situation where public participation stopped with information gathering and at this stage political correctness took over.
- **Controversial issues dropped:** some issues which were raised by communities in various forums such as the issue of dual grazing (where people were freehold farmers and sold grains and livestock in community areas, thereby contributing to environmental degradation) were dropped from the policy document.

### **Main lessons, issues and challenges**

The main issues and challenges emerging from this are that the NCSCA needs **more legal authority** to enable it to achieve its objectives.

Experiences from other policy processes suggest that participation needs to be carried through to the implementation stage e.g. through the establishment and the use of existing committees at district level.

Another lesson is that policies need to be **adaptable and flexible** enough to reflect other changes with time. Policies should not be cast in stone because the problems change. New problems arise and old problems become outdated. There needs to be analysis in our policy documents to accommodate those changes. There needs to be continuous monitoring to determine policy impacts and resultant changing perceptions of stakeholders.

### **DISCUSSION**

A question was asked as to whether the three roles of the National Conservation Strategy – co-ordinating, regulatory and advisory – were conflicting.

The paper's presenter confirmed that problems had emerged at the implementation stage, with members accused of being co-ordinators at the same time as wanting to be implementers. So the fact that the roles were somewhat contradictory had emerged in the implementation phase.

Is the NCS just a one-off thing? Ms Madzwamuse believed this was not the case. Botswana's National Development Plan has always had linkages between environment and development. During the last 14 years, there has been an increased amount of awareness of the importance of looking for environmental indicators of economic development.

The functions of the Advisory Board were clarified. Its function is precisely that – to advise. The Board is supposed to give guidance on how organisations and individuals should meet their environmental obligations, such as EIAs, particularly in cases of doubt.

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## MALAWI'S FORESTRY POLICY

**Esther Mede, consultant**

### **Methodology**

The methodology used to draft Malawi's forestry policy involved **literature** (and record) **review** and **consultations** with experts and individuals in communities who are interested in issues relating to the environment.

This led to a **draft** which was presented at a workshop. The workshop was attended by a cross-section of participants from various institutions and a lot of other stakeholders.

The draft was the product of input from a lot of people, including the government, NGOs, research institutions and the private sector.

Recently the country launched the **poverty reduction strategy**. Sectors currently working on NRM (e.g. the fisheries sector) wrote papers which contributed to decisions made about what was to go into the poverty reduction strategy.

Since independence Malawi has worked fairly well to develop policies in the field of NRM. The various sectors have evolved and been reviewed.

**Decentralisation** of local government is very important in Malawi. In terms of implementation of natural resources management policies, there is currently a policy, an act and a strategy on decentralization.

The forestry policy of 1994 was based on older policies, with central government playing a key role in the control of natural resources. However, it has now been modified to incorporate a participatory approach.

The country's wildlife act was finalised in 1999, but the policy itself was finalised later. Land policies are still being debated in parliament. There were no community-based natural resource management policy prior to 1994, but now there is.

Mede said the picture that she was trying to present was on how far Malawi has gone in developing approaches to community-based natural resources management since 1994. She wanted to point out that there are policies in place and acts of parliament to support them, as well by-laws produced by people to represent communities, which have received government approval through their endorsement by cabinet ministers.

## **Problems associated with policy formulation cycles in Malawi as exemplified by the Forestry Policy**

- **Insufficient regard for policy ownership**

Most of the sectors review their policies when the need to do so has been identified. When this happens, in some cases a **taskforce** has been used. In other cases an **expert** (or experts) has (have) been used. There has also been a certain amount of **community mobilisation** to get community input into the changes.

Despite this apparent community input, Ms Mede said that it was important to ask who really within the community was inputting into the process, and how this inputting was being done. She said that there was some evidence that even at the community level there were local authorities who say the things that are to be heard. The views of the ordinary person may not in fact get aired.

Following these reviews, the donors are consulted and other stakeholders, so that the draft can have input from these parties.

Usually there is then a need to go back to the people in the communities with the draft policies BUT in most cases within Ms Mede's experience this is not done. The explanation given by the authorities is that there is insufficient funding for the exercise.

The end result is that because such a long period of time elapses between the time the draft is prepared and the time it is reviewed, by the time the communities finally get to see it, they hardly remember what it was about.

Policy ownership is a real problem, hampering the effective implementation of policies. The impetus to implement or abide by a policy is much less when people do not feel a programme is theirs. Given the inordinate lengths of time involved, communities and people forget about the policies they have at some time provided input to. Thus when the programs and policies are "delivered", they are seen as being government programs.

Linked to this is often a growing **dissatisfaction** with the implementation process. People start complaining, and then begin changing the policy again. It appears that policies are changed as a result of poor implementation rather than in response to the changing needs of society.

Ms Mede said that these two factors -- lack of a sense of ownership and dissatisfaction with implementation processes – led one to ask whether the way policies were being implemented could be improved.

Questions Ms Mede suggested should be answered to improve policy ownership were: Are all the stakeholders being involved? Are all the resources that are coming in being co-ordinated properly? Are the real felt needs being addressed or are the needs those that outsiders think are there?

- **Lack of feedback**

Ms Mede suggested that feedback was vital and needs to be immediately incorporated into policy processes. Problems should be addressed as they surface, and input immediately fed into ongoing activities, even if that means radical change.

- **Contravention of rules**

One of the obvious problems seen in the Malawian experience was a failure to ensure compliance with rules and regulations.

Part of the problem is that communities really need a lot of support in terms of explaining their rights and responsibilities.

- **Need for devolution of power**

Central government – which approves the by-laws – should not withhold authority because they feel that people are taking over.

People are very vocal about their need for legal empowerment. If central government refuses to empower them by not approving by-laws, then this will have severe consequences for the effective implementation of policies.

- **Inflexibility**

Ms Mede felt that there should be capacity in our countries for people who can actually say this policy is not working because of certain issues and be able to change the policy accordingly. After all, she asked, what is the point of having a policy if it can't be changed?

She gave the example of charcoal-making in Malawi. The practice is being carried out extensively and environmental experts predict that it will lead to massive deforestation. However, nothing has so far been done to change the policy – Malawi's statutes still stipulate that people who want to make charcoal must apply for a licence.

- **Lack of funds**

All too often there is a lack of funds for validation processes. This undermines the effort to ensure that stakeholder inputs are incorporated into drafting.

- **Proliferation of models**

The use of several different models can be confusing for the communities. Community members may not always understand that things like collaboration and co-management can be complementary activities. When policy officials confuse the local communities, it makes it very difficult for the local leadership to support complementarity.

Ms Mede referred to the research paper on Malawi (included at the back of this document) for detailed information on weaknesses, constraints, recommendations and implementation processes specific to that country's experience.

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## **DISCUSSION**

- **The 'donor question'**

One participant wanted to know to what extent policy in Malawi was influenced by donors.

Replying within her capacity as a consultant, Ms Mede suggested that while donors may influence the initial drafting of policies by imposing their own experts, there is evidence of a post-drafting transition.

Another colleague suggested that because the donors support development programmes that government on its own could not fund, the donors thus had a rightful role in development. It was suggested that the recipient of donor money was put in a sensitive position.

Facilitator Mankone Ntsaba asked if donors have advice to give to a particular government or particular communities, was it wrong for them to give advice if that advice is good?

Who is then to decide whether the advice is good or bad, another member of the floor asked. Donors are in a very powerful position.

Another participant pointed out that there are different levels of involvement when it comes to the donors. In his view, previous experience in the 1960s, 1970s and 1980s was that donor money came with many more strings attached, including the conceptual viewpoints of the donors. Regionally, this participant suggested, countries have learned to take the ideas of the advisors and to marry them with more African ideas.

It was suggested that policies must be donor-funded but country-driven.

- **Implementation of Malawi's forestry policy**

One participant asked how far collaborative management had been successful in the implementation of Malawi's forestry policy.

Ms Mede said that on the whole, a good deal of progress had been achieved. People are already participating and systems have been put in place. She said however that it was important to determine how effective these systems were.

After about four or five years of new policy and legislation, there is only one signed co-management agreement. This was put in place after the exertion of a lot of government influence to try to garner the political will to have it signed. So while policy and legislation are there, it apparently takes a long time to actually put something on the ground.

Ms Mede felt that a lack of funds was hampering effective environmental management in Malawi. There is very limited finance from the government, she felt. She said that for environmental management to move forward in Malawi, it was vital to work out a way in which it could be afforded.

The speaker also spoke of the rationale behind collaborative management in Malawi. Because of land tenure issues, customary rights and basic survival issues, it was thought that collaborative management (working with the local communities) was vital.

She stressed the important role of technical people in making local communities understand their rights and responsibilities towards local resources. They need to be able to see that it is not a question of personal exploitation of the resource for an individual's benefit but also for the benefit of other people to sustain the resources. She felt that there should be a new approach to get the system closer to the people.

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## **MOZAMBIQUE: NATURAL RESOURCE MANAGEMENT POLICIES**

**Andre da Silva, Ministry for Co-ordination of Environmental Affairs,  
Mozambique**

Mr Da Silva, the head of the legal department in the Ministry for Co-ordination of Environmental Affairs, presented a paper analysing the formulation of natural resource management policies in Mozambique and the ways in which civil society is enabled to participate in these processes.

## Research questions

These included:

- How is current consensus created, reproduced, and used in national policy agendas?
- How does research create an understanding of the underlying processes and local perceptions that allow some common positions to emerge?
- How can the emergence of such common positions be facilitated?
- Where common positions emerge, what are the cross-sectoral issues that need to be addressed?
- What trade-offs emerge and how are they negotiated?
- What changes are needed in the process by which national policies are made to reflect such new consensus?

## Methodology

Main methods used were:

- **Interviews:** with key staff from government bodies (the Ministry for Co-ordination of Environmental Affairs (MICOA), the Ministry of Agriculture and Rural Development (MADER), the Ministry of Tourism (MITUR). One NGO, ORAM (Rural Organisation for Mutual Assistance), was also consulted.
- **Document review:** documents consulted included the National Environmental Management Programme (1994), the National Environmental Policy (1995), the National Water Policy (1995), the Policy and Strategy for Forests and Wild Life (1997), the Plan of Action for the Reduction of Absolute Poverty or PARPA (2001-05), and the Quinquennial Government Programme for 2000-04.<sup>1</sup>
- **Workshop:** after the first draft had been produced, a workshop was convened. It was attended by government experts, people from the business sector and NGOs. The draft was presented and debated. Comments were made on the proposed model.

## Background

Mozambique is emerging from a long period of recession, which ended in the mid-1990s. Economic growth since then has been positive and rapid, but social development has been less promising. The protracted civil war destroyed much of the productive capacity of the country.

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<sup>1</sup> Official Gazette n.º 12 I.<sup>a</sup> Série, of March 22, 2000.

The **illiteracy rate** amongst the adult population is 60.4 per cent. Sixty-seven per cent of the urban population is literate, but the figure drops to just 28 per cent of the rural population. There are wide differences in terms of gender – in urban areas 80 per cent of men are literate compared to 54 per cent of women.

From 1977 until 1990, Mozambique was governed under the **communist system**. Under this system, the economy was to be centralised. During this period, where only one political party was standing, other groups of interests served as the genesis of civil society interest groups, born after the liberalisation of the economy and legalisation of a multi-party system.

In 1990 the Association Act allowed for the freedom of association. This act made possible the emergence of Mozambique's NGOs. The act signalled the beginning of an **NGO and civil society 'boom' in the country**. Labour unions were especially popular. NGOs focusing upon natural resource management were set up. Many of these are still in an embryonic stage. Mozambique has what can be characterised as an amorphous civil society, partly due to high levels of rural poverty and illiteracy.

## **Current processes of policy formulation and implementation**

### **Policy objectives**

Policy development really took off in 1994 after the first multi-party elections. All the sectors were supposed to develop a policy to achieve this big objective of the reconstruction of the economy.

Policies are normally directed to the promotion of sustainable development, poverty reduction and the sustainable management of natural resources.

Policies are supposed to:

- establish priorities and targets to be attained in the short, medium and long-term. They are also supposed to identify constraints and limiting factors in the sector to which they are related.
- identify the opportunities, partnerships and synergies that can be used to develop the sector.
- identify needs in terms of capacity building, infrastructure, legislation and strategy.

### **How is current consensus created, reproduced and used in national policy agendas?**

Research has shown that policy formulation processes in Mozambique were undertaken through different methods. Usually local communities and other stakeholders were not effectively involved in the process.

Policy formulation was conducted using two different methods.

Most of the policies that relate to natural resource management were formulated according to a process which reflects the tradition of the **public sector** bent on working towards the recovery of the national economy.

During this first phase, the process of policy formulation was a government prerogative. It was undertaken using the following method:

An internal technical group (commission or committee) was set up from the particular sectors that were trying to develop a new policy. This group was forced to do all the research in order to try to bring a draft policy. They were supposed to consult the required stakeholders to incorporate their concerns into the policy.

Following internal discussions and approval, this first draft would be circulated to other related sectors. They were supposed to provide input that would improve the document. This was the method used to obtain consensus among the various stakeholders.

The document was then presented to cabinet to be approved, the circulation of the document being interpreted as the harmonisation process.

#### **Examples of policies prepared under this model are:**

- Resolution 2/95 of May 30: National Tourism Policy (1995)
- Resolution 5/95 of Aug 3: National Environmental Policy (1995)
- Resolution 7/95 of Aug 8: National Water Policy (1995)
- Resolution 11/96 of May 28: Fisheries Policy (1996)

#### **Weaknesses of this model**

- **Absence of public participation**, which left resource users totally unaware of the policies. Even within the institutions that approved the policies were people who knew nothing about the policies.
- **Poor inter-sectoral harmonisation**. For example, between 1994–96, there was a big sectoralisation of the issues of NRM. For instance the sector of fisheries was not considered as related to the wildlife sector. Where wildlife and forests were concerned there was no consultations with the water sector for developmental activities or strategy or so on.

## **CONDES**

An institutional arrangement was set up in order to try and solve this problem. The National Council for Sustainable Development (CONDES) was created, in a bid to ensure the country's commitment to Agenda 21.

CONDES' main objective is to ensure an effective and correct co-ordination and integration of the principles and activities related to environmental management with the developmental processes of the country.

It has a dual role: it is both an advisory body to the cabinet and to government, and a forum to get public opinion on environmental issues.

The council:

- gives its view on the sectoral policies related to the management of those resources.
- gives its view in respect of proposed complementary legislation to the Environmental Law, including proposals to create or review sectoral legislation related to the management of natural resources in the country.
- gives its view on the proposals for the ratification of international conventions related to the environment.
- formulates recommendations for the ministers involved in different areas of the management of natural resources.
- serves as a forum for the resolution of institutional disputes related to the use and management of natural resources.

### **Legislative arrangements for policy implementation**

One of the features of national policies in Mozambique is that they are not coercive. They operate as binding instruments for the institutions of public administration and as a guiding instrument for stakeholders acting in the areas related to the policy.

#### **What laws affect the implementation of policies?**

In principle all laws related to natural resource management affect the way those policies are implemented because laws are supposed to be in accordance with the policies.

Mr Da Silva said that what was increasingly being noticed was that as laws were being developed, they were not reflecting policies. This, he said, was usually because another body was approving the laws. For example, the water policy was developed in 1994 but the water law was developed before in 1991. The water policy was not reflected in the water law.

## Shortcomings in the implementation of legislation

- **Scarce implementation:** in most cases, there has been scarce implementation of the laws that have been approved.
- **Ignored by the judiciary:** the judiciary often completely ignore environmental legislation. Even at the highest levels, judges may not be aware that such and such an environmental law exists. These judges are much more acquainted with criminal law for example.
- **Prevalence of customary law:** most of the relationships of the primary users of natural resources are regulated by customary, not institutionalised laws.
- High levels of **illiteracy**.
- **Low institutional capacity**.

## Lessons and recommendations

According to the speaker, the following lessons could be drawn from the Mozambican experience:

- The need to **build the capacity of CONDES** so that it can fulfil its role as the harmonising institution of all natural resource intervention.
- **Policies before legislation:** processes of policy elaboration – principally those related to NRM – must always precede legislation.
- **Legal frameworks must be harmonised** with the view and principles introduced by the same processes.

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## DISCUSSION

One delegate asked how policies can be binding for state institutions (the government) but not binding for other stakeholders. How can these policies which are not binding on local stakeholders work towards the achievement of the national objective? And if this is the case, how can people (including government officials) be forced to take policies that have been decided upon in this way seriously?

Mr Da Silva said that in Mozambique, legal standards had to be given to the policies. Then parliament can monitor the implementation of each policy by government.

- **Advocacy for policy**

Another delegate said that what was absent in most countries in the region was advocacy for policy. We haven't really tried to advocate for policies that have been put in place, this delegate said. We assume that as long as there are documents there, people are supposed to know. No deliberate effort has been made to try to make people understand what we are trying to do. It was suggested that as technical people, one important role was to make sure that people in communities know what policies are in place and what these policies say.

- **Origins of policy**

After discussion, it was felt that the following questions should be left 'hanging' for future debate:

Where does policy development start? Where is it reviewed? Who has the right to review it? What happens if such required reviews do not take place?

- **Illiteracy**

One delegate suggested that illiteracy did not always have to be a problem in environmental management and communication. He said that besides provision of literature several other methods – including radio and drama – could be used so that practitioners did not have to rely upon people being able to read acts.

This delegate suggested that irrespective of levels of literacy, people would interact with policy if they felt there was something "in it for them". Different stakeholders interact with policies at different levels depending on their interest in the policy, this delegate said. He felt that government interest is usually the driving force for new policies, and that this accounts for the low profile of environmental issues. In this delegate's view, government's lack of interest is partly to blame for poor implementation and review (because there is no interest by the people who make the law).

On the question of illiteracy as a constraint in effective policy implementation, Mr Da Silva said that unfortunately, given Mozambique's special characteristics, it was difficult to find alternative methods of information distribution. Mozambique has 40 local languages, and the populations of some very remote areas are not known. Potential listeners in these areas may not understand Portuguese – Mozambique's official language and the language of most radio broadcasts. It was suggested that other methods of information dissemination such as through 'training the trainer' programmes in remote localities should be tried.

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## **SOUTH AFRICA: PUBLIC PARTICIPATION IN THE FORMULATION OF THE ENVIRONMENTAL POLICY**

### **A case study on CONNEPP/NEMA**

**Jessica Wilson, Ntsebo Lerotholi, Stephen Law of the Environmental Monitoring Group, Cape Town**

The paper was presented by Stephen Law.

### **Background to CONNEPP and NEMA**

CONNEPP stands for Consultative National Environmental Policy Process. It was started in 1995 as an attempt to provide some kind of overarching framework policy. The consultative process was comprehensive and took four years. It is not specifically targeted around wetlands or conservation concerns. Instead it is a basic principle upon which legislation could be built.

NEMA is the National Environmental Act. CONNEPP was the process followed in ultimately developing NEMA.

Mr Law said that as a general rule, policies are kick-started when there is a significant change in government. That is what happened in South Africa with the first democratic elections in 1994. That was probably the most significant change in government South Africa is ever likely to see. As a consequence, the new government was saddled with policies which were completely inappropriate to its election mandate.

Before 1994, environmental policy and legislation was driven by a conservation ethic. Benefits from that conservation ethic accrued to a much smaller section of society. After 1994, policies were much more grounded on the reasoning that the environment is a benefit that should be enjoyed by all.

The change of government meant also that there was lots of money and lots of financial support. However, just about all of the aid had strings attached – some hidden and some visible.

The intention at that incredibly positive moment was to keep everything open, transparent and inclusive.

### **Methodology**

The methodology used was quite similar to that used in other countries. There was a literature review and a set of interviews with people who had been fairly active both in making submissions to the policy-making process but also in making some kind of commentary during the process.

This paper was then presented to a round table discussion partly organised by IUCN. The discussion drew together some of the key NGO people and some people from government to discuss questions around implementation and questions around how the process should be taken forward.

## **Objectives**

These were:

- to ensure that policies apply to all citizens, present and future
- to build environmental considerations into all local government and all sectors of government
- to allow the participation of previously excluded sectors of society

## **Process implementation**

There were two phases.

### **Phase 1:**

Phase 1 took almost two years to complete. It started off with the **national workshop** (CONNEPP 1).

Out of that workshop came a **discussion document** which said nothing about policy, concentrating instead upon issues and questions that stakeholders needed to go away and think about.

**Provincial workshops** were then held, and the discussion document was taken round to the various provinces for input.

It was all then put into a **green paper**. That green paper then reflected the areas of agreement and the areas of contention but it did not give any sense of what government was thinking. Basically it just laid out the arguments and illustrated the choices that had to be made.

A **national workshop (CONNEPP II)** was then held, at which all these questions were debated and discussed.

A **white paper** followed this – the first time government's hand in making choices was evident.

- **Characteristics of Phase 1:**

This phase was characterised by a great deal of **excitement and enthusiasm**. Industry forums got together and occasionally NGOs, industry met to hold discussions and debate.

There was **active multi-stakeholder dialogue**.

There was **a strong sense of commitment from government**. They were committed to seeing a really good policy coming out.

There was **good documentation**, which was very easy to read, and nicely laid out.

There were **workshops** in each province, and lots of cross-sectoral interactions and activities.

### **Process management**

Managing this process was first the **minister**, followed by a **multi-stakeholder team**. Members of the team were drawn from the Department of Environmental Affairs and Tourism, business and industry, civic organisations, provincial government, NGOs and labour. That team gave direction to a small **drafting team**.

Fairly early on in the process, some groups complained that they were not properly represented on this multi-sectoral team.

A **reference group** was set up in a bid to catch everybody who felt excluded.

Because in terms of South Africa's constitution, environmental issues have provincial competency, there was a **liaison group** that reported back to provincial government.

### **Phase II**

A White Paper was drafted. There was a small window for public comment. However, as opposed to Phase 1, where public comment was done through workshop and debate, here it was much less user-friendly. Notifications were published in the local press, asking for submissions by such-and-such a date.

After a couple of alterations, that went into a bill and came before parliamentary committee for further debate. There were parliamentary hearings and it eventually became an act.

- **Characteristics of Phase II**

The process was **formal and legalistic**. Instead of nicely-laid out and easy-to-read documents, literature was much more officious and hard to decipher.

The process was also much **less transparent**. It was slow and bureaucratic. Nobody really knew what was happening.

There was a very **short window period for submissions** and there was also a sense of **submission fatigue**. This was after two or three years of policy process. People were getting tired.

Also very evident was an **uneven commitment from government**. It seems that the DEAT which was steering this policy process started butting heads with other government departments who were not so enamoured of the process.

Then it came to an abrupt end. The act was published.

### **The outcome**

EMG's view is that the act which came out of this process -- NEMA – is, on the whole, fairly good. Slightly unwieldy, it consists of 18 principles reflecting issues such as sustainable development and environmental justice.

It sets up two institutions: NEAF, the National Environmental Advisory Forum (a multi-stakeholder forum to advise the minister), and CEC, the Committee for Environmental Co-ordination (an inter-departmental committee that co-ordinates the environmental plans of different government departments).

It puts the onus on government at all levels to implement and make allowances for public management, and to appoint facilitators where there is some conflict over resources.

### **Some tradeoffs**

- **Economical growth versus ecological sustainability:** Mr Law said that in EMG's view, this policy missed a golden opportunity to really get to grips with this question of economic growth versus ecological sustainability.
- The policy never really came up with a **clear vision of a sustainable country**, defining the quality of the environment that South Africa was looking for.
- There was **no reference to natural resources as capital**. One gets a sense that at some point other stronger departments started putting on the brakes.
- **Strategic environmental assessments:** there was a fairly strong push for including strategic environmental assessments. While the act is clear on the

need for environmental impact assessments, it makes no mention of the need or the value of strategic environmental assessments.

- **Implementing agencies:** there had been a very strong call from civil society to set up something along the lines of an environmental protection agency. That was dropped. South Africa still has an environmental affairs department which is part of the Department of Environmental Affairs and Tourism, and does not have any implementing powers.
- **Heavy onus on the public:** the cost of fighting for environmental rights is that once the government gives them to you, you've got to do something about them. It places quite a heavy onus on the public to protect the environment. Through public participation, civil society won the right to engage in environmental questions.

There are avenues for laying complaints, there is the conflict management process. There's a whistle blower clause. Workers can refuse to do dangerous work. Incident reporting mechanisms are more clear. There are two avenues for pursuing your constitutional rights and there's an environmental clause in the constitution.

However, it has become clear that once the public has won these rights we are very hesitant to use them. Most people are nervous of the courts, legal proceedings and legal fees. And of course, taking the legal route ends up polarising parties rather than finding ways of working together.

### **Implementation: some problems**

The Act came out and there was almost no subsequent capacity building or post-NEMA awareness raising. One document was produced by the Department of Environmental Affairs. It was called a User Guide to the National Environmental Management Act. Guide 1 was entitled "Your Right to Take Action", but Guides 2, 3 and 4 never came out.

The Advisory Council which was set up in terms of the act has, four years later, not yet been appointed. That council would have been a key place for multi-stakeholder intervention at ministerial level.

There has been almost complete institutional memory loss. Five years after the start of the CONNEPP process we have three different ministers and three directors general, all of them wanting to put their stamp on things.

There is still a mismatch between the environmental objectives set out in policy and the resources to actually implement them. The Department of Environmental Affairs is one of the government departments that gets the smallest budget. At

the moment the Act is being reviewed but nobody really knows quite what is happening.

## **Lessons**

Ongoing communication and feedback is the key. It was interesting to look at the differences between Phase 1 and 2 and the difference in the response to civil society.

Participation must go hand-in-hand with capacity building, You can't necessarily expect that people will automatically know how to articulate their issues and what they feel in a policy language. Illiterate people and rural people may understand the issues very well – they just don't have the appropriate terms at their fingertips.

The budget needs to be realistic. In this case, the money ran out halfway through the process. There was no money to hold a national workshop during Phase II.

Consistency and institutional memory are very important. It is easy to underestimate the commitment that people make. It is important to keep that commitment and to nurture the trust that people have.

There has to be room for effective validation after the broad participation process, so as to ensure that people's views are well represented in the drafting process.

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## **DISCUSSION**

One participant suggested that the NEMA experience was a candle in the region in terms of enacting rights that in the long run will guarantee public participation in environmental matters – especially the right to access environmental information and the right to access justice and the right to public participation in environmental decision-making.

Another delegate praised the way that NEMA allows one to take action against perceived environmental harm even if one is not directly affected (this is not the case in all countries). It was felt that this was a progressive aspect.

- **Co-operative governance**

A clarification was made on the co-operative governance section in the NEMA as it related to government department responsibilities in environmental policy and legislation.

The Act lists government departments who in exercising their functions may have some impact on the environment. These include the Departments of Environmental Affairs and Tourism, Land, Agriculture, Trade and Industry, Forestry, Transport, Defence, Water Affairs. Every four years, each of these departments has to produce an environmental implementation plan, which says how they're going to implement their programmes, what these programmes are and how they comply with the principles of the Act.

For every national department or provincial government that may have an impact on the environment, every single provincial government or department has to draw up all their activities, all their plans, their strategies, all their legislation, and see how they fall within the bigger picture of the environment. Thus, through NEMA, people now have to officially report on their activities.

- **Information dissemination**

The question was asked as to whether civil society could have taken on the role of disseminating information on the policy. Mr Law said that it was a role that EMG and other organisations have taken on, but that NGOs can only do so much. Information dissemination on policies is not a sole responsibility of government, but it is a responsibility of government.

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## **ZAMBIA : WETLAND STRATEGY AND ACTION PROGRAMME**

**Gabriella Richardson-Temm, IUCN- Zambia**

### **Methodology**

Methods used were similar to those used by other countries. There was a literature review, as well as direct interviews with key stakeholders. A national workshop was then held together with another workshop on community-based NRM.

### **Background to the National Wetlands Strategy**

During the last couple of years in Zambia policies have been developed that integrate principles such as community participation as cornerstones for sustainable development. The Wetlands Strategy is one such policy, as is the Forestry Act and the Wildlife Policy.

There is already recognition of the importance of wetlands in the National Conservation Strategy and with the enactment of the Environmental Protection and Pollution Controls Act. The latter act proposed the establishment of the Environmental Council of Zambia (ECZ), to lead wetlands management in the country. After the ECZ was set up in 1992, they produced several acts, including

the Water Pollution Act of 1993, the Waste Management Disposal Act of 1993, and the Pesticide and Toxic Substance Regulations Act in 1994. Following that the Ramsar Convention was ratified. Government gave funding for the setting up of a Zambian National Wetlands Programme which would develop a national strategy.

The aim of the programme was to develop a portfolio of prioritised strategies and actions for the conservation and sustainable use of wetlands in Zambia.

They first focussed on a desk-top study and then they did a number of sectoral studies, covering a large range of different sectors. They also held a national workshop where the strategy and the action programme were tabled.

Following that workshop additional funding (from the WWF) allowed them to move forward to develop the National Wetlands Policy which was done in 2001. It is a draft policy and, at the time of the workshop, had still not been enacted.

### **Positive achievements**

- **Sectoral studies:** these worked well. They managed to look at all the different sectors and how they are affecting the use and management of wetlands.
- **Use of environmental experts**
- **Opportunities for stakeholders** to make comments and guide the process forward.

### **Key constraints**

Several types of constraints were identified: methodological, and institutional and financial.

- **An ad hoc process:** the process did seem relatively ad hoc, with very limited information flows and information sharing activities. This was the case especially after the first consultations.
- **Lack of time and money** for broad and deep participatory processes. Where broad participation was concerned, one criticism was that for example that they did not include key private sectors.
- **Weak community participation:** this is important considering the weak civil society and decentralised agencies. As in Malawi, in Zambia there are very few strong environmental NGOs, while the structures for decentralisation are rather weak.

- **Limitations of CBOs and NGOs:** the problem with the CBOs and NGOs is that they operate under a number of constraints that prevent them from participating effectively in policy process. They operate under lack of resources and capacity to negotiate for their points of view. They have poor access to information. Existing networks at provincial level for CBOs are weak, so there is no common articulated voice from the provincial and local level.

### **Lessons and recommendations**

- **Increase the use of the media:** one of the things that came out of the study was the limited use of media for disseminating information. This was probably not due to deliberate decisions by institutions developing policy. The media need to be involved more.
- **Build partnerships with stakeholders:** often, the policies or strategies are just looked upon as an end product, rather than a process. According to this way of thinking, a document has to be produced to prove to the donor that something has been done, as if it was a one-off occurrence. Instead, partnerships should be built with the different stakeholders.
- **Broaden the ownership of the process:** South Africa's experience with NEMA showed that a process that appeared to be very positive and participatory at the beginning became less inclusive as time went by. Often this is due to the time-money factor: there is a rush to get the document ready in time and there are insufficient funds to continue to be participatory throughout the process.
- **Empower citizens:** another point that came up in the workshop was the importance of facilitating activities that empower citizens in the long term to take a much more proactive role in policy activities.
- **Cater for divergent views:** there was really no process for catering for divergent views or for conflict resolution. For example, on issues of looking at land that has degenerated or been used for other purposes, the policy says in effect: "Let's just take back the land and do what we are supposed to do with it." The policy does not really allow for a process of looking at what the people really want to do with the land, and what the purposes of degenerating it or using it for agriculture really are.

### **Key points**

Ms Richardson-Temm said that there were two key points to come out of the study.

The first point was that **local communities do not have the organisational structure or capacity to effectively lobby government in Zambia**. Policy processes are often ad hoc and do not adequately make room for local-level participation in a systematic and coherent manner.

The second point was that **financial means to carry out participatory processes in big countries like Zambia are often under-estimated**. One example is the Wetlands Policy. The policy was supposed to have covered all seven RAMSAR sites in Zambia, but in the end only one could be covered because funds provided were insufficient.

In general, mobilisation processes are often expensive. Lack of adequate financial resources may result in project activities that are shallow and small in nature with minimal national coverage. This could result in weak validation processes.

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## DISCUSSION

Ms Richardson-Temm stressed that there were new initiatives that should not be overlooked and that in the long run would play a major role in making processes more participative.

One such initiative is the establishment of a Natural Resource Management Consultative Forum. The forum is supposed to advise the government on policy-related issues and to increase information flow among key stakeholders. It is supposed to have 28 members. At the moment the communities do not have many seats on the forum but at least its establishment shows recognition that additional effort needs to be made to provide better mechanisms at the community level to effect this policy-making process.

- **Divergent views**

There was a suggestion that an instrument be set up to allow the public to have a right to litigate. However, it was pointed out that sometimes the public do not support this because it is costly and takes time. There is an alternative which can be used at the stage of implementation, which is the institution of the public complaints committee. In this type of institution we are not going into litigation, we are trying conflict avoidance and an alternative dispute resolution mechanism.

Another participant pointed out that the Zambian National Conservation Strategy dates from 1985. Its Wetlands Action Plan is issued in 1996. Doesn't that show policy formulation at its weakest, if at all acceptable, this participant said.

What efficient and effective methods can be used to foster broad participation, another participant asked. It was suggested that maybe one shouldn't just look at

cost and cheapness. The effectiveness and the efficiency of the output – that should be what we aim for.

Stephen Law gave the example of the World Commission on Dams, which he said was a ground-breaking process. The commission itself was just an ad hoc body brought together, and had no legal teeth, but they did everything they could to keep people on board. They spent a lot of time and effort trying to reconcile different points of view. Their theory was that what you come out with – a document, a policy, a piece of paper – is itself meaningless because it has no legal status. But the fact that all the stakeholders contributed towards it gives it a moral weight. Nowadays anyone who builds a dam without consulting the new requirements is looked upon as having transgressed. This, Mr. Law said, is a useful way of looking at public participation because ultimately policy-makers want their policy to be more than a piece of paper. The more a policy reflects what people want, the more people will support it.

There was a further debate on stakeholder participation. The issue at hand was that the process of participation is weakened by the choice of stakeholders to be consulted. The question raised was ‘who are the most appropriate stakeholders to be consulted and why?’ Did the process reach all the relevant stakeholder, and were the right questions asked.

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## **ZIMBABWE: ENVIRONMENTAL MANAGEMENT BILL**

**Ransam Mariga and Carmel Mbizvo, IUCN-ROSA**

### **Methodology**

Direct interviews were carried out with all the key stakeholders, government, NGOs, the media, academia, industry, the farming community and MMET (the Ministry of Mines, Environment and Tourism). There was also a literature review looking at other policies and research that had been done on policy development, and a national workshop.

The workshop was held in June 2000. Its aim was to validate what had come up in the assessment and to also look at recommendations on how things could be improved for future policy development in Zimbabwe.

### **Background to legal reform**

The government initiated the legal reform process based on the recognition mainly that there was a lot of fragmented legislation across institutions in the various sectors. This led to conflict among the sectors as to who had the mandate to monitor and control different environmental issues, such as pollution.

The legislation was difficult to understand. Stakeholders often had difficulty in understanding who was responsible for what. The Rio Effect also had a big influence on the legal reform process.

Stakeholders from various sectors advocated for government to take significant steps to rationalise the environmental legislation.

In response in 1995 Cabinet directed MMET to review environmental legislation.

The reform process effectively started in 1995 with the commissioning of a study entitled *Towards an Environmental Management Act – Review and Revision of Zimbabwe’s Environmental Legislation (Chinamora and Ruhukwa)*.

### **Problems identified by the review**

The review identified several problems, including:

- Environmental legislation was very fragmented.
- There was a lack of integration of socio-economic factors into environmental planning.
- The legislation discriminated on the basis of land tenure categories.
- Legislation was inadequate and failed to determine appropriate standards.
- There was a clear failure to control the role of MMET.
- The planning framework neglected inter-sectoral co-operation and participatory mechanisms.

### **Nationwide consultations**

Nationwide consultations began in 1996. The major event was a **national workshop**, which attempted to bring together all the key stakeholders, including government, NGOs, industry, bilateral donors and the farming community. Presentations were given by academics and practitioners.

Out of this national workshop, a strategy was developed for the reform process which defined objectives, themes and principles. It was envisaged that the process would entail the continuous feeding of information and opportunities provided for input at selected intervals.

**The national workshop set the stage and came up with what they saw as their vision for the consultation process.**

Participants at the workshop recognised that participatory management is key to environmental management, therefore broad-based consultations with all stakeholders was essential in ensuring that there was commitment and ownership of the resulting legislation. They also stressed the need to give

opportunities to different groups, depending upon their needs and their ability to participate.

**The reform process** was planned in three broad stages. The first was the national workshop. Then there was a 90-day long public consultation when discussion papers were distributed for public review and a series of workshops, plays and news releases were used to encourage public input.

The last stage was the draft legislation for cabinet consultation.

### **The formulation process**

The consultation process culminated in the production of the first draft in 1998.

The Environmental Management Bill (EMB) was framework legislation that would set broad parameters for environmental management, with minimum standards that all sectoral legislation would draw from. Based on this framework legislation, all other pieces of legislation with environmental impact would remain under the current jurisdiction but draw on standards provided by the environmental management bill.

A lot of changes then took place.

The ministry drew up a set of principles that were approved by the Cabinet Committee on Legislation and submitted it to the Attorney General's office for legal drafting.

Once drafted, the Bill was circulated to major stakeholders. It was heavily criticised for not adequately addressing the fragmentation issue.

A draft was then produced that rationalised all environmental legislation with a view to consolidating the major parts under MMET supervision.

That draft was again highly contested by affected government stakeholders. NGOs also questioned whether the ministry had the capacity to oversee and manage the legislation, now that it had all been brought under their jurisdiction.

After consideration of various stakeholder submissions, the ministry then developed a new draft combining the two options: a framework legislation that also brought under it key legislation from other jurisdictions. It was clear that the ministry was making an attempt to try to accommodate these different views from stakeholders.

A second draft was endorsed by the National Conference of Environment and Natural Resources Conservation but it was still contested by civil society and government stakeholders.

What started off as a fairly inclusive process then became much more selective, with what was called the major stakeholders being able to make submissions to ministry.

A third draft was produced in early 2000 and selectively circulated to a few interested parties who commented on omissions and inconsistencies in the draft. The draft bill was then reconsidered by an inter-ministerial commission composed of government stakeholders.

## **Findings**

During the workshop non-governmental stakeholders talked about how they viewed the process and ministry and government responded.

**Stakeholders** felt that the initial phase was participatory but after the first draft it was selective as MMET engaged government sectors only. They said that the consultations were just an exercise undertaken that did not really inform the reform process. They felt that it was a one-way consultation process, with no feedback nor acknowledgement of formal submissions made.

**The ministry** said that the process engaged those who showed interest. It claimed that the consultations did in fact inform the process, arguing that the interests of stakeholders were considered and as much as possible included, given the nature of legislative policy formulation in the country.

### **Stakeholders involvement:**

**Local government** was not directly involved except in provincial level workshops. **Analysts and academics** were able to supply expertise and experience which enriched the process. Some **politicians** were consulted but there was limited engagement. The **direct users of natural resources** were represented through various farming associations. **Media practitioners** expressed a lack of information flow from the managers of the process.

### **Recommendations and lessons**

- **Information sharing:** The draft should be submitted to public scrutiny before submission to the legislative arm of the government. In this case study, once the consultations had been completed, that appeared to be the end of things and no-one knew what happened to the drafts. It was very difficult to get access to any written copies of it.

The information should be **disseminated** to raise awareness and lead to empowerment. **Levels of transparency** should be improved. Information should be relevant, accessible, accurate and timely, and information management systems should place **shared responsibility on the state and**

**on civil society for information and monitoring.** Entry points should be proposed for civil society.

- **Consultation:** there should be **broad-based consultation** at all levels, especially during the drafting process. There should be **increased resources** for participatory processes.
- **Joint-decision-making:** this should be based on a clear definition of negotiated roles, responsibilities and entitlements of civil society in relation to the process. There should be the **right to negotiate** both content and strategy of the policy. There was a call for **outdated and autocratic procedures** for policy formulation to be changed.
- **Ownership:** there should be broad-based ownership of the process by empowering people through **provision of information.** **Partnerships** between government and communities, private sector and civil society should be nurtured, based on a clear understanding of different roles and responsibilities.

## **Constraints**

These were listed as:

- institutional capacity
- financial resources and time
- power relations
- political will and priorities
- attitudes e.g. conservatism
- lack of progress in devolution of power

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## **DISCUSSION**

It was suggested that in Zimbabwe's case, legislation was decided upon before policy because of money and donor constraints. When the process began in 1996, there was no environmental policy, just a conservation strategy. But at the time it was felt that given finite amounts of donor funding, the drafting of new legislation was more important than deciding upon policy. Subsequent political problems led to donor funds to Zimbabwe drying up.

An industry representative who had taken part in the early stages of the participatory process in Zimbabwe said that he found the early consultation process very positive, but that he subsequently found his impression to be short-lived. He added that he had at no time felt that the donors were putting any pressure on the process.

In the draft's favour, it was pointed out that it had been written in plain English, not legal jargon, making it very easy to understand.

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## OVERVIEW OF KEY ISSUES

### Mankone Ntsaba, facilitator

Ms Ntsaba said that the key issues emerging from the presentations fell into four categories:

- Policy development/formulation
- Policy communication and capacity building
- Policy implementation
- Policy impact

The case studies showed that there were problems in all four areas, she said. These problems need to be dealt with in order to make our processes effective.

### Policy formulation

The main issue that comes out is a cross-cutting issue: that of the process of policy formulation.

There does not seem to be any consensus, let alone understanding, of the processes of policy formulation in the region. An interchange of terms in the policy process has also been noted. This has led to a confusion in meaning. Terms like policy, strategy, action plan, action programme, projects, legislation and enforcement, are not always fully understood and used correctly. There does not seem to be any accepted logical framework within which policy formulation and implementation occurs.

Before studying the participatory process and the inclusion of broad participation in policy formulation, it is important to interrogate the processes that have been taking place throughout the region, Ms Ntsaba said. The illogical way in which policy processes in the region have been managed and established appears to be the norm.

Ms Ntsaba identified several **gaps in policy formulation processes** that had come out of the presentations. These included:

**Stakeholder participation and capacity building:** it is often said that the best way of ensuring effective participation is to ensure that stakeholders are empowered. There seem to be no standard processes for carrying out

programmes of stakeholder and capacity-building. Civil society institutions and institutional memory must be strengthened.

There must be more consistent **feedback** to stakeholders.

**Co-governance** has been suggested as a way of making implementation easier. The argument is that people who have been co-developers of policy are more receptive to those policies.

**Funding of processes** came out as an issue. It is expensive. The donors may be blamed for coming up with conditions, but Ms Ntsaba said that it was important for proposal drafters to ask what it was they had done or not done that may have led to donors putting in certain constraints.

There are clear gaps between the participatory process and the actual drafting.

**Legislative arrangements:** one issue that came out was the failure to implement because of the absence of legislation.

In terms of **implementation**, gaps identified were:

**Flawed ownership:** when there has been a poor policy formulation with very limited public participation, ownership is flawed. People cannot be expected to care about processes if they do not feel that they own them.

**Decentralised governance:** many countries in the region are in the process of strengthening their democratic systems in terms of governance. Unless our policy formulation processes are also aligned with the principles of decentralised governance, they will remain merely national documents, with responsibility for them not divulged to lower spheres of government.

**Integration of policies across sectors:** the poor policy formulation process is the initial cause of many of the problems in the implementation stage. During the formulation process, there is no integration across sectors, this is also reflected in implementation.

**Institutional roles and responsibilities:** these are still fragmented. This makes institutional capacity even weaker.

**Role of civil society:** it emerged that civil society would be called upon in the participatory process. Often the policies are drafted and once they come out of drafting, civil society is no longer able to identify with the result. Civil society thus becomes much less interested in implementing policies that seem 'foreign' to them. In many instances civil society has actually opposed such policies, resulting in further delays in implementation.

**Funding:** funding is again a problem here. Resources are lacking. Environmental departments are not given priority.

**Legislative arrangements for policy implementation** need attention.

**Post-development awareness:** often processes end after they have been signed off by cabinet or parliament, in terms of communication and information dissemination.

In terms of **policy communication**, gaps identified included insufficient information dissemination, awareness, education, and networking. Ways of sustaining interest in policy need to be worked out, as do ways of maintaining institutional memory.

**Policy impact** was the fourth issue to emerge. The need for a qualitative and quantitative assessment of the impact of policies was discussed as well as the eventual identification of indicators. Post-enactment workshops were also felt to be a possibility.

Ms Ntsaba suggested that participants discuss the following questions:

- The development of common process and processes
- What are the successful components?
- What processes generally fail and why?
- What processes are common on the region, if any?
- What is the logical process within the regional context?

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## DISCUSSION

Discussion ensued. A participant described policy formulation is a “huge basket”. It was noted that disparate environmental issues, such as environmental conservation, waste management and pollution, are often lumped together. These issues need to be addressed using different policies, and the processes should be treated differently. Almost all the case studies indicated that in the development of policies, legal instruments or strategies, there was nearly always an advisory body aligned to a policy-making process. What purpose had these bodies served, the participant asked.

An example was given to show that in some cases, advisory bodies can be redundant features. For instance, in the formulation of Botswana’s 1975 Tribal Grazing Land Policy, one of the country’s most consultative processes was used during its formulation. Everyone knew about this policy before it was

implemented, and yet it failed. In fact, other policies have had to be formulated to mitigate the adverse effects caused by the original one, the participant noted.

Barrie Thornton, a technical consultant from Zimbabwe, said that frameworks for policy implementation are pointless if their policies are not implemented. This would apply, for example, in cases where there is non-appliance of pollution penalties. Governments with limited resources will often make priorities that are not the people's priorities, he said.

Another participant from Botswana agreed. He said that Botswana's Wildlife and National Parks Act states that livestock that strays into national parks should be exterminated as "alien species". But parks officials never go that far, knowing that the politicians will cry foul. He said it would be "political suicide" if any government official was seen to support that particular clause in the act.

Etienne Sinatambou, the director of Mauritius' Centre for Environmental Law, said that qualitative and quantitative assessments are needed to measure the impact of policies.

Facilitator Mankone Ntsaba remarked that there had been very little discussion on policy impact. At some stage policies need to be interrogated, she said. They are cyclical, and should be measured and adjusted on a regular basis, with intervention taking place at any point at which policies are "found wanting".

The impact of a policy begins at the time it is implemented, said another participant, and yet policies are implemented before their projected success can be measured. For instance, Tanzania's National Forestry Programme has been implemented in two ways, on a community-based level as well as on a joint forestry management basis, without knowing how far either approach has succeeded. Ms Ntsaba asked how order can be obtained when there are so many different components to policy. In some cases she said it was akin to putting the cart before the horse.

Mr Sinatambou said that order can be obtained by ensuring that a strict procedure exists in policy evolution. A major obstacle to effective policy formulation and implementation was the disorderliness in the process that has in some cases seen acts of parliament preceding certain policies implemented on the ground. He asked if the workshop could come up with hierarchical steps for formulating policy, as well as ideal components to ensure efficient implementation of those policies.

Carl Bruessow, from Malawi, said that while a linear process may be a way of simplifying policy formulation, it still needs to be open to other external influences, such as international treaties, that will impinge upon it and contribute to the process.

Independent consultant Kathy Stiles said that since policy formulation is a circular rather than a linear process, it can start from any point. Therefore programmes and projects that are external to the policy-making process can show the way on how to write the policy in a contextual way.

Ms Ntsaba corrected the misconception that Mr Sinatambou was suggesting that policy formulation processes are linear. She conceded that there are influences in the policy-making environment, but there must be a way of ordering them to determine their components.

Ms Ntsaba rounded up the discussion and noted the strong contributions made on the excessive energy expended in the region over the formulation process. She recommended that during the group work, one group look at the constraints to implementation or operationalisation of policies. Another group needed to look at how policy is translated into action on the ground, she added.

She suggested that a third group look at what goes into policy formulation, especially in terms of broad-based participation.

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## **GROUP WORK**

The plenary was divided into three groups. Each group was given a question to discuss?

Group 1: How do we develop a logical framework and process for policy formulation and implementation?

Group 2: What makes for successful policy implementation and what are the constraints?

Group 3: How can we enhance broad-based participation in environmental policy?

The groups then reported back to the plenary.

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## **GROUP 1 -- DEVELOP A LOGICAL FRAMEWORK AND PROCESS FOR POLICY FORMULATION AND IMPLEMENTATION**

The group identified the following stages in policy formulation:

1. Problem identification
2. Stakeholder identification
3. Consultation with stakeholders
4. Consolidation and analysis of opinions and alternatives

5. Alignment with national and international framework
6. Drafting
7. Verification and validation
8. Approval
9. Adoption

## **Frameworks**

The presenter said the group had come to the conclusion that the logical framework is an outcome of a few of the cycles the group identified. Policy could arise out of identified problems, political ideologies, international laws or influences, existing strategies or laws.

## **Formulation**

Policies are made at different levels, such as at the central, sectoral, provincial or local levels of government. Policies are formulated to give direction, focus.

At the level of central government alone, the levels of policy formulation can vary, depending on whether you are dealing with a sectoral ministry, or an inter-sectoral body. For example, the ministry of environment, when formulating a policy has a very different formulation process to central government.

Or in the case of inter-sectoral policy formulation, a commission for sustainable development, which may group five different ministries, will affect the way in which policy is formulated.

When developing a policy, problem areas need to be identified. For instance the identification of all stakeholders, to allow for their participation during the policy formulation stage. These could include civic society, other ministries, parastatals, NGOs, etc.

The consultation process is then begun to identify what is the problem, why there is a problem and how that problem can be solved. After consultation come the various proposals that need to be analysed. These have to be aligned to international and national frameworks.

Once all the different opinions have been gathered, policy is drafted. It then has to be verified and validated, before going to cabinet for approval. At the end of the day formulation of policy takes place at government level. The government is in charge of the policy-making process.

## **Policy implementation**

Policy implementation takes place at the second stage, once a policy has been adopted. There are various stages that need to be gone through. The first. Strategies are developed for its implementation. Strategy is the way we go about

achieving the policy we have. Strategies consist of various programmes, which themselves consist of various components.

An action plan is needed for the programme. One programme may have different projects and plans. From the programmes we get down to the minor details. One programme may have different projects and plans. Each plan will lay down what are the objectives; the targets; the tasks; the activities; the budget; the time frame for the completion of the various components.

### **Monitoring**

This is the last component of the implementation stage. Monitoring and evaluation takes place of the various plans and projects and strategies that are being set out.

This will measure whether or not a programme is achieving what it was intended to. It assesses whether a project is within its budget, or its time frame.

### **Review**

After implementation there is a review. It determines whether the desired result has been achieved. Either the policy statement has to be adjusted to fit the policy statement, or it needs to be scrapped and a different framework has to be developed.

### **Legal component**

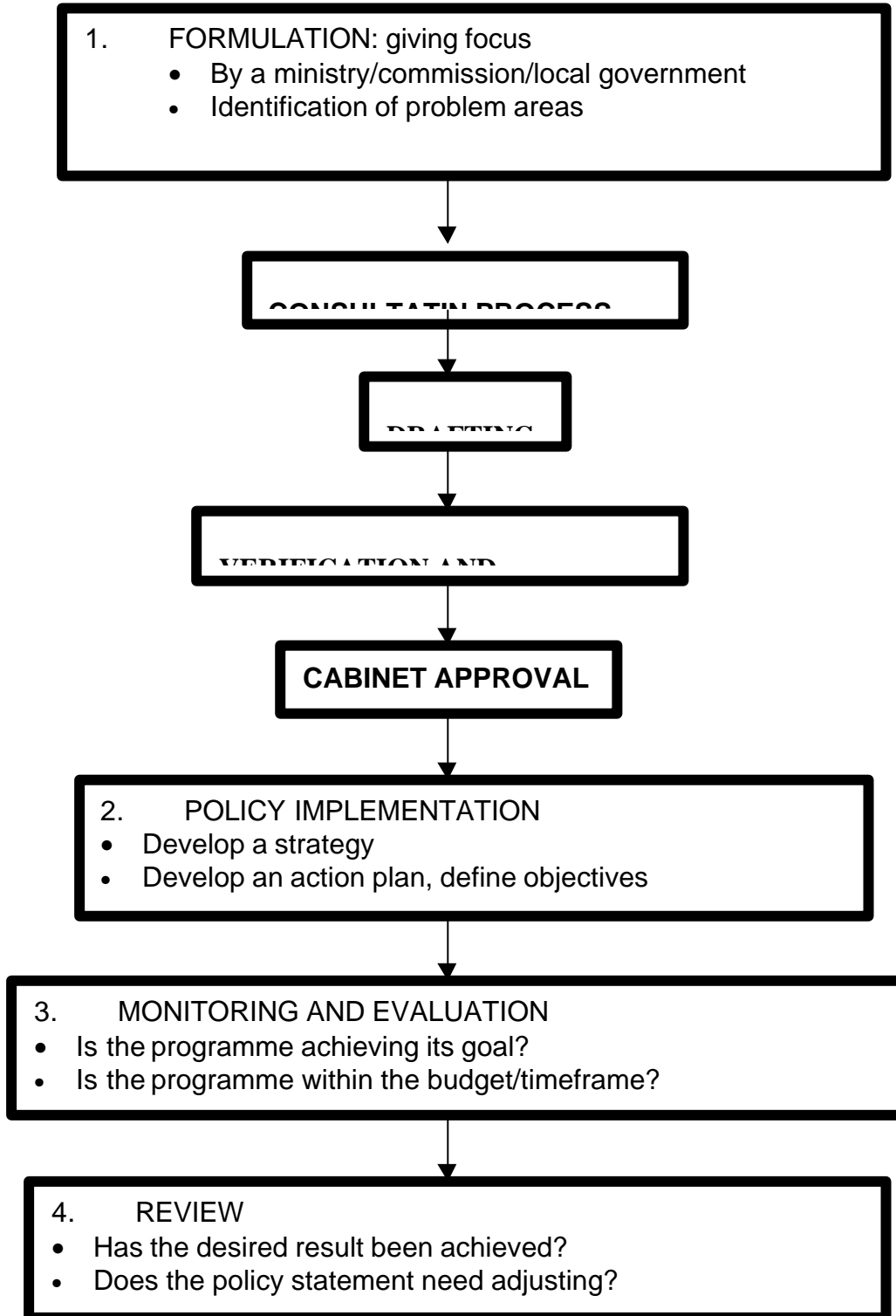
There are two stages at which we would see the legal component coming in. Sometimes this takes place after formulation, at the level of policy adoption, at a point when some legislative enactment is needed.

Alternatively, it may be required at the level of devising the strategy. When one is trying to operationalise the policy that has been formulated there is often a need to review institutional set ups to ensure that they are capable of sustaining the policy that has been formulated.

The legal component is flexible depending on the model used in varying countries.

(See diagram overleaf)

**Diagram: developing a logical framework and process for policy formulation and implementation**



## DISCUSSION

It was noted that there are strategies used in some countries without any policies. Certain situations may dictate that strategies be used first, and in the process the policies are figured out. In the case of HIV prevention, for instance, there are few policies but there are strategies being used. How flexible is the framework proposed by Group 1 of facilitate such situations. (*need to be rephrased*)

Group 1 referred the plenary to the review process in the cycle of policy formulation, which is flexible enough to accommodate existing strategies or solve problems.

A participant wanted to know if, in the initial stages of policy formulation listed by the group, existing common practice is recognised. Policy can be formulated out of the existence of an opportunity, it was noted, rather than just out of a problem. Group 1 said this was taken into account by the issue of proactiveness, which can prompt policy formulation.

Policies can come from civil society, not just the different levels of government, it was noted. The presenter said the civil society may recognise problems but it cannot come up with policy. There is no mechanism available to civil society to put in place policies.

There are unwritten policies that may not be easy to feed into the stages proposed by Group 1. Unwritten policies are being implemented at the local level already, it was observed. Clarity was sought on where the stakeholder consultation takes place in the policy formulation cycle.

Etienne Sinatambou, of Group 1, said stakeholder consultation takes place throughout. It begins early, at the stage of stakeholder identification, followed by interactions at all of the stages. Only after the approval stage does the policy go to cabinet, at which point stakeholder consultation ceases.

Kathy Stiles said that civil society consists of different sectors. Within them, some may have unwritten, traditional 'policies' or practices that are important and should not be forgotten.

An observation was made by Esther Mede that the policy formulation cycle was no different to that which we are used to, i.e. if there is no way of ensuring broad-based participation by the majority. This is a weak point of the proposed cycle, she said. Has the group strengthened the mechanism needed for input from the majority, she asked.

Mr Sinatambou said that pressure groups, stakeholders and practices can prompt government policy formulation. To answer Ms Mede's point, he said the views of the majority should be taken into account at the stage of stakeholder identification.

Another member of Group 1 noted that it was not their task to look at how to incorporate stakeholder participation, but said it can be factored in at different levels.

The facilitator said she expected stakeholder participation to be taken into account by Group 3. She asked the floor to decide whether Group 1 had met its terms of reference. The consensus was, yes.

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## **GROUP 2 -- WHAT MAKES FOR SUCCESSFUL POLICY IMPLEMENTATION AND WHAT ARE THE CONSTRAINTS?**

The group identified policies that have been successful, including the wildlife and forestry policies of Tanzania, Zambia and Zimbabwe.

Success was determined by how well local village structures are represented in policy implementation, whether people felt they had the right to benefit from the wildlife and forestry products they helped to manage, and if former poachers had been transformed into conservationists.

The wildlife conservation policy of Botswana was another success story, Group 2 declared. There was community participation in land use delineation, wildlife management areas and arrogation of these units and areas to concessionaires and communities.

The 'unwritten natural resource policy of Zimbabwe' was deemed a success story, the presenter said. Natural resources are managed at district level, which indicates success in the devolution of power and responsibility.

The Zambian Wildlife Authority gave rise to committees responsible for natural resource management.

From examining these success stories, the group went on to identify the challenges confronting policy implementation. These were as follows:

- political instability -- where there is no respect for the rule of law, environmental policies will not be respected
- absence of minimum standards, or limits of acceptable change
- conflicting policies between government departments

- ownership of policies -- those aligned with government may not be accepted by communities
- negative attitudes to environmental policies by stakeholders
- lack of funds to implement policies
- weak institutions incapable of enforcing policies, as in Botswana
- centralisation of decision making and authority
- inadequate knowledge of policy by people
- conflict between imposed policy and common practice
- penalties are too weak or too small, the result of weak by-laws, etc.
- lack of political will to implement policies
- fragmentation of environmental policy, with different sections administered by different ministries, for instance
- inadequate accountability for agencies involved in policy implementation
- ratification of international policies on the environment, many of which are ad hoc, and not adequately domesticated
- inadequate capacity, either human or institutional
- communication bottlenecks with policies written in one language
- absence of supportive legislation / poor law enforcement

Common threads were identified as being necessary for successful implementation of policies, both written and unwritten. These included:

- political will to support policy instruments, which may be legal provisions, international agreements, strategies and action plans
- policies to support good common practices
- devolution of authority and accountability, including the use of local structures
- property rights that are clear and unequivocal
- flexibility and adaptability of the policy review process
- policy harmonisation, especially during policy formulation to ensure it does not compete with other existing policies
- adequate sustainable capacity, in terms of technical capacity, funding and awareness
- the existence of perceptible benefits that are likely to garner support for policies and ensure their success
- legislation

These factors are interchangeable, applicable to policy implementation at both the high level and the grassroots level.

## **DISCUSSION**

Charlene Hewat of Zimbabwe said that the case studies presented during the workshop are examples of successful policy implementation. In all of the cases, the reason for their success was devolution: ownership was taken down to the village level.

The presenter for Group 2 pointed out that devolving responsibility cannot always guarantee broad-based representation. In a concession area in Botswana, for example, five villages had to vote whether to go into partnership with an established safari operator or go to tender when the concession area came up for renewal. The majority of villagers voted in favour of going to tender, but their majority only represented two out of the five villages. The community trust that ran the concession decided to base its decision on the majority obtained in the village vote. The country's wildlife minister tried to intervene to ensure democracy prevailed, only to have his intervention reversed by lawyers for the community trust. The trust, in this case, enjoyed 'absolute power'.

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### **GROUP 3: HOW CAN WE ENHANCE BROAD-BASED PARTICIPATION IN ENVIRONMENTAL POLICY?**

The group took policy to mean both that at government as well as devolved levels. In their descriptions they group was not referring to one particular national policy, but lower level policies and any others. They provided different groups of mechanisms, the first one being:

#### **Relevance of content to stakeholders**

The group pointed out that for the inclusion of people in broad-based policies, the following aspects were important features:

- co-governance, or co-development aspects
- cross-sector policy, for instance when policies come from more than one ministry
- power and management and responsibility in the writing of policies is important if stakeholders are to feel they are relevant to the policy
- communication to the public, all the way down to the village level, of exactly what their stake is in the policy
- clear mandate regarding policy and strategy
- clear identification of who has what authority over what resources

#### **Institutional capacity-building**

The group noted that, if we want broad stakeholder participation in policies that will endure, and which reflect their participation in the formulation process, then general institutional capacity- building is needed, including:

- strategic planning, for instance at the community level or NGO level, which includes an understanding of the role of the public in advocacy and policy analysis, during which the lay person can learn how to find in the policy where

they fit and what's important to them. This might also mean policy must be interpreted for the public using ordinary language

- cost effectiveness versus quality; grass roots structures should be used to get the input from stakeholders rather than needing to have everyone at a national workshop
- develop partnership for policy formulation and implementation with private sector, communities, NGOs and civil society. This is a financial mechanism that replaces the need to search for donor funding
- consideration needs to be made of the time spent by stakeholders providing data used in policy formulation, and whether that will cost them personally. There is perhaps a need to look at the traditional ways of obtaining information, such as in the evenings
- building capacity at government level to make them aware that policy formulation is an ongoing process and there should be a mechanism developed for continuous multi-sector/multi-level involvement

### **Improvement of process**

Suggestions included:

- build into policy processes methods for validation and monitoring and accommodating change i.e. informing stakeholders that there are often supplementary policies that come out after the original ones
- during drafting and validation ensure that stakeholders' views are incorporated into the policy/strategy; improve approach to data capture, ensuring stakeholders' views are continuously referred to during analysis and write-ups; involve the same stakeholders from the original consultation process in the final stages of policy formulation
- multi-stakeholder processes should include guidelines on ownership, levels of participation and the identification of stakeholders
- there is a critical need for information, education and communication if the process is to be improved
- existing extension services should be used at the local and district levels to ensure everyone gets involved in policy formulation
- safeguards should include monitoring mechanisms to allow the stakeholder to oversee the final product. Such mechanisms would include committees, reference groups, etc.
- new policies should be linked to existing policies, and strengthened through action plans and strategies
- there should be a continuum of participation throughout policy formulation to implementation, so that some of the same processes, stakeholders and institutions used during the formulation will be used during implementation

### **DISCUSSION**

Everyone knows that policy formulation is a dynamic process, one participant noted. Was Group 3 ~~was~~ not stating the obvious by recommending increasing capacity at government level to deal with this dynamism, he asked.

Group 3 commented that the inclusion of stakeholders at all levels of policy formulation is often ignored. It was suggested that the consultation process may be less necessary when the needs or views of stakeholders have already been spelt out clearly in the policy.

There is a need for the continuous review of policy, said Esther Mede, especially when a region is unstable. We do not have a stable situation in the southern African region, Ms Mede said.

Kathy Stiles said the reason for multi-stakeholder processes was to give stakeholders a sense of ownership. This helps to ensure that a policy will be implemented.

One participant said that pressure groups were a valuable way of enlivening policy. The group said that for effective public participation the public needs to be empowered.

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## WORKSHOP RECOMMENDATIONS

Participants were asked to reflect on the previous discussions and the papers presented. Each was asked to come up with one recommendation that he or she considered to be key to improving environmental policy formulation and implementation processes.

The recommendations were put into four categories, developed from the group discussions. These were:

- developing a logical framework
- enhancing broad-based participation in policy formulation
- policy implementation
- other.

The recommendations were then summarised.

### The framework

- It was felt that an acceptable process for environmental policy formulation should be developed. **User-friendly guidelines** on policy formulation, implementation and evaluation are necessary.

- There must be **thorough research** prior to policy formulation. The results of that research should be built into the formulation process.
- Policy development should be **cyclical**, and carried out **systematically** and **scientifically**.
- Policy development must be properly **funded**, with adequate budgetary resources allocated to the validation process. Include a **budgetary plan** when a new policy is being developed.
- Policy formulation should be **flexible** and **adaptable** to accommodate diversity and change at different levels. Policies should be **issue- and area-specific**.
- The roles of all institutions and stakeholders involved at each step of the process must be clearly defined.
- Policies and their impact must be **monitored** and **reviewed**. Mechanisms must be developed to do this – including a mechanism to **update** and validate the policy.

### Participation

- All stakeholders, including local communities, must be involved in coming up with policies. This will ensure collaboration at the implementation stage.
- **Adequate funds** must be allocated to allow for wide stakeholder participation.
- **Internal and external stakeholder networking** should be initiated.
- The **media** must be engaged.

### Implementation

- It is vital that all stakeholders **participate** in the implementation of policies, not just in their formulation. Funds should be provided for this.
- **Conflict management mechanisms** and mechanisms for **alternative dispute resolution** must be used.
- Use **customary practice and indigenous knowledge** as far as possible when implementing policies. **Existing institutions** could also be used.
- **Strong legislation** must be developed. Where possible, this should be **harmonized** with existing legislation. Harmonization should occur at the **regional level** (e.g. in TBNRM, for livestock disease control).
- Policy implementation must be **monitored**. **Clear indicators** must be used during monitoring processes. **Impact monitoring** should be carried out at this stage at the local level.
- Local communities should perceive the **benefits** of implementation. Implementation strategies should make use of **multiple ways of communicating** (including traditional methods) as well as current learning theory.
- Success case story studies could be drawn up.

### **Further recommendations**

- **Capacity-building:** there must be institutional capacity-building on advocacy and analysis. Capacity and awareness should also be built at the local level.
  - **Communication and information dissemination:** information concerning policies, strategies and plans must be disseminated in an appropriate manner to all key stakeholders, including at local community level. It should be a two-way process.
  - **Policy monitoring and evaluation:** essential. Policy evaluation should be carried out at all levels by a third party.
  - **Education and training:** policy makers (politicians) should be groomed on the policy making process.
  - **Decentralisation and devolution:** policy formulation should be devolved to stakeholders at grassroots level.
  - **Policy formulation and implementation must be strengthened** using the decentralised structures at district and village level.
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## SUMMARY

### Etienne Sinatambou, environmental lawyer, Mauritius

Mr Sinatambou summarised the issues which had arisen from the case studies. Following the facilitator's overview, these issues were **policy development and formulation, policy communication and related capacity-building, policy implementation and policy impact**.

Each of the issues had a specific dimension. In the case of **policy formulation**, there did not seem to be any consensus let alone understanding of the processes of policy formulation in the region. The questions which arose under that heading were: where does policy formulation start and what steps does policy formulation follow?

The question here, Mr Sinatambou said, was whether it should be a linear process bearing in mind that there are extraneous factors that may at any time influence the procedure.

In the areas of **policy communication and related capacity-building**, key areas of intervention were identified. These concerned information on dissemination (pre- and post- development communication); decisions on communication media; awareness; education; networking; sustaining interest, and maintaining institutional memory.

Emerging issues in the areas of **policy implementation** were: ownership (rights and responsibilities); decentralised governance; integration of policies across sectors; relevance and size of programmes and projects; institutional capacity, institutional roles and responsibilities fragmented; the role of civil society in implementation; legislative arrangements for policy implementation, funding and post-development awareness.

**Policy impact** was the fourth key issue to emerge. The need for a qualitative and quantitative assessment of the impact of policies was stressed as well as the eventual identification of indicators. Post-enactment workshops were also a possibility to be considered.

In line with those four key issues, three groups were formed with specific terms of reference. Those groups were to discuss and come up with output on the terms of reference.

The first group had to deal with the development of a logical framework or process for environmental policy formulation and implementation. The second group had to deal with the identification of constraints and development of recommendations for policy implementation in the region.

The third group was meant to discuss ways of strengthening and enhancing broad-based participation in environmental policy formulation.

Mr Sinatambou said that the most important part of the workshop was the development of a set of well-formulated recommendations, which would be of help to policy formulators and policy implementers eventually.

He also stressed that the workshop should not be limited to the status of policy formulation and implementation in the region. He said that it should form the basis of networking, without which all IUCN's efforts would fail. We must be able to liaise and share views, experiences of projects, Mr Sinatambou said.

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## **EVALUATION**

The short evaluation session was conducted by Mankone Ntsaba, the facilitator. She said that the most important thing to be rated was the relevance of content to the workshop. She asked participants to suggest what they thought was missing from the contents of the workshop that, in their view, would have added value. Have we been able to meet the terms of reference, she asked.

Other aspects of the workshop were also evaluated.

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## **APPENDICES:**

**Workshop Programme.....p.60**

**List of acronyms.....p.62**

**List of participants.....p.63**

## **WORKSHOP PROGRAMME**

### **DAY ONE**

- 0815 – 0845 Registration/Coffee & Tea
- 0845 – 0915 Welcome and Introductions (IUCN South Africa)
- 0915 – 0940 Regional Policy Programme Overview/Purpose of Workshop, *C. Mbizvo*
- 0940 – 1000 Agenda, *M. Ntsaba (Facilitator)*
- 1000 – 1030 Botswana: National Conservation Strategy, *M. Madzwamuse*
- 1030 – 1100 Malawi: Forestry Policy, *E. Mede*
- 1130 – 1200 Mozambique: Natural Resource Management Policies, *Andre Dasilva,*
- 1200 – 1230 South Africa: National Environmental Management Act, *Ntsebo Lerotholi & Jessica Wilson (Stephen Law)*
- 1230 – 1330 *Lunch Break*
- 1330 – 1400 Zambia: Wetland strategy and Action Programme, *Gabriella Richardson*
- 1400 – 1430 Zimbabwe: Environmental Management Bill, *Carmel Mbizvo*
- 1430 – 1500 Overview of key issues and briefing on group discussions, *M. Ntsaba*
- 1500 – 1530 *Tea*
- 1530 – 1700 Group discussions
- 1800 *Welcome Dinner – The Carnivore Restaurant*
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### **DAY TWO**

- 0830 – 1030 Group Discussions (cont.)

1030 - 1100 *Tea Break*

1100 – 1230 Group Report Back (30 minutes each)

1230 - 1330 Lunch

1330 – 1530 Formalise recommendations (all presentations) and Develop  
Guidelines

1530 – 1545 *Tea Break*

1545 – 1630 Wrap-up and summary

1630 – 1700 Workshop evaluation and closure

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## LIST OF ACRONYMS

CONDES	National Council for Sustainable Development (Mozambique)
CONNEP	Consultative National Environmental Policy Process (South Africa)
CURE (Malawi)	Co-ordination Unit for the Rehabilitation of the Environment
DEAT	Department of Environmental Affairs and Tourism (South Africa)
CEC	Committee of Environmental Co-ordination (South Africa)
ECZ	Environmental Council of Zambia (Zambia)
EMB	Environmental Management Bill (Zimbabwe)
EMG	Environmental Monitoring Group (South Africa)
MICOA	Ministry for Co-ordination of Environmental Affairs (Mozambique)
MITUR	Ministry of Tourism (Mozambique)
MMET	Ministry of Mining, Environment and Tourism (Zimbabwe)
NCS	National Conservation Strategy (Botswana)
NCSCA	National Conservation Strategy Co-ordinating Agency
NIR	National Institute of Research (Botswana)
NEAF	National Environmental Advisory Forum
NEMA	National Environmental Management Act (South Africa)
NETCAB	Regional Networking and Capacity Building Programme (IUCN)
ORAM	Rural Organisation for Mutual Assistance (Mozambique)
TBNRM	Trans Border Natural Resources Management

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## IUCN REGIONAL OFFICE FOR SOUTHERN AFRICA

**9 - 10 July 2002 Randburg Towers, Johannesburg, South Africa**

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