ENVIRONMENTAL GOVERNANCE IN THE NEW SOUTH AFRICA: A DECADE OF GREENING?

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"We humans are changing the global climate. No nation can escape this danger. None can evade its responsibility to confront it, and we must all do our part" (Bill Clinton's speech to the United Nations - Mc Kibben 1998:73).

1.   INTRODUCTION

As the foundations were laid for democratisation in South Africa a turning point had been reached in the 'war against apartheid' and co-incidentally also with the end of the 'war against nature' both globally and locally. The end of apartheid also saw a shift in the political focus to equity, poverty alleviation, land distribution, AIDS and sustainability. Sustainable development has become a key issue or component in global, regional, national and local environmental governance. The World Summit on Sustainable Development (WSSD), hosted by South Africa in 2002, highlighted the importance of environmental management for both South Africa and the continent as a whole. Sustainable development is a key concept upon which national, provincial and local strategic plans were formulated. This article will attempt to determine just how 'green' South Africa became over the past decade in terms of the politicisation and institutionalisation of environmental issues. This will be investigated in terms of the reformist-institutional approach to environmental governance. Specific reference will be made to the role of the national, provincial and local governments, within the context of co-operative governance, in environmental management.

2.   THE IMPACT OF GLOBALISATION ON GLOBAL ENVIRON-MENTAL GOVERNANCE

In order to understand the politicisation and institutionalisation of the environment within the maze of a contemporary social matrix, a holistic picture or image of

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society should be obtained. Each human being is inherently a social creature who relates to other humans where the complexities of these relationships are formulated into groups. These in turn holistically function in what is known as society and society is dominated by a fundamental social order. The totality of the social structures, patterns of behaviour and systematic routine procedures of the social order constitutes an institutionalised pattern of the way individuals relate to one another and to their world. The social order of society is based on laws such as judicial laws (the legal framework) and normative laws (the value framework). Society is therefore organised in accordance with certain political, economic and legal structures which regulate people's behaviour and are rooted in normative laws which mirror an inherent value-system (Lipson 1985; Adams 1959:55). It is in this light that the legal and value frameworks underpinning environmental governance in South Africa provide insight into a decade of transformation to institutionalise environmental management. As South Africa, since 1994, has been reintegrated into the contemporary global political environment it is important to briefly explain the impact globalization has on environmental governance.

The environment, in retrospect, has placed humankind's actions over the last 300 years in a negative light. As industrialisation spread and populations expanded, whole regions of the globe sustained severe environmental damage. With the industrial era receding, it became obvious that the limits had been reached regarding toxic waste, depletion of forests and the pollution of the air and oceans. This was a direct result of the value framework of the industrial society. Toffler (1980:110-1) coined the phrase *indust-reality* when referring to the life and world view or value framework of the industrial society where one of its core beliefs or normative laws was that "nature was an object waiting to be exploited". By the 1950s, consensus had been reached on environmental issues and *indust-reality* was deeply entrenched in the industrial society. Resource protection, especially that of wild life, came to the fore, but mainly as an economic resource (Toffler 1980:110-1; Greene 1997:314-5).

As it became clear that nature would simply no longer tolerate the industrial assault, the normative law of the '*war against nature*' began its transformation process. The transformation of this normative law implies that humankind can no longer indefinitely rely on non-renewable energy, until now the main subsidy of industrial development. The harsh reality of environmental exploitation is that it is threatening the very existence of humankind, thereby creating a need to transform the very way we interact, produce, consume, and manage our lives. A paradigm shift from *industrial development* to *sustainable development* is therefore required in order to create a new value framework for a 'post-industrial' order and a focus on normative

laws founded within a new *planetary consciousness* and not a *national consciousness* (Toffler 1980:134, 335).

It is through this planetary consciousness, imbedded in the global mindset of humanity, that the environment became a global problem. Bill Clinton emphasised this fact when addressing the United Nations stating that a global collaborative initiative is needed for global environmental governance (Mc Kibben 1998:73). The question is how the change to a new value framework is going to be managed. Will it be possible to synchronise the global value framework with a national and local framework?

In order to attempt to answer these questions it is important to fully understand the nature of these environmental problems and the feasibility of a global value framework. Greene (1997:314) offers one answer by reasoning that environmental problems are rooted in the "generation and distribution of wealth, knowledge and power (and added to this he includes) .. energy consumption, industrialisation, population growth affluence and poverty". The problems emanating from these environmental issues are becoming broadly related to socio-economic processes, which will inadvertently affect political processes. Socio-economic environmental and political processes have become the axis of sustainable development. In addition to this, global environmental issues bridge local, national, and international processes and raise questions about the impact and response to environmental problems.

It is important to look at the main actors involved in finding answers to the questions posed concerning the management of environmental issues. Besides the state, international environmental organisations, civil society such as non-governmental organisations (NGOs), scientists, and social movements have become key actors in international environmental politics. This spectrum has broadened to include the global private sector and supranational organisations such as the European Union, the New Partnership for Africa's Development (NEPAD) and the African Union (Toffler 1990:369-73; Green 1997:314-20). Despite the structural, procedural, ideological and geographical differences among these actors, when addressing environmental needs, collaborative efforts are based on a common global value framework that acts as the glue for the global initiative to respond to the contemporary planetary crisis. In 1987 the Brundtland Commission's report emphasised, politicised and crystalised the concept s*ustainable development* as a key normative law which encapsulates a global vision or value framework for environmental governance. This global framework encompasses certain normative laws which shifted the environmental focus to global 'needs', global solutions, local action and a developmental approach to environmental management (Cock and Fig 2001:1).

In the light of this it is imperative to obtain consensus from a variety of global environmental actors regarding the conceptualisation of sustainable development, especially for purposes of global policy-making and implementation by the most decentralised political structures. As sustainable development is the central thesis around which international environmental politics is constructed, it is pertinent to examine the concept more closely. The international view regarding sustainable development will firstly be discussed and later the legal stances regarding sustainable development will be examined before a local, South African premise can be sketched. Redclift's (1997:439) argument stipulates that sustainable development "is born of intellectual necessity, as much as political necessity". For him therefore the idea of sustainable development reflects society's unease about the human condition. Sustainable development is regarded as a response to this unease. This response manifests sustainable development as a normative goal which serves as a model for planning as well as a strategy which is centered in a decided process of environmental governance. The biological dimension of sustainability, which emphasises human development, also lends legitimacy to the concept (Redclift 1997:441). It is from these approaches that sustainable development becomes encapsulated within the parameters of politics. Redclift (1997:441) forwards the argument that when development is considered the concept of need emerges strongly. Need is coupled to the problem of resource allocation in time and space. The relationship between the present and the future concerning problems of allocation form the central issue of sustainable development. Intergenerational equity forms a large part of environmental economics. Sustainable development also considers allocations in space such as between the developed North and the developing South. The WSSD, which took place in South Africa, emphasises the importance of sustainable development being entrenched in the development objectives of the South.

In conclusion these Brundtland stipulations form the central thesis of sustainable development in international politics. These two issues of time and space coupled to needs form the central axis of the Brundtland Commission which advocates that the present day needs should be developed in such a way that it is possible for future generations to develop their needs (Redcliff 1997:442). How South Africa ties into this premis e will be discussed later in the article.

In the next section of this article the focus will be placed on the institutionalisation of the environment within South Africa's new democratic political dispensation. This discussion will be approached by looking at the nature and extent of the legal and normative frameworks for environmental governance that were institutionalised over the last ten years of democratic rule. In this context it is important to explore aspects such as the nature of environmental needs, the role of the state and law in

managing the environment within the context of co-operative governance, the nature of social capital as a vehicle for achieving sustainable development, how the change to a new value framework should be managed, and if it would be possible to synchronise the global value framework with a national and local value framework.

3.   THE   INSTITUTIONALISATION   OF   THE   ENVIRONMENT   IN SOUTH AFRICA IN A DECADE OF DEMOCRATIC GOVERNANCE

The unbanning of political groups in South Africa in the 1990s, such as the African National Congress (ANC) and the South African Communist Party (SACP), started a new chapter in South African politics. Political leaders of the struggle who had been in exile and had been exposed to the global political environment, returned to South Africa not to militantly challenge the governability of the country, but to facilitate it. These political leaders came together in 1993 in Kempton Park not, as before, armed with guns, but with policy documents, synchronis ed within a global legal and normative framework, to attack the heart of the system which institutionalised apartheid and hereby brought an end to the apartheid legal order. It was here that twenty six political groups came together to draft a new codified constitution - a new legal order. The exposure of political leaders to the global political environment ensured that aspects such as the issues of international law and its place in the South African legal system, gender, and sustainable development, which had not been priorities when Roman and Dutch jurists laid the foundation of contemporary South African law, now received a new status within South Africa's new legal order. Environmental law was another new aspect to receive constitutional recognition (Dugard 2000:44-51; Glazewski 2000:127).

At this point it is important to pose the question of whether South Africa has managed to synchronise the global normative and institutional-legal framework of environmental governance with national and local frameworks. In the light of this question the institutional-legal framework which was followed by the normative framework for environmental governance in South Africa will now be discussed.

3.1   Environmental institutionalisation-legal framework in South Africa

A global and local reaction to environmental degradation and a 30% decline in the Living Planet Index (LPI) which refers to the planet losing nearly a third of its natural wealth in the past thirty years, have propelled global environmental issues on to the global agenda (Glazewski 2000:14). The cognitive mindset of humanity is faced with the reality that alternative methods of environmental governance have become an urgent priority. As the industrial era receded together with the previous millennium, a paradigm shift occurred when *industrial development was replaced*

with *sustainable development* as the global environmental norm. Planetary consciousness has resulted in an awareness of the need to reflect on the nature of collaborative efforts to find solutions to global environmental concerns. The reformist-institutional approach and the critical-radical approach are two diverse alternative methods of global environmental management used to find solutions to these global environmental concerns. The critical-radical approach promotes the radical change in the very architecture of existing political, legal, social and economic institutions, while the institutional approach explores ways to alternatively manage these existing institutions so as to ensure effective global environmental governance (Elliot 1998:242-57). This discussion will highlight the institutional approach to environmental management.

It is within this institutional approach to environmental management that international law plays a key role. Customary international law, also contained in the South African Constitution in sections 232-3 of Act 108 of 1996, and its treaty, serve as a legal-institutional instrument which offers alternative methods for promoting international institutionalised co-operation for effective global environmental governance. International environmental law promotes a conducive environment for multilevelled global environmental governance, i.e. on a supranational, regional, national, provincial and local level, by combining 'hard law' and 'soft law' (Dugard 2000:51,315-7). The combination of 'hard' and 'soft' laws are explained by Dugard (2000:316) where he states that global co-operative initiatives form the essence of international law with "a blend of 'hard law' in the form of customary rules and treaties, and 'soft law' comprising conference resolutions, guidelines and programmes of action".

The legal relevance of international customary law in South Africa is undeniable as it flows like a river cascading through all levels of global governance from a supranational level, such as the Stockholm Declaration, to the local level such as the local government Municipal Structures Act 117 of 1998 in South Africa. Enforceability of environmental law is always a bone of contention. Most environmental laws, be it international, regional, national or local, are unenforceable and non-justifiable. Violations of global policy decisions at supranational conferences or forums, such as the WSSD (2002), are not legally but politically accountable. How is it then possible to create a viable global legal-institutional framework to ensure effective environmental governance? A possible answer to this question would lie in the encaptic relationship between global normative and legal frameworks and between 'hard' and 'soft' laws. Principle 1 of the Stockholm Declaration (supranational level), section 24 of the African Charter on Human and People's Rights (regional level), section 24 of the South African Constitution (national level) and Municipal Structures Act 117 of 1998 in South Africa (local level) are all normatively linked

by an inherent normative principle of an intergenerational right to a favourable environment. The global legal framework provides standards, rules and policy guidelines within which the global normative framework can find expression. The environmental 'hard law' is mostly found within the confines of the customary-law of states on national and local levels (Dugard 2000:315-7 and Scheepers 2000:36-47). It therefore becomes clear that within the confines of multi-layered structures, which depend upon a growing culture of multilateralism, the synchronisation of normative and legal frameworks is not only a possibility but a prerequisite for institutional global environmental governance.

Due to the impact of globalisation, South Africa is not exempt from this process and is committed to institutionalising global environmental normative principles such as sustainable development within the confines of South African customary law. The nation-state, based on 'hard laws', is a key actor in ensuring the success of global environmental initiatives. Dugard (2000:317) explains that the customary-law rules (hard law) of nation-states, "together with 'soft' law principles derived from conference declarations, General Assembly resolutions and guidelines laid down by international organisations, provide a comprehensive if not coherent body of law". A legal-institutional framework alone is inadequate for the enforcement of global environmental policies and decisions. There is an increasing need for the global civil society to implement and operationalise these decisions at grassroots level, thereby utilising the normative framework to focus on preventative and regulatory measures rather than reparation and conflict resolution or litigation. The inter-dependence of legal and normative frameworks is therefore of strategic importance and political necessity. This precautionary principle and the principle of sustainable development are two of the normative principles guiding and moulding the inter-national environmental legal framework (Dugard 2000:320-1). The normative framework will be discussed after the discussion concerning the legal-institutional framework.

Environmental law is one of the key instruments with which to trace the progress made in environmental management in South Africa over the past ten years of democratic governance. Environmental law is a core pillar on which the process of institutionalising the environment in South Africa is based. An aspect which has surfaced strongly, is how the South African environmental law ties into inter-national environmental law. Seen in the light of environmental law it will be necessary to examine the environmental ethics which underpin environmental law and also how the South African premise ties into the global statutes concerning environmental law. As 'hard laws' play a key role in the process of global environmental policy-making and policy implementation it is important to consider

legal elements which are addressed within the confines of the 'hard laws' enshrined within South Africa's judicial order.

To asses the progress made in South Africa in the ten years of democracy regarding environmental issues, it would be pertinent to establish which law forms were used in the institutionalisation of environmental law in South Africa. Only then can progress be measured and questions answered about the degree to which South Africa's legal framework provides a conducive environment for implementing ratified global environmental resolutions. Glazewski (2000:12) refers to five sources of law used by South Africa to launch the institutionalisation of environmental issues, namely international law, common law, the Constitution, statute law and customary law. The realms of international law include environmental conventions, while common law regulates issues such as waste management and pollution. The Constitution provides parameters for the administration of environmental laws. Statute laws contain statutes and regulations for environmental management and control measures. It is important to note that South Africa's political dispensation is characterised by a three-tiered system of co-operative governance which, together with South Africa's 'hard laws', facilitates the synchronisation of environmental management on all levels of global governance. It is through provincial legislation as well as by means of local authority by-laws that the implementation of environmental resolutions is able to penetrate and filter down to grassroots level. Finally, customary laws are those laws in which a court confirms a clearly understood custom, which is generally observed (Glazewski 2000:13). The importance of these law forms will become evident as the development of environmental politics, during the ten years of democracy, is traced. Three of these law forms will be extracted for closer examination, namely the Constitution, statute law and international law.

The South Africa Constitution, Act 108 of 1996, is regarded as the supreme law of the country, and firmly cemented environmental issues within this codified document. It is within chapter 2 of this codified document, which is the chapter containing the Bill of Rights, that provision is made for environmental rights which serve as a point of departure from which environmental law has developed. These rights include a right to an environment which is not harmful to people's health or well-being. In Chapter 2, section 24 of the Constitution, provision is also made for the protection of the environment for the benefit of future generations. This latter stipulation conforms to a similar stipulation in the Brundtland Declaration. The Bill of Rights is regarded as the key normative principle of the South African political dispensation. It serves as the axis around the trias politica, i.e. the legislative, the executive and the judiciary around which all state organs rotate (The Constitution 1996:6). These declarations in the Constitution function in support of the inter-

national paradigm on environmental issues, which favour a normative approach, which is embedded in human rights. The main international principle of sustainable development is also prominently supported in the Constitution. Ultimately the Constitution directs these force vectors at economic and social development, which is also an eminent directive of international environmental politics. Finally, South Africa used the Constitution to solidly cement the principles of democracy in South Africa. These visions will be achieved through legislation which is directed at conservation, "ecological sustainable development and use of natural resources while promoting justifiable economic and social development" (The Constitution 1996:11). The inclusion of human rights into environmental rights linked the South African Constitution to international 'soft law' and treaty provisions in which human rights are tied to international environmental rights (Glazewski 2000:13).

Another form used is statute law, which forms the bigger part of environmental law. This can also take on various forms, for example a general form as is seen in the Environmental Conservation Act 73 of 1989 or as an act which targets a specific resource such as the National Water Act 36 of 1998. Added to these are the laws passed by provincial or local authority (Gazewski 2000:13).

To fully understand the impact of environmental policies, acts and subsequent laws in South Africa regarding environmental politics, it is necessary to shortly refer to these in the light of an historical as well as a global perspective. Before these can be documented it is necessary to briefly consider the ultimate purpose and range of an environmental act. From a political perspective the central mechanism put in place by the new democratic government of South Africa to address environmental issues, was the 1998 National Environmental Act. The main function of a national environmental act is to lay down the institutional structures as well as the legal structures to address environmental issues. National prerogatives in this regard may differ from those of local, regional or provincial prerogatives depending on economic interests. In the case of disputes which may arise as a result of differing goals a further function of a national environmental act comes to the surface, namely as a procedure to resolve disputes. These procedures are outlined within the parameters of a system of co-operative governance, which highlight the interdependent nature of national, provincial and local governance structures. Glazewski (2000:164) defines an act as having a broad range which influence "and cover a wide spectrum of societal initiatives and thus governance at all levels". Legislation further ensures that private and public sector decisions and activities are considered by the inclusion of statute environmental needs as well as environmental assessment requirements.

Historically South Africa passed its first environmental statute in 1982 (the Environmental Conservation Act 100) which did not make provision for environmental management. It also did not draft a compromise between economic development and conservation, a concept which is of cardinal importance today (Glazewski 2000:161). The achievements of the new democratic government in South Africa regarding environmental affairs can, in a broad sense, be limited to two main aspects namely the White Paper and the National Environmental Management Act 107 of 1998 (NEMA). It is important to realise that the White Paper provided the basis on which the NEMA was formulated (Glazewski 2000:162).

The White Paper, which served as an environmental management policy for South Africa, was ultimately the result of an extensive process in public participation, which was known as the Consultative National Environmental Policy Process (CONNEP). The central thesis of the White Paper is sustainable development, which is also seen as the underpinning contemporary international norm regulating international environmental law. The White Paper thus conforms to the requirement of the Brundtland report, which was a result of the United Nation's General Assembly's 1993 response to global environmental issues (Glazewski 2002:162). A second feature of the White Paper is its dedication to the process of democratisation and the socio-economic consequences thereof. The White Paper emphasises an environmentally sustainable framework as a necessity to democratisation and good governance. A second aspect to consider is that the White Paper forwards an institutionalised framework, environmental governance rooted in public participation and partnership, impact management and empowerment. The main criteria of the White Paper reflect South Africa's commitment to its international obligations, which is the result of South Africa's participation in international treaties. The stage was therefore set for effective environmental management in South Africa (Glazewski 2000:163). The ultimate result of the White Paper was that it formed the framework for the NEMA. The NEMA became the main statute of the Development of Environmental Affairs and Tourism. Glazewski (2000:167) regards the NEMA as an "environmental management system on organs of state".

Questions raised concerning the implication of the NEMA brought various issues to the surface. One of these issues relates to the role played by civil society regarding environmental concerns under the NEMA. In South Africa, civil society under the new democratic dispensation was allotted responsibilities and was given rights. These two mechanisms can be effectively used by civil society organisations to give effect to the requirements of the NEMA (Beaumont 2004:5-6).

The third law form to be considered is international law. A few aspects of international law, which influenced South African law, will be highlighted. South Africa positively supports the international view which links human rights and the environment and also supports the international notion of environmental concerns and the need for development, which was proclaimed by the Rio Declaration in its first principle. Besides conforming to international human rights conventions South Africa also participated in over 50 international conventions relevant to the environment (Glazewski 2000:43). To summarise, it can be said that South Africa ties into the international environmental premise by supporting the norms of 'soft-laws', sustainable development, human rights, international equity, as well as environmental assessment, protection and monitoring (Glazewski 2000:45, 81-2).

As was seen above South Africa used various law forms to institutionalise environmental politics. It is now possible to examine the distinctive norms which developed from the various law forms. As stated, the most important norm in environmental law is sustainable development. Glazewski (2000:80) regards it as "the founding principle around which most international environmental norms are fashioned". From the above it has become evident that the notion of sustainable development, as a moral and humanitarian issue, diffused into the arena of both international and local human rights and environment politics (Glazewski 2000:81, Powell 2002:2).

It is of interest that the White Paper on an Environmental Management Policy for South Africa, which had been drafted before the NEMA, was particularly concerned about sustainable development being the overriding goal. The ultimate aim was for sustainable development to occur in an environment in which an environmentally sustainable economy was in harmony with ecological principles. The NEMA, which was drafted, continued this line of thought by using the principle of sustainable development to formulate the important environmental management principles which form the foundation of the NEMA.

Sustainable development is referred to by South Africa as a developmental process which is grounded in three developmental elements namely economic, social and environmental elements. Their interdependence forms a holistic approach to development, and subsequently they are viewed as the three pillars forming the basis of sustainable development. The governance framework of South Africa sustains this structure (Moosa 2002:8).

The legal-institutional framework is regarded as a management tool or instrument which mirrors the normative framework of society. It provides a foundation and guidelines for stake holders at all governance levels, be it global, provincial or local,

to validate, legalise and legitimise decision-making, implementation and the 2000-elevation thereof into the development process (Scheepers 2000:1-32). It is important that the legal framework be synchronised with the normative framework to ensure the sustainability of the development process. The value framework is a crucial part of the development process as it requires change and change is always people-driven. The next section will focus on the normative framework which is also a people-driven process.

3.2   An environmental normative framework in South Africa

As environmental concerns are a global issue falling in the parameters of global governance it is pertinent to consider whether the state alone will be effective in solving environmental problems. A brief assessment of the role players involved in environmental politics as well as their contributions will be discussed. The link between environmental governance and democracy will also be highlighted.

Global environmental politics have emerged as a result of the Stockholm debate and, as a result, the international environmental movement is already in place. In this system the limitations of statism and the inadequacies of geopolitics to forward durable solutions to global environmental degradation has emerged. Elliot (1998:130) added that these inadequacies resulted in the marginalisation of local concerns primarily because the voices of the disadvantaged were not heard. Because of these variables the success of statism to address environmental issues on a global scale was limited. Elliot (1998:130) sees the emergence of global civil society and non-governmental organisations (NGOs) as a response to the limitations of statism. Civil society is therefore seen as a consciousness which offers a solution to environmental problems. The solutions to environmental problems, offered by civil society, are rooted in fundamental social change. The conclusion drawn therefore places civil society and NGOs not only in global environmental politics but civil society can also be regarded as an alternate political practice and governance. It is important to mention that authors such as Young (1994:15) point out that governance can be seen as a societal concern whose members are interdependent. This concept of interdependence emerges strongly in environmental politics and often gives rise to collective action. By implication then civil society also display the characteristics of interdependence and collective action.

This vision portrays civil society as normative and transformative which strongly emphasises democracy and the ultimate vision of the principle of empowerment. Empowerment, in this instance, relates mostly to local communities who reclaimed the rights to participate in decisions concerning environmental affairs. Elliott (1998:131) reasons that in the new form of environmental governance emphasis

falls on decentralis ation and democratic values while change is placed in the hands of those mostly affected. Civil society and NGOs have linked global and local environmental issues and offer an alternate vision of development. They bring up difficult concepts such as the rights of future generations, human values and needs. Ultimately they serve as a voice for those who need to be heard at grass root levels. The pivotal point and central axis from which civil society operates is undoubtedly the principle of democracy. It is precisely because environmental issues globally are interdependent and international and no longer respond to traditional power politics that global civil society and NGOs are needed by the international environmental system to solve increasingly complicated political environmental problems. If non-state actors such as civil society and NGOs are accredited as having a legitimate role to play in environmental issues the decision-making and implementation of agreements would progress more efficiently.

Finally Elliott (1998:129) ties civil society to sustainable development by referring to the Brundtland argument which states that a political system that welcomes effective participation in decision-making is a prerequisite to the implementation of sustainable development. These prerogatives place global civil society in the realms of political action which is visibly manifested as an "expanding latticework of human organizations" which form a holistic whole which presents an "alternative organizing principle for world politics" (Elliott 1998:130).

Over the past decade of democratic governance in South Africa a comprehensive legal-institutional framework was designed and established to regulate environ-mental governance. The next step in the developmental process is to establish forums and avenues for civil society to assist in the implementation of environ-mental policies and to drive the change process needed for creating a sustainable future. The WSSD and the Civil Society Summit, held in Johannesburg in 2002, are examples of two forums which re-affirmed the need to mobilise civil society to seek solutions to issues of social and environmental injustices.

During the 1990s a strong civil society mobilised in South Africa in a drive towards democratisation. This drive was fuelled by a global vision of what has been con-ceptualised under the umbrella term of 'environmental justice'. The Environmental Justice Networking Forum (EJNF) was established in South Africa and is driven by the vision of achieving environmental justice (Cock and Fig 2000:1-3). The EJNF regards environmental justice as being "about social transformation directed towards meeting basic human needs and enhancing our quality of life - economic quality, health care, housing, human rights, environmental protection and democra-cy. In linking environmental and social justice issues with environmental justice, this approach seeks to challenge the abuse of power which results in poor people

having to suffer the effects of environmental damage caused by the greed of others" (Cock and Fig 2001:3). Poverty is a key obstacle to achieving environmental justice in South Africa. An interesting dimension to the debate of poverty and environmental degradation is mentioned by Powell (2002:2), who refers to the far-reaching effect of poverty and environmental degradation as a 'security imperative'. This normative perspective highlights the humanitarian value and is based on a view in which poverty, the destruction of the environment and the resulting despair are destructive to people, society and ultimately nations. The resulting instability does not only affect countries and nations but can threaten the security of an entire region.

In order to achieve environmental justice in South Africa it is important to highlight the need for three developmental phases in this process which offer a normative path for achieving this objective, i.e. empowerment, leadership and change. Firstly, the empowerment phase focuses on making people aware of developmental needs and the importance of engaging in dialogue to seek solutions to the identified challenges. The Consultative National Environmental Policy Process (CONNEPP) was formed on the eve of democratisation in South Africa to promote public participation initiatives. Its launch was attended by over 500 delegates from the public and private sectors, which included business, gender groups, non-governmental organisations, traditional leaders and the youth. This initiative resulted in the drafting of the White Paper and the National Environmental Management Act (NEMA) 107 of 1998. The War on Poverty Campaign (launched by the South African Coalition of NGOs (SANGOCO) in 1997), the national hearing on poverty and the environment in 1998, and the provincial pre-summit forums for the WSSD in 2002 are some examples of empowerment initiatives undertaken to stimulate grassroots participation (Cock and Fig 2001:1-6; Scheepers 2000:4-6). These empowerment initiatives do not only allow for intersectoral dialogue but also enable participants to make meaningful inputs during these dialogues. Many forums make provision for individuals to participate in these initiatives but there are instances where communities and groups must elect leaders to represent their causes. This results in the second phase, i.e. the leadership phase.

In order to achieve sustainable development it is important to elect visionary leadership to guide the transformation process. As civil society initiatives must transcend racial, ideological, class and gender divides in order to promote collective action to achieve a common normative goal or vision, visionary leadership is needed to bring together people from diverse backgrounds to strive for environmental justice and sustainable development (Cock and Fig 2001:5-6; Scheepers 2000:6-7). Due to the pluralistic composition of the South African society, the Minister of Environmental Affairs and Tourism, M van Schalkwyk, has to face the enormous challenge of

promoting collective actions and intersectoral participation. The impact of globalisation has also required leaders from both the public and private sectors to represent the people at regional forums such as the World Summit in 2002 and global forums such as the United Nations Commission on Sustainable Development.

The last phase is the change phase which is the most important phase and the quality of this change is also dependent on the previous two phases, i.e. empowerment and leadership (Scheepers 2000:6-8). Change is measured by the degree of progression and is achieved in terms of strategic development from this point of departure towards attaining a strategic vision. It is ironic that on 27 April 1994 South Africa had reached the vision of freedom and on the same day ten years on South African delegates were at the 12th session of the United Nations Commission on Sustainable Development discussing the progress the country has made in terms of reaching the global vision of environmental justice and Sustainable Development. The progress made in reaching the implementation goals stated at the WSSD in 2002 will also be discussed at a national forum known as Johannesburg + 2 (Internet 2004: WSSD Follow-UP).

The South African Government launched a Moral Rejuvenation Movement in an attempt to eradicate the stumbling blocks to the change process, promote ethical leadership and cement the partnerships and networking forums used to assist in implementing policies and to bring about change to ensure sustainable development at grassroots level. As the change phase is the phase where results can be observed, the developmental focus tends to give precedence to this phase. It is, however, important to note that all the phases contribute to the success or failure of the developmental process (Scheepers 2000:1-30). The legal-institutional framework and the normative framework therefore are key interdependent mechanisms for change to reach a vision of sustainable development.

It should be acknowledged that South Africa has created and formalised a complex and dynamic legal-institutional framework for environmental governance. However the attention now has to be shifted to the normative framework to put the change process in motion especially at grassroots level, hence the recent launch of the Moral Rejuvenation Movement. In the light of the comprehensive legal-institutional framework and in terms of statute and international law, acknowledgement should also be given to the tremendous progress in environmental governance in South Africa. It is important to realise that an enormous challenge has been bestowed on the nation to ensure the fruition of environmental resolutions and policies and it is through the adoption of goals and visions, set out in the country's normative framework at all levels of governance, that environmental justice will be achieved.

4.   CONCLUSION

The institutionalisation of environmental politics in South Africa, during the years of democracy, has reached a pinnacle. This article traced the role of the state and environmental law in managing the environment within a context of cooperative governance. When reflecting on environmental governance in South Africa, it is clear that an attempt has been made to synchronise the global environmental legal and normative framework with those of national and local levels. After democratisation radical changes occurred in the existing political, legal, social and economic institutions. These changes promoted alternative management of institutions in a manner that furthered synchronisation with global governance.

The institutional approach, as adopted in this article, to environmental governance in South Africa is a structured and formal approach. It is also an approach which has re-introduced South Africa as political actor within global governance struc-tures. Over the past decade of democracy, South Africa's achievements in terms of environmental governance should be acknowledged and the country should conti-nue with the challenge of embracing the global vision of sustainable development.

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