CITIZEN MONITORING OF THE NATIONAL WATER RESOURCE STRATEGY 2 (NWRS2)

Report to the

Water Research Commission

by

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EXECUTIVE SUMMARY

In 2014, the South African Water Caucus (SAWC), a network of non-governmental organisations (NGOs) and community-based organisations (CBOs) who are active in the water sector, embarked on a social learning and action research journey supported by the South African Water Research Commission (WRC) to deepen its monitoring of South Africa's Second National Water Resources Strategy (NWRS2). They focused on three issues in three cases study areas.

The project aimed to:

1. Critically assess civil society's involvement in key water policy documents within the context of legal requirements and democratic discourse.
2. Pilot, test and improve an approach that empowers CBOs and other civil society organisations to participate in local water governance, using forms of knowledge and analysis appropriate to their context and experience by monitoring and engaging in key issues from the NWRS2.
3. Test the application of social learning approaches to capacity building in the water sector.
4. Strengthen CBOs and networks within the water sector through peer support and social learning.
5. Contribute to the effective and just implementation of the NWRS2.

Project design and activities in relation to aims:

A review was undertaken that defines civil society and assesses its engagement in South African water policy over the past 15 years, with a particular focus on the SAWC, a social movement that embodies public interest values. A review of government's legal obligations to civil society in the water sector has also been completed.

Ten water activists attended a Changing Practice course accredited by Rhodes University. This course is based on a social learning approach developed in the WRC research project titled, 'Change Oriented Learning and Water Management Practices' (K5/2074/1). Drawing on Freirean pedagogy (Paulo Freire, Pedagogy of the Oppressed), the course developed the competency of learners to improve local natural resource management practices, water governance and environmental justice, and to develop local case studies relevant to the implementation of the NWRS2.

The learning and case studies were used to strengthen civil society organisations and networks, as well as relationships between government and civil society. This happened through structured interventions within SAWC and member organisations, a series of research team meetings that reflected on work to date and analysed civil society engagement in water governance at both local and national scales, and the initiation of dialogue with government structures.

On-the-ground evidence of people's experiences combined with a broader contextual analysis was presented and discussed through three catchment management forums (Sabie, Sand and Rietspruit in the Upper Vaal); three dialogues with the national Department of Water and Sanitation (DWS) on NWRS2 implementation; a consultation meeting convened by DWS for SAWC on pricing, and norms and standards strategy; and ad hoc engagement with government officials at local and national levels. The project also developed guidelines to strengthen citizen monitoring in the water sector, and presented them to DWS for comment. This all contributed to the effective and just implementation of the NWRS2.

Outcomes and findings

Case study 1: Water quality and the inclusion of spiritual water users (SWUs) in the Vaal: This case study investigates why traditional healers and spiritual practitioners in the Vaal, who are important direct water users, are currently underrepresented in catchment management forums. Their everyday practices are affected by poor water quality. The case also argues that traditional healers and spiritual practitioners are well placed to be monitors of water quality in the Vaal and other areas. They are also

able to bring a new form of knowledge derived from African spirituality that could help reconnect humans with rivers and enhance their protection.

Case study 2: Industrial timber plantations and ecosystem functioning in Mariepskop, Mpumalanga: This case study looks at the impact of industrial timber plantations and invasive aliens on rivers and biodiversity. Working with communities and traditional healers in Moholoholo (Mariepskop), it uncovers the deeper impacts on community well-being, spiritual practice and healing resulting from the loss of sacred pools and medicinal plant species. It also investigates why a DWS exit strategy to strategically clear plantations from this area was never implemented. Thus, a finding that political intervention undermined scientific and participatory processes.

Case Study 3: Water demand management within the context of climate change in Cape Town: This case study looks at urban water conservation that results in unequal access to water within the context of climate change. It focuses on the densely populated area of Dunoon in Cape Town where the installation of water management devices has created tension in the community and threatened livelihood activities. It explores "how to build governance around water scarcity in ways that are fair and just" and draws attention to conflicting policies or poor implementation relating to public participation, access to water, redressing inequality, water for livelihoods and local economic development.

Certified social learning training course: The project embedded the Environmental Learning Research Centre's (ELRC) change-oriented learning approach within a broader research project, social movement and policy process. The result was that the skills and knowledge that the learners developed was embedded into their organisations and networks, as well as living case studies that evolve over time, a deeper appreciation of civil society's role in the water sector, and direct engagement between learners and policymakers. We suggest that this an effective way of upscaling social learning into organisations and networks.

Civil society deepens democracy: The research found that civil society does and should play a key role in the South African water sector by deepening participatory democracy and monitoring public interest aspects of water policy. This leads to more effective implementation of some of the core principles of environmental and water resources management, including ecological integrity, protection of rivers and wetlands, recognition of indigenous knowledge, gender equality, social justice and the right to water.

The SAWC form and functioning provides lessons for strengthening civil society: The SAWC has achieved local, national and international influence since its formation in 2001. Its impact and longevity result from a decentralised leadership and resourcing model; wide membership, including the participation of stable resourced NGO members and community-based activists; and deeply embedded core values. It holds multiple worldviews, experiences and scales under one umbrella. Its networked or nodal structure actively encourages grass-roots participation, and privileges and valorises local knowledge. SAWC mobilises resources through this networked structure, drawing on the strengths of different actors in the network. It uses a repertoire of activities ranging from street mobilisation and protests, to members' projects on the ground (e.g. accessing water for food gardens) to participation in policy processes, research and using the media.

Gender dynamics: With attention to power dynamics inherent in the project's design, issues of gender became known – both in terms of the different ways in which women and men experience water challenges and are able to engage in water governance *and* in how gender affects the work of activist researchers, including issues of safety.

Recognition of multiple forms of knowledge and cognitive justice: The space to work with different knowledge systems started conversations around the politics of knowledge and how important it is to consider many different sides to a problem drawing on multiple knowledge systems. This process of taking cognitive justice seriously led to some key research insights emerging from the case studies. It also led to both course participants and researchers seeing the value of dialogue between more formalised, academic knowledge and the knowledge held by people at the coalface of action in the

world. There are many structural issues that inhibit this very important sharing and learning. For example, academic knowledge is still valued as more important than other forms of knowledge and this knowledge is shared in spaces that are often alienating to activists.

Project impacts

Stronger implementation of the NWRS2, with more public support, while the NWRS2 is monitored and implemented effectively and justly: The cases studies generated public support and greater capacity to do on-the-ground monitoring on the NWRS2. Lessons from these case studies and an analysis of civil society were used to generate citizen-monitoring guidelines. As the case studies and guidelines are shared more widely and feedback is given to DWS through structured meetings, it is anticipated that more public support will be generated to monitor and implement the NWRS2 more strongly.

Policy is more relevant and responsive to people's experiences and on-the-ground realities: The case studies uncovered local experiences that were at odds with the intention of water policy, thus pointing out how its implementation was negatively affecting communities and rivers. This knowledge was contextualised and fed back into the policy cycle by engaging with government officials at national, catchment and local levels, thereby providing the necessary detail to adjust policies so that they are relevant and respond to this new information.

Increased knowledge and public awareness of NWRS2 and the importance of water resources, their protection and use: The project worked with SAWC to raise people's awareness of the NWRS2. Working directly with people who are active in protecting water resources, it was able to leverage greater understanding of the links between policy and practice and to increase people's ability to articulate the importance of rivers and wetlands.

Monitoring of whether water demand management programmes exacerbate poverty: The Dunoon case study highlights that Cape Town's water demand management strategies further marginalise poor people by taking away options for household level water management and creating stress about when and whether there will be water. Furthermore, micro-livelihood activities were threatened by restricting available water to a bare minimum, thereby discouraging people from taking initiative to improve their situations.

Use of indigenous knowledge by involving traditional healers and rural communities – use, validation and extension of that knowledge through case studies: A better understanding of indigenous knowledge through the Vaal and Moholoholo case studies enhanced the SAWC's view that water is not just a resource to be managed, but is part of, and in itself, a living ecosystem with spiritual dimensions including healing, and access to a spiritual world. This knowledge was used in dialogues with the DWS and to advocate for greater inclusion of SWUs in water governance forums.

Enhanced research, monitoring and policy capacity of civil society in the water sector: The social learning approach adopted in this project brought about change – and in some instances, profound transformation – at multiple levels. Through a careful process of observation and reflection, this report provides insights into what changed within individuals, between people, at the level of structure, and between people and the natural world. For example, when an activist researcher's confidence was built by gaining a sense of identity based on the deep wisdom inherent in his African ancestry, he discovered agency within himself. He was able to articulate concerns to government officials on the importance of including SWUs in catchment management forums.

Recommendations

The key recommendation emerging is to support and protect the role of civil society in water governance. Detailed recommendations as to how to do this in practice are contained in Centre for Environmental Rights Legal Note (Appendix 1) and the Guidelines for Citizen Monitoring (Appendix 2).

Policy recommendations

1. Develop municipal norms and standards for household level smart water meters to ensure that their process of installation and functioning does not discriminate against poor households and allows for water for multiple use.

2. Review the Free Basic Water policy and norms and standards for water tariffs, with a view of incorporating water for multiple use in urban areas.

3. Implement the Mariepskop exit strategy to strategically clear plantations to free water for the rivers and allow the return of sacred pools and medicinal plant species.

4. Review national and catchment-level water policy and practice to explicitly recognise traditional water users and SWUs, and facilitate their inclusion in catchment management forums.

5. Ensure budgets are available at national, catchment and municipal level to give effect to public participation and civil society engagement in water policy, implementation and monitoring in a long-term and meaningful way.

6. Publicly condemn practices that close local democratic spaces through, for example, intimidation or patronage, and prosecute those responsible.

Research recommendations

1. Develop a participatory action research project in the SAWC to support the entry of SWUs into catchment management forums. Such research may produce important insights about the functioning and broad representativeness of catchment management forums and water governance in our country, as well as new ways of 'seeing' water, which lead to greater protection of rivers, wetlands and groundwater.

2. Further develop insight into how social learning can be taken up within civil society by tracking and researching Changing Practice courses as they are applied in different contexts, for example, in the Olifants catchment to support climate change resilience.

3. Explore the availability and cost of productive water, or water for livelihoods, in rural and urban settings – particularly for poor people. This could be linked to the DWS initiative to expand the definition of 'productive water' to include livelihood activities beyond just food-growing.

4. Explore social learning as a pathway for water activists to careers and employment. There is currently a project looking at green-skilling being run by the ELRC at Rhodes, which could be connected to this research.

5. Use action learning as social learning with a cohort of government officials, academics and activists to research how the democratic culture in government and civil society respectively influence the development of participatory democracy in the South African water sector.

6. Design an action research project within a value-based social movement to explore how to integrate gender analysis, sensitivity and advocacy into social learning and water governance including mechanisms to help women navigate the pressures of their own lives in relation to participating in a Changing Practice course.

7. Further explore how to develop meaningful change-oriented partnerships between intellectuals and activists, and between academic institutions and civil society structures. This would include mutual learning, recognition of multiple forms of knowledge, integration of lived experience of all participants and creating safe spaces for sharing knowledge.

8. Research is required into how to open spaces up to integrate and value citizen science within the WRC more broadly. This could link with Recommendation 7.

9. Explore the potential of an online platform and smartphone apps to strengthen citizen monitoring and to record stories related to local water resources management and the provision of water services.

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AEC	Anti-Eviction Campaign
ANC	African National Congress
ANEW	African Network on Water
APF	Anti-privatisation Forum
ARV	Antiretroviral
AWARD	Association for Water and Rural Development
BGM	Biennial General Meeting
CBO	Community-Based Organisation
CER	Centre for Environmental Rights
CJN!SA	Climate Justice Now! South Africa
CMA	Catchment Management Agency
CMF	Catchment Management Forum
COGTA	Cooperative Governance and Traditional Affairs
CONNEPP	Consultative National Environmental Policy Process
Cosatu	Congress of South African Trade Unions
CPUT	Cape Peninsula University of Technology
CSO	Civil Society Organisation
DA	Democratic Alliance
DBSA	Development Bank of Southern Africa
DWA	Department of Water Affairs
DWAF	Department of Water Affairs and Forestry
DWS	Department of Water and Sanitation
EJNF	Environmental Justice Network Forum
ELRC	Environmental Learning Research Centre
EMG	Environmental Monitoring Group
EPWP	Extended Public Works Project
FBW	Free Basic Water
GEAR	Growth Employment and Redistribution
IDP	Integrated Development Plan
ILRIG	International Labour Research and Information Group
IUCMA	Inkomati-Usuthu Catchment Management Agency
IWRM	Integrated Water Resources Management
MPWC	Mpumalanga Water Caucus
NAPWA	National Association of People Living with HIV/AIDS
NEMA	National Environmental Management Act
NGO	Non-Government Organisation
NWAC	National Water Advisory Council
NWRS	National Water Resources Strategy
NWRS1	National Water Resources Strategy 1
NWRS2	National Water Resources Strategy 2
PWC	Provincial Water Caucus

RDP	Reconstruction and Development Programme
SACAN	Southern Africa Climate Action Network
SAHRC	South African Human Rights Commission
SAMWU	South African Municipal Workers Union
Sanco	South African National Civics Organisation
SAWC	South African Water Caucus
SECC	Soweto Electricity Crisis Committee
SJC	Social Justice Coalition
SWU	Spiritual Water User
TAC	Treatment Action Campaign
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
VEJA	Vaal Environmental Justice Alliance
WCD	World Commission on Dams
WCWC	Western Cape Water Caucus
WISA	Water Institute of Southern Africa
WMD	Water Management Device
WRC	Water Research Commission
WSLG	Water Sector Leadership Group
WSSD	World Summit on Sustainable Development
WWF	World Wildlife Fund

1 INTRODUCTION, OBJECTIVES AND PROJECT OVERVIEW

This National Water Resources Strategy 2 (NWRS2) watch project was an *in situ* experiment to establish the role that civil society plays – and with the support of a social learning approach, can play more effectively – in building participatory democracy in the water sector. The project team comprised water activists from communities and non-governmental organisations (NGOs) affiliated to the South African Water Caucus (SAWC); and of academics with shared values. In exploring the role of civil society, the project focused on the SAWC as a civil society network in the water sector that aims not only to improve the implementation of public interest aspects of water policy, such as equitable access to water and protection of rivers, but also to transform society to one that is fair and just.

The policy focus was NWRS2 due to its overarching role in the water sector and SAWC's history of engaging with it. A social learning approach was used to test how, and to what degree, knowledge and agency could be strengthened in the water sector by working directly with a social movement such as the SAWC. Using case studies, the project team piloted an approach to civil society water policy monitoring and engagement at local, catchment and national levels. The case studies, which were grounded in local realities, contributed to a deeper understanding of key ecological, participatory, social justice and spiritual aspects of water governance.

1.1 Project Context and Players

1.1.1 What do we mean by monitoring?

In this project, we understood 'monitoring' to mean observing and intervening in the full policy cycle, including agenda setting, institutional arrangement and function, and implementation. Like all aspects of political work, monitoring is not a neutral activity. Monitoring means testing against a value-based approach from our own worldview and perspective. It means monitoring against the promises made in policy documents, the Constitution and pronouncements of politicians (including councillors). It also means noticing and protesting things that are wrong and building alternatives for social justice and ecological integrity.

In this project specifically, we monitored in relation to:

1. SAWC's key principles and core values.
2. Government promises.
3. The four (later three) key issues of this project from the ground up.

We did this at three levels. Firstly, by identifying and articulating a key issue around which activist researchers organised locally and built a case. Secondly, we looked at which policy addressed this issue and how it was governed, and monitored that. Finally, we used the process of monitoring to strengthen the water and environmental justice movement.

1.1.2 National Water Resources Strategy 2

The NWRS2, published in June 2013, sets the strategic direction for water resources management in South Africa over the next 20 years. Thus, it is important that it should be widely known and used. It is sobering to note that its predecessor, the first NWRS, published in September 2004, was neither widely known nor widely used (Fred van Zyl, *pers. comm.* 2012), thus limiting its influence on national thinking, planning and practice.

South Africa is a dry country with highly seasonal rainfall. Almost all its freshwater resources are allocated and there is little room for error in managing water. All stakeholders involved in the development of the NWRS2 agreed that water resources should move to the centre of national decision-making. A growth in public awareness of water resources and public participation in its careful management are crucial components of this strategic change.

The NWRS2 is underpinned by the vision of, among other things, "a committed and dedicated water sector, actively co-operating and contributing towards sustainable water management" (DWS, 2012: iv). Civil society is one of the key role players in this sector, and the effective and appropriate implementation of the NWRS2 requires a strong civil society. Civil society moves and builds bridges between households, communities, the public sphere and other water users. It has 'eyes and ears' everywhere, and is well placed to monitor developments on the ground, as illustrated in the Water Research Commission (WRC) Research Report K8/968/1, "The Potential of Civil Society Organisations in Monitoring and Improving Water Quality" (Munnik et al., 2011).

1.1.3 The role of civil society and the SAWC

Civil society can play a key role in the South African water sector. It can integrate perspectives and needs from across society into water policy and its implementation. And by doing so, it can contribute to the growth of a participatory democracy in South Africa. However, not only is the NWRS2 not broadly understood by the public, the role of civil society – especially in the monitoring of water resource management – is also only partially understood and, in some places, contested.

While civil society is a popular term widely discussed in development and academic literature (Hall, 1995), it is also "one of the most used – and abused – concepts in current political thinking" (Kaviraj and Khilnani, 2001: Introduction). One of the central aims of this research was exploring and clarifying the role(s) that civil society can play in the South African water sector. In particular, emphasis was placed on understanding and strengthening the relationship between civil society and the Department of Water and Sanitation (DWS) and local water governance structures, such as catchment management forums (CMFs).

This project chose to focus on the SAWC as a key network within civil society that has since its formation in 2001 helped to shape discourse and generate opportunities for engagement within the water sector. Although there are other civil society players in the water sector, the SAWC is unique in situating environmental imperatives within a broader transformation agenda. It focuses both on ecological (green) issues and social justice (developmental) issues.

During this, time a specific, if multi-sided working culture, has developed within the SAWC. SAWC members, for example, have specifically avoided a centralised model both to avoid struggles to "capture the centre" and to allow free flow of thinking, knowledge formation and sharing. This has also allowed members to continue with autonomous organising and campaigning. It has wide membership, including the participation of stable resourced NGO members and community-based activists who mostly engage via provincial caucuses. The SAWC's networked or nodal structure actively encourages grass-roots participation, and privileges and valorises local knowledge. But, it also has national and international influence. It therefore holds multiple worldviews, experiences and scales under one umbrella. The SAWC mobilises resources through this networked structure by drawing on the strengths of different actors in the network.

The SAWC operates from deep values underlain by social justice and an ecological value base that is explicitly anti-neoliberal (Harvey, 2005; Bond, 2000; Saul and Bond, 2014). In 2006, SAWC members adopted a set of principles that opposed government policies of privatisation, of demand management in the form of cut-offs and flow-limiting devices, but also other threats to the water commons, such as industrial and mining pollution, and large dams. It has developed an international analysis and knowledge of international civil society debates through exposures to international anti-dam movements, the international fresh water caucus, The Water Dialogues, various climate change processes, and broad civil society responses to them. Through this project, the SAWC's implicit identification with deep ecology was foregrounded, as it became clear that water is not just a resource to be managed, but a fundamental part of human identity and a source of healing and spiritual well-being.

The SAWC can be seen as a social movement (Ballard et al., 2006; Dawson and Sinwell, 2012; Goodwin and Jasper, 2009; McAdam et al., 2001; Ruggiero and Montagna, 2008). It acts as a social movement by responding to opportunity and threat structures. In this case, the opportunity to build a participatory democracy by participating in governance and bringing into these spaces a broad base of constituents to do so, including new actors who may change the nature of the rules. For example, the inclusion of spiritual water users (SWUs) and activists in CMFs means that scientists must engage in different ways. SAWC also responds to threats in the South Africa context; specifically threats to participatory democracy and ecological threats posed by big industry to water as well as their policy influence.

The SAWC uses a repertoire of activities ranging from street mobilisation, protests to members' projects on the ground (e.g. accessing water for food gardens), to participation in policy processes, research and media usage. This repertoire has been inherited from a social and environmental justice struggle past. As a social movement, SAWC makes choices about the spaces in which it engages.

The SAWC has a long history of engagement in the water sector, and it is from this history that this NWRS2 watch project was born. In particular, the issues explored through the case studies were raised during the NWRS2 consultation process from August 2012 to January 2013 (EMG, 2014). Chapter 4 provides more detail on this process.

1.1.4 Building knowledge and agency to act

Civil society, broadly speaking, sometimes struggles to play its role to the full extent, often due to lack of capacity, lack of access and a limited understanding of the contribution it could make. This research project aimed both to understand and to facilitate a deeper and more meaningful contribution of civil society to managing and safeguarding South Africa's water resources via engagement with key issues in the NWRS2. It also aimed to strengthen civil society and advance key principles framing the NWRS2, such as equality, democracy and sustainability.

How can capacity in civil society best be built?

To answer that question, this project further developed the insights generated in the Environmental Learning Research Centre (ELRC) at Rhodes University's ongoing research programme into change-oriented learning and sustainability practices, and a short change-oriented learning course, based on social learning principles, developed in the WRC research project entitled, "Change Oriented Learning and Water Management Practices" (K5/2074/1). This previous research project (K5/2074/1) led to the design of a certified course based on the ongoing work of the ELRC into learning as well as drawing on Freirean pedagogy (Freire, 2000a).

The course's starting point was participants' own knowledge of their context. From there, they identified key questions and contradictions. They learnt to use these questions to engage with other organisations and people to build knowledge networks. They also learnt to clearly articulate the case and consider possibilities for action. Learning processes and tools were developed in response to the local context and in ways that were meaningful to the people engaged in or needing to engage in the everyday activities of, in this case, monitoring the implementation of the NWRS2. This citizen-monitoring project was an opportunity to run the course embedded within a broader research project with a conscious understanding that learning is part of an action research cycle. This research project gave us the opportunity to experiment with how learning could be consciously designed into action research within a social movement and to evaluate its impact. This meant that there was a clear intention to build learning into a broader social process and into a broader research process.

1.1.5 Project partners

Project partners were civil society organisation (CSO) members of the SAWC who were supported by independent researchers and an academy. The project was structured in a way to embody, as much as possible, principles of participation and cognitive justice (Visvanathan, 2006). Four SAWC members were identified as anchor organisations in each of the study sites – the Vaal Environmental Justice Alliance (VEJA) in the Vaal, the Environmental Monitoring Group (EMG) in Cape Town, Geasphere in Mpumalanga, and Zingisa in the Eastern Cape.

The anchor organisations were responsible for supporting learners and developing case studies that could be taken up within their provinces and the broader caucus. The EMG was also responsible for managing the project as a whole. Rhodes University developed and accredited the Changing Practice social learning course, which provided skills and guidance for the action research.

1.2 Project Aims and Research Questions

The agreed aims of this WRC project were to:

1. Critically ASSESS civil society's involvement in key water policy documents within the context of legal requirements and democratic discourse.
2. Pilot, test and improve an approach that empowers community-based organisations (CBOs) and other CSOs to participate in local water governance using forms of knowledge and analysis appropriate to their context and experience by monitoring and engaging on key issues from the NWRS2.
3. Test the application of social learning approaches to capacity building in the water sector.
4. Strengthen CBOs and networks within the water sector through peer support and social learning.
5. Contribute to the effective and just implementation of the NWRS2.

It was clear early in the project that we could not limit the assessment of civil society's involvement to policy documents (Aim 1) but had to expand it to include civil society engagement in the full policy cycle. A series of questions also emerged and became more refined. In assessing the extent to which we achieved these aims, our insights from the project are clustered around the following three themes and associated questions. These run through the report. An analytical summary of what we have learnt is presented in the final chapter.

- **The role and form of civil society in deepening participatory democracy in the water sector**
  - o What is the role of civil society including the SAWC in the water sector? Is it to build a participatory democracy?
  - o How can we better understand the spaces where civil society works? What are the dynamics at local and national level? How do they relate?
  - o What is the relationship between government (DWS) and civil society (SAWC)? How is it changing? Where is it working and where not? Why? What determines this relationship?
  - o How do we strengthen civil society as a partner in the water sector and in NWRS2 implementation, and accommodate different worldviews?
  - o What is the institutional nature of the SAWC, its organising logic and how does it relate to its role in civil society?
  - o What are the deeper, fundamental components of SAWC's vision and approach such as human connectedness and connection to nature? What is the influence of this framing?

- **Learning in practice through a considered approach**

  o Is social learning a good approach to building capacity in civil society?
  o What happens during social learning? What happens to activists and their views and capacity during social learning? What new perspectives are opened up for activists?
  o Can social learning be used as a participatory research methodology? Can this methodology result in cognitive justice for all the knowledge carriers and knowledge creators involved in it? Can it lead to deeper and more equal participation in the water sector?

- **Monitoring the NWRS2 implementation through case studies**

  o How are issues that emerge from case studies framed and articulated?
  o What role can case studies that emerge from people's lived experiences play in monitoring national policy? How does monitoring implementation feed back into the policy cycle?
  o What is special about 'water' as a sector within which civil society engages?

All these questions relate closely to the view of the SAWC as a system in which knowledge is created, circulated and shared. The focus of the questions is how this process takes place, what conditions and approaches enable it, and how, or whether it can be strengthened through a social learning approach.

1.3 Research Method, Approach and Activities

1.3.1 Social learning is a specific approach to knowledge practice

This research project is unique: it researches an interdisciplinary and change-oriented research approach that authentically involves different knowledge seekers and knowledge institutions as well as developing four cases of monitoring the NWRS2. The literature on inter/transdisciplinary research calls for multiple stakeholders to be involved in research processes (Bhaskar et al., 2010; Hirsh-Hadorn et al., 2008; Max-Neef, 2005). In particular, inter/transdisciplinary theorists argue that people whose lives are most affected by issues such as water pollution or lack of water access, should be involved in formulating an understanding of the problem, investigating the problem and implementing action to deal with the problem (Hirsh-Hadorn et al., 2008). Many inter/transdisciplinary theorists also argue that learning is a core process of doing inter/transdisciplinary work (Corina, 2011; Cornell et al., 2013; Hadorn et al., 2008; Ison et al., 2007; Roux et al., 2010; Wals, 2007).

1.3.2 Changing Practice course

In the course of the project, ten water activists attended a course drawing on social learning and Freirean pedagogy, which included introducing skills to further critical engagement with long-standing issues and enhancing knowledge network building. The primary objective of the course was to develop the competency of practitioners to support the improvement of local natural resource management practices, water governance and environmental justice. As such, the course helped participants to work with knowledge in a way that is relevant to the context they work in. It helped participants to understand the complexities of knowledge use in practice. It aimed to improve the educational practice (both mediation skills and social learning) of practitioners in the water sector who work directly with groups of people involved in natural resource management practices, water governance or in activities that affect the environment.

The course was designed to "work together and work away". Four contact sessions of three to four days long were each followed by work-away activities with mentoring support. Learners engaged in a change project. This was guided by four core assignments designed to develop competencies for exploring context (deepening our understanding of the issue) and action (developing partnerships and engaging in spaces), resulting in a local case study.

1.3.3 Four case studies

The project was designed to take place in four areas and to focus on four issues:

1. Water demand management within the context of climate change in Cape Town.
2. Timber plantations and ecosystem functioning in Mariepskop, Mpumalanga.
3. Water quality and the inclusion of SWUs in the Vaal, home of South Africa's big industry.
4. Water for food-growing in the Eastern Cape.

Each learner in the Changing Practice course came from one of these areas and, with support of their anchor organisation, had to develop a case study to illuminate the issue. Learners from the Eastern Cape were unable to complete the course and assignments. Thus, the case study on water for food-growing was not developed beyond an initial local contextual analysis.

Each of the four issues is dynamic and has a history within the SAWC. For example, the work on water demand management arises from campaigns and research that the SAWC has engaged in since its inception on equitable adequate water services provision, water tariffs, outsourcing, prepaid water meters and other technologies that erode the right to water or exacerbate social or environmental injustice. Likewise, protection of catchments has long been one of SAWC's campaigns, and the maintenance, rejuvenation and enhancement of ecosystem integrity is one of its guiding principles (SAWC, 2015).

All the issues were considered important aspects of the NWRS2. The case studies were to be used to develop an in-depth understanding of how South African water policy is monitored and implemented, and what role civil society can play in these processes. The issues emerged from SAWC engagement in the NWRS2 consultation process, in which it highlighted ten themes (EMG, 2014); four of which were chosen for this project. (See Chapter 4 for more detail on SAWC's engagement with NWRS2 consultation process.)

1.3.4 A spiral of learning and reflection, including contextual analysis

While the case studies were designed as part of the Changing Practice course and a focus for each learner, they were not intended to end there. Facilitated engagement between learners, anchor organisations, and provincial and national water caucuses was used to strengthen and expand the case studies with the aim of initiating dialogue and influencing policy. Learners and other SAWC members engaged with government officials at local and national level to advance the issues from the case studies. On-the-ground evidence of people's experiences combined with a broader contextual analysis was presented and discussed through three CMFs (Sabie, Sand, Vaal); two dialogues with the national DWS on NWRS2 implementation; a consultation meeting convened by DWS for SAWC on pricing, and norms and standards strategy; and ad hoc engagement with government officials, for example, through local dialogues or seminars.

A series of research team meetings reflected on work to date and analysed civil society engagement in water governance through regular facilitated discussions between the authors of this paper. Structured interviews were held with key informants from both inside and outside the SAWC to better understand its functioning and role, as well as the potential for civil society to improve decision-making and implementation in the water sector. The Centre for Environmental Rights (CER) was commissioned to research the legal basis for participation in the water sector (Appendix 1). The project also developed guidelines to strengthen citizen monitoring in the water sector (Appendix 2), and presented them to the DWS for comment.

The expanded case studies aimed to provide a continuous space for self-reflection in action for the SAWC, to develop the research capacity within the SAWC, and to network the SAWC systematically to research institutions such as universities and the WRC. The intention was to contribute to the development of participatory research in which all knowledge is respected and to encourage the SAWC, as civil society, to develop its own credible research voice.
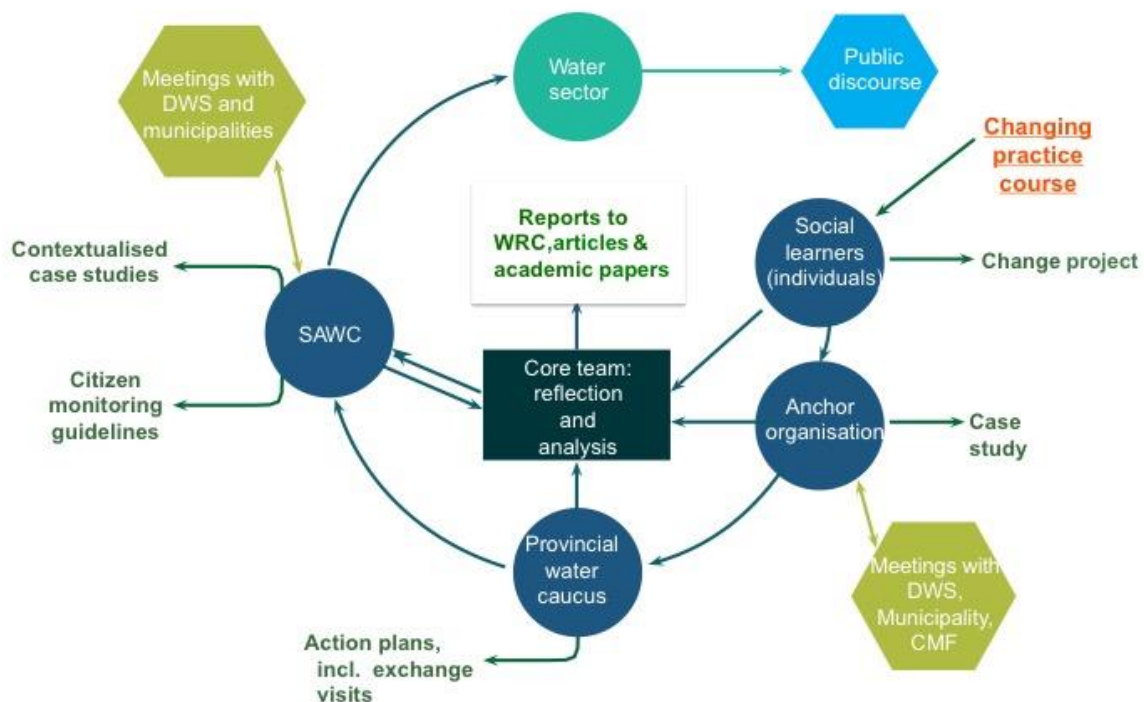
Figure 1: Project design, a spiral of action learning at multiple scales

1.4   Voice, Overview and Layout of Report

Most of the authors have been active in the SAWC for many years. As such, it is important to alert readers to potential biases, as well as note the depth of understanding that is possible for 'insiders' reflecting on their own organisation.

At the core of the SAWC's work is a process of multiple events of knowledge creation and circulation between different nodes, some at grass roots, some in policy spaces. SAWC members (who may be individuals, CBOs, NGOs, trade unions or other) occupy more than one role or space, and move between them. The result is a complex flow of knowledge and policy argument between these spaces; a synthesis of different positions through continuous internal debate and consensus seeking. As a result, SAWC members often present a range of coherent, but nuanced positions. This text reflects some of that complexity, as well as some of the multiplicity of voices that result.

1.4.1   Chapter descriptions

This section completes the introduction by looking ahead at the rest of the report.

Chapter 2 shares the theoretical underpinnings of the project: the concepts that made the work possible. These theories concern the analysis of social movements, civil society spaces, participation, participatory democracy, and social learning. These theories are held together by a general public sociology approach, as well as through a critical realist 'underlabouring', which allowed us to think freely beyond more conventional theories and to enter a space that can be described as a dialogue of knowledges working towards cognitive justice.

Chapter 3 explores what roles civil society could play in the water sector by analysing the multiple meanings that the concept of civil society has, and the roles that these concepts imply, the legal requirements and general democratic or participatory discourse in the water sector, which practically creates spaces for civil society in the South African water sector; and the experiences of civil society in general in post-apartheid South Africa, which are comparable to experiences of SAWC and other CSOs in the water sector. This chapter is supported by Appendix 1, which is the legal note on participation requirements in the water sector written by CER.

Chapter 4 looks at the history of the SAWC, its impacts and role in the South African water sector, and its organisational form. This analysis is drawn from reflections by members of SAWC on its role and history through ongoing internal processes, and interviews with key members of SAWC and government officials who have interacted with it.

Chapter 5 outlines the research and learning approach that was adopted for this citizen-monitoring project. It focuses in particular on the Changing Practice course that was designed to take water activists from the SAWC through a social learning process to change the difficult situations they face together with their communities. Social learning is aimed at supporting change, and in this case, is driven by a Freirean pedagogy that acknowledges that education is a political practice. It concludes with the lessons learnt about how social learning catalyses agency in social movements

Chapter 6 presents evidence and analysis from the three case studies, which were developed by the learners on the Changing Practice course. These case studies are not included in full in this report due to their size and length, but are referred to and available online at http://changing-practice.sociallearning.development.hupu-labs.biz/change-projects/. These are: "Saving Moholoholo", "Water and Tradition" and "Devices Put Livelihoods at Risk in Dunoon".

Chapter 7 brings insights from the other chapters together in a synthesis that sheds light on the role of civil society and how SAWC plays this role, participatory democracy in the water sector, learning in practice and cognitive justice, NWRS2 implementation and the policy cycle, and building a common humanity and solidarity.

Chapter 8 presents recommendations arising from this project, including recommendations for further research.

There are two appendices. The first contains a legal note on participation requirements compiled by the CER. The second contains the "Draft Citizen Monitoring Guidelines: What Do Local Activists Need and How Can They Support and be Supported by DWS to Monitor the Implementation of the NWRS2 and Other Water Policies".

2   KNOWLEDGES IN DIALOGUE

2.1   Introduction

The aim of this chapter is to introduce the knowledges, frameworks, theories and concepts we used in this project, and to explain how they work together.

The project resulted from cooperation including regular shared analysis and reflection of a transdisciplinary team of academics and activists in the field in NGOs and CBOs, including people with long-running experience and others joining in recently. A strong intention of the project was for activists to reflect on and deepen their practice of activism, their understanding of the contexts within which they work, as well as the different understandings of the roles of civil society. Regular team reflection and discussion sessions, including facilitated workshops, were built into the project schedule. What follows below is a reworking of the results of these sessions, which is combined with an exploration of some of the formal and practice-based frameworks for interpretation available to, and used by the team.

Another intention behind this project was to create a legitimate research voice for SAWC and, by extension civil society and social movements, that could bring into the mainstream values, perspectives, experiences and realities that are often not heard. In order to do that, the researchers (activists, NGO staff and researchers) drew together a constellation of knowledges to provide a framework for the research. The framework explored here therefore has two functions:

1. To enable understanding and dialogue within the research team, SAWC and civil society.
2. To explain our research approach to other researchers.

The chapter situates our research approach within textbook understanding of different types of research (Babbie and Mouton, 2001). It is conventional to distinguish three levels of theory, namely (Babbie and Mouton, 2001):

1. People's understandings of the world they live and act in.
2. Theories as coherent sets of explanations of such worlds and their dynamics.
3. Metatheory or philosophy of theory explaining what the world is like (ontology), how we are able to know it (epistemology), and how action can be 'good' (ethics).

These distinctions are for the purpose of analysis. In lived reality, they flow into each other in the practice of research and reflection that is both interdisciplinary and shaped by a commitment to a respectful dialogue between different knowledges, such as demanded by cognitive justice approaches (see below). Most of our understanding of the world flows from practical engagement with it. For example, many concepts for sustainability emerged through grass-roots struggle for environmental justice (Martinez-Alier et al., 2014).

The description in this chapter starts from the ethical perspective, emphasising the value-based approaches of cognitive justice and dialogue as a starting point in the knowledge work of SAWC. The chapter lists the existing knowledges that were brought into the project, as well as an existing framework for action research and reflection that was part of the practice of the NGO leading the project, which was the EMG. Ideas about the connectedness of humans and nature, and humans between each other, are strong in SAWC and drove this project. This chapter traces some of them back to the idea of a "web of life" as expressed by an early leader in complexity thinking, named Fritjof Capra. By engaging with traditional healers as water users, SAWC members became intensely aware of the knowledge of traditional healers and how their spiritual perspective on water could strengthen water governance in South Africa.

The chapter then turns to social movement theory, the pursuit of a participatory democracy in South Africa, and theories that enable us to make sense of different spaces for participation, including the spaces created by the policy cycle after 1994. Critical realism, which could be described as a social philosophy, is introduced as an overall container for the theories and approach, which include social learning, used in this project.

2.2 Building a Strong Theoretical Framework

We chose an approach to theory as it is understood in public sociology (Burawoy, 2004). Burawoy spoke about an organic public sociology:

> "… in which the sociologist works in close connection with a visible, thick, active, local and often counter-public. The bulk of public sociology is indeed of an organic kind – sociologists working with a labor movement, neighborhood associations, communities of faith, immigrant rights groups, human rights organizations. Between the organic public sociologist and a public is a dialogue, a process of mutual education." (2004: 7)

This approach applies equally to other disciplines, so there could be a public geography, or indeed a citizens' or people's social science. This requires working with theory in a way that would encourage the interest and ease of participants to deal with and in ideas. Jargon, and overcomplicated splitting of conceptual hairs are obstacles to these purposes.

However, concepts are embedded in theoretical and often also philosophical frameworks, whether spoken or unspoken. When we use ideas that developed in different intellectual traditions, we need to avoid "conceptual root disharmonies", which result from using ideas without taking care of how they were developed and used before. In a public sociology approach, while we make our principles explicit, this theoretical-philosophical work may appear in the less explicit form of "underlabouring", which is defined by critical realist philosopher Roy Bhaskar as "clearing away the obstacles that lie in the way of developing knowledge" (Bhaskar, 2013). Critical realism vigorously attacks positivist and reductionist approaches that limit the understanding and imagination that could lead to a flourishing society.

2.3 Cognitive Justice: Starting Out from a Value Base

The research – as the work of the SAWC in general – started from a strong value base. The SAWC works in public interest, in the interest of social and ecological justice, against power and for people.

A central organising concept for the team (long implicit in SAWC practice but named about half-way through the process) was cognitive justice (Visvanathan 2005, 2009), best expressed as "a dialogue between different knowledges". Cognitive justice is based on mutual respect, the principle of dialogue – which is "what you say could change my mind", as expressed by Bakhtin (1984) – and a recognition that knowledge needs to be able to deal with reality. This does not imply prejudice against scientific knowledge (defined in the broad sense as knowledge enabling us to understand and act upon the world, including society), but equally there is no privileging of 'science', especially not in its reductionist and excluding forms.

A crucial element in this thinking is to challenge the idea that Western science (and for that matter economics and politics) is superior, and has the choice to absorb or ignore local, indigenous, dissident or non-Western or non-standard knowledge.

Cognitive justice engages with the politics of epistemicide – the destruction of whole ways of thinking, which present alternative ways of seeing the world, society, our relationship with nature, exchange relationships (economies) etc. through colonialism, and currently the imposition of a modern (neoliberal) market economy (Leff, 2012). Such epistemicide is not only an impoverishment of human society or civilisation, conceived as a whole, and its ability to respond to emergent challenges, but it also does immediate and ongoing violence to people anchored in and living from the way of thinking or epistemic world that is being destroyed. This violence may happen in daily encounters, as well as important, shared (participatory) decision-making processes, for example, in Integrated Water Resources Management (IWRM), despite its emphasis on participation, and its support for a stronger role for women in water management (two of the four Dublin principles).

2.4   Knowledge of Traditional Healers

The encounter with traditional healers and their relationships with water in two of the case study sites led to a deeper consideration of the knowledges of nature and water that traditional healers carry. It was important to consider not only what potential changes their participation in CMFs, for example, but also their participation in water governance more broadly could have. The expectation is that this indigenous knowledge of water, nature, and of the environment would enter into dialogue with other knowledges, IWRM, the dominant paradigm in South African water policy.

The urgent need for the inclusion of such knowledge is clear from existing research (e.g. Bernard, 2003), which argues that there are bodies of water in which water spirits reside, which have sacred status for believers, and are crucial in performing family rituals and when training healers. It is urgent that these sites are protected and that effective access to them is restored since many access routes have been closed off through privatisation. It is also crucial that these rich traditions of African ecological worldviews and practice be given the importance they deserve in our national life. Much of this knowledge is currently recorded and explored through the discipline of anthropology (Bernard, 2003).

Some researchers were personally drawn into the thinking space of traditional healers, and were preparing, by the end of the project, to get personally involved or at least deepen their understanding of this worldview with its promise of containing an African view of the environment, and people's relationship with it.

At the same time, the research project had entered into a dialogue with traditional healers who did not know or believe that the water in the Vaal River around Vanderbijlpark could be harmful to them or their followers when used in preparing medicine, or full body immersion during baptism. This dialogue was based on sharing modern scientific analysis of water quality issues mastered by team members through their participation in CMFs, while still appreciating the view that water has inherent cleansing properties that are not affected by the physical quality of water.

This aspect of the research works against epistemicide, and preserves knowledges that can help us decolonise and revitalise South Africans' relationship with water, while standing as an example of respectful dialogue animated by a desire for cognitive justice.

2.5   Deep Ecology and the Web of Life

The ideas of deep ecology, eloquently expressed by Fritjof Capra (1997) in his book "Web of Life", have had a deep and ongoing influence within EMG and SAWC. Throughout the project and while documenting, we found that there were important values in the work of the EMG and SAWC: ideas about the connectedness of all forms of life, people and ecosystems, about respect for nature and each other in a complex world, which were not captured in theories of social movements and political analyses.

Capra's (1997) "web of life" framework emerged from developments in the second half of the twentieth century that gave rise to complexity and systems dynamics theory. These developments included discoveries in physics, mathematics, ecosystem studies, molecular biology, neural science, chemistry and psychology – and this is probably not an exhaustive list! These developments reflect a decisive paradigm shift away from linear and reductive thinking and many realms of knowledge. It allows for explanations drawing on chaos theory and the Gaia hypothesis to describe organisms, social systems and ecosystems.

In particular, we found that the idea of a network as described by Capra could be useful in understanding how the SAWC works. This is the application of an organic metaphor to an institution, which brings many elements of new, deep ecology thinking into the understanding of the SAWC (Capra 1997: 38, 93 and 173.) We can perceive the SAWC as a network consisting of different nodes engaging with inputs from the outside (like experiences in the case study sites) and connected to other nodes that could have comparable experiences or problems, but also could be relating these experiences or inputs to more generalised issues such as policy debates (e.g. about water for livelihoods, or climate change resilience strategies).

The nodes themselves, seen from closer, also appear as networks themselves, like the ideas expressed in fractal theory that Capra builds upon. The network as a whole is what Capra (1997) calls "cognitively responsive", so that in some way, its internal knowledge flows come to mirror what is outside it. While it is an open system, it also has closed loops, which are characteristic of systems that sustain and indeed make and remake themselves. So, that when they respond to the outside, they can both exist as themselves and allow influxes across the boundary.

Deep ecology has not only considered very persuasive shifts in accounts from natural science, but has also had a strong social influence, leading to more humility when considering the place of people on the planet. This leads to a strong value base when combined with the social justice approach characteristic of the environmental justice movement in South Africa. Deep ecology fundamentally shifts how we think about power and hierarchy, which include challenging notions of competition with notions of mutualism (Kropotkin, 1902).

This approach strengthens the conviction that the knowledge from grass-root level is important; its interaction with policy debates is important. It is not static: the policy debates become known at grass-roots level, and are used to identify and demand rights, much as the policies are also tested and proposals for change are developed.

2.6   Starting from Existing Practices/Knowledges

The research project did not start from scratch in knowledge terms. Team members brought into the team their existing practice/knowledges, which included (at a minimum):

- An understanding of the role of activists in society, from anti-apartheid struggles to current social and environmental justice activism.
- An understanding of the day-to-day workings of organisation, such as the logic of provincial caucuses, and the need for a non-partisan approach, namely, working with political parties but not aligning with any of them.
- An understanding of the political economy informed by struggle, expressed in opposition to neoliberalist policies, and an anti-capitalist view.
- A deep recognition that the economy is embedded in and dependent on the ecology, and that ecological concerns should be important in decision-making (for example, climate change issues; the impact of dams on rivers).
- Community dynamics on the ground (as a practical necessity, but also as a frequent topic of discussion, informing the analysis of local spaces for activism).
- A recognition of gender dynamics and respect for people.
- Connections with people.
- Connections with nature.
- Research and practice in environmental learning and sustainability.
- Knowledge of water in urban and rural context, the hydrological cycle, water policy debates.
- Involvement in debates around social justice, poverty and wealth, people's livelihood strategies.

2.7   Action Research, Active Learning and the Need for Social Learning

These knowledges were held together in the first place by the EMG's historical practice of action research. This fits in with the organisation's overall aim, which is to offer both a service and learn with others how to bring about justice in an unjust world. Publications on the EMG's website show how the organisation works at the nexus between, what the EMG calls, scientific and local knowledge (Oettle et al., 2014).

Action research developed in response to critical theory, which sees research not only as a process of developing new knowledge, but as a process that could bring about change in society (Kemmis et al., 2004).

The focus of research is to bring about a just society; therefore, the questions that drive research are emancipatory in nature and a) seek to understand what keeps injustice in place, and b) try to ensure that the process of research bring about change in the world.

Unlike other research methodologies where the researcher researches on the world, the action researcher cannot be separated from the change that is happening in the world:

> "In a conventional 'scientific research' process, both natural phenomena and people are treated as 'objects' of research. The researcher is seen as somehow separated from the situation, not engaging with it, or influencing it in any way. But in reality, people are self-determining subjects – like the scientists and practitioners themselves, and cannot be studied as mere objects. Neither can the researcher claim not to influence the situation he or she is researching" (Oettle and Law, 2005: 1).

Both the researcher and those impacted by the issue being researched are co-responsible for the outcomes of actions. As the EMG writes, "researcher and subject both take responsibility for the unfolding future" (Oettle and Law, 2005: 2).

Action research acknowledges learning as central to the research process where "both researcher and subject are intimately engaged". This learning is captured in the action research cycle, which consists of planning, acting, reflecting and then replanning. Core to learning then is the ability to be able to identify why the situation is the way it is, consider possibilities for change, and then reflect on what has been learnt before taking the next step (Oettle and Law, 2005: 3).

Action research has been around for a long time. Over time its ethical foundation has, in some instances, been blunted or lost. It is also incomplete: it lacks an in-depth exploration of agency and how to catalyse people's agency within the action research cycle. And although the action research cycle is conducive to learning, it does not provide an overt theoretical position on learning or processes that acknowledge and work with the fact that people will be entering the cycle with very different levels of skill, understanding and capacity (both educational and economic capacity). These are gaps that this research project could address via a focus on social learning (see Chapter 5).

The South African environmental learning community also embraced the action research methodology both for researching educational processes as well as designing what became known as active learning. Based on the action research cycle, educators considered how learners could learn through action by adopting a project of change that they wished to see through. The role then of the educator was to help people to read the world critically and, based on this understanding, develop the skills to be able to act in the world; in other words, catalyse their agency in the world at levels that could bring about change.

With the acceptance that the human species faces problems never encountered before (such as climate change, massive destruction to ecosystems and water systems, unprecedented levels of inequality and poverty, and a vast and growing population), the environmental learning community realised that no one person or institution has the answer to these problems. A new challenge arose for the environmental learning community: How do we design learning processes for the unknown, and how do we engage diverse people in a learning process that can help us move forward together? This led to the theory of social learning, which is a specific approach to learning when dealing with complex problems for which we have no solutions (Wals, 2007).

This research project aimed to investigate how social learning, as a guiding process for change, could be consciously embedded within a broader action research process. Through the relationship and collaboration between academics from the environmental learning community, NGO practitioners well practiced in action research methodologies, and civil society activists directly engaged in trying to bring about change where they live, this project was itself a process of applied social learning. This collaboration both acknowledged the fact that different role players have different skill levels, and that the issues we are trying to deal with are complex and exist at different scales. In order to engage with them, we need to work within a learning framework that provides space for a dialogue between diverse people with diverse knowledge.

2.8   The Action-reflection Cycle

In the action-reflection cycle used in the EMG projects (EMG, 2005), the role of the researcher is not to formulate a research question or problem that needs examining, but rather to facilitate reflection and a deeper understanding within the group itself. Normally, the action-reflection cycle would then lead to action based on what the group as a whole wants to achieve. In this case, the reflection focused on three topics:

1. An exploration and explanation of the role that civil society can and does play in the South African water sector, how it can integrate perspectives and needs from across society into water policy and its implementation, and by doing so, can contribute to the growth of a participatory democracy in South Africa. This reflection relied on SAWC members' experiences and analysis, combined with views from people outside SAWC who had interacted with SAWC.

2. The monitoring of three major themes in the NWRS2 via case studies to develop an in-depth understanding of how South African water policy is monitored and implemented, and what role civil society can play in these processes. This was a core process for which a social learning process was used.

3. The potential for social learning processes to build capacity in civil society was tested, and guidelines produced for use in strengthening civil society participation in water resources management.

The action-reflection cycle focuses on change aimed at improving a situation. The research project was referred to as NWRS2 Watch. Change was understood as:

1. Change through the four (later three) case studies in the case study sites.
2. Change in the self-understanding and effectiveness with which the SAWC plays its role (including how it is understood by others, such as the DWS and other officials).
3. Change/influence at a policy level or scale larger than the single case study site.

Again, an important aspect of the researchers' role is to observe and understand what is emerging in the situation. The notion of emergence – something qualitatively new evolving in a situation – is an important concept in current complexity thinking, ecological thinking as well as in critical realism.

In this case, researchers and participants were the same. Thus, what was needed was a critical distance for reflection on our own actions. This distance could be provided by introducing theoretical frameworks, such as social movement theory (see below). In EMG's action-reflection cycle, reflection can happen at any time, influence planning and action, and continue in an iterative cycle. Adaptations may flow both from internal changes, and significant external changes.

The action-reflection cycle forms part of ideas and debates about participation to which we return in Section 2.11.

2.9   SAWC Understood as a Social Movement

Other theories were also brought into the team space, among them social movement theory, building a participatory democracy and an understanding of spaces for participation. During the project, SAWC researchers had occasion to remark on dynamics in the different "spaces" in which we work, from increasing constriction in spaces dominated by local government politics and the ward councillor system, to opening up in interaction with the national DWS.

SAWC's self-description as social movement and as part of civil society, which was expressed in an early reflection session, prompted us to look at social movement theory and apply it to an understanding of SAWC, together with the closely related idea of "civil society". Researchers introduced the central terms that have emerged from the enormous and growing literature on social movements internationally (see, for example, Goodwin and Jasper, 2009; Ruggiero and Montagna, 2008) into the team reflections and in South Africa (Ballard et al., 2005; Dawson and Sinwell, 2012).

While Chapter 3 explores this approach more fully, four basic questions can summarise the classic approach to social movement analysis (McAdam et al., 2001):

1. How and when do people decide that there is space and reason for social movement action? This entails understanding what the opportunities threats are for and against social change in a given context. It raises similar questions to those that follow in the discussion below about understanding of "civil society space".

2. How do social movement actors mobilise resources, including recruiting members, building movements, accessing existing resources, for example, churches, sports clubs and trade unions, that provide them with meeting spaces, existing connections and ways of doing things?

3. How do social movements frame, or explain to themselves and others, what they are doing, what change they envision, what the identities of their members are etc? This often includes describing the world in new terms and setting new agendas.

4. What types of activity are available to and used by a social movement? These may range from demonstrations to occupations to engagement in mainstream debates.

The central question for social movement theory is, "Where does change come from?" and "How does social movement agency arise?" The answers include that such agency often arises during broader processes of social change, or more precisely, when opportunities and threats are recognised in an environment in flux. Such broader social change may include the weakening of an existing regime, especially one ruling without broad consent (e.g. the apartheid regime), or external factors that change (e.g. apartheid losing its allies when neighbouring states became independent, or the end of the Cold War). This concept is similar to that of "civil society space", based on the space that is available for civil society to grow, operate and influence government, business and society as a whole (Keane, 1998). Social movements may arise from both opportunities and threats, which means that social movements can come about when things get better or get worse! Change, like all other aspects (Kurzman, 2009), needs to be interpreted by and for social movements before it leads to a social movement's emergence.

The question about mobilising structures takes a broad view of what is available in terms of financial, human pre-existing networks, institutions and culture. Activists look for meeting places such as civic centres or churches (McCarthy and Mayer, 1973). This is very active work, and again accompanied by framing, interpretation and working on identities, for example, when forming coalitions.

Resources that are available include memories of resistance or promises that are often framed as attractive alternatives to the present or examples of heroic actions. This is also the case in the relationship between the SAWC and the anti-apartheid struggle. These resources shade into the fourth category: the repertoires of contention are the activities in social movements that are established as part of the culture, or innovations that allow for surprise and tactical advantage. Such activities can be transgressive, innovative, beyond normal politics and intersect with established party politics, but usually take care to remain non-party political (with some notable exceptions). The repertoire is both inherited or borrowed, and invented and often has continuity with previous social movement activity.

These terms operate in a dynamic relationship, for example, framing affects every other aspect: how the opportunity and threat structure is framed affects whether people will respond to calls for mobilisation. It can affect who will enter a civil society coalition and who will feel unwelcome: processes that were quite strong in the early days of the SAWC when a basic set of principles was negotiated and used as a sign-on. These principles led to serious debates about the participation of organisations involved, or seen to be involved in neoliberal forms of service provision, e.g. The Mvula Trust, and predisposed the SAWC to alliance with a part of labour, and with international groups in civil society (Munnik and Wilson, 2003).

The SAWC regards itself as an integral part of the South African Environmental Justice Movement, a much looser and broader alignment of organisations. The SAWC also sees itself as part of a collection of social justice and progressive social movements locally (see Chapter 3 for more on this) and globally.

2.10 Building a Participatory Democracy

What is the ultimate frame for the SAWC's engagement with the DWS? As the project progressed, the conviction emerged that this framing is to build, together with government officials, a participatory democracy.

The relationship between the state and civil society, officials and social movement, has been strongly framed by the political history of South Africa. It is also a vision that has come under increasing pressure since the ascendance of neoliberal state policies, many of which have been adopted in South Africa after the coming of democracy in 1994. These policies cut down on social provision and privilege capital (Bond, 2000; Harvey, 2005; Klein, 2008). They restrain the ability of the state to serve as an instrument of the people's will and aspirations as originally reflected in the 1955 African National Congress (ANC) Freedom Charter's promise "The People Shall Govern"[1]. The influence of neoliberalism has been felt in the water sector, both in fundamental debates about people's rights to water and its implementation, as well as particular policies and implementation, such as water demand management and water flow control devices.

Nevertheless, the freedom struggle in South Africa and the aspirations inscribed in the South African Constitution remain rich in materials for making participatory democracy a reality. So, for example, Buhlungu (2007) argues that participatory democracy was part of the driving force and aspirations of the liberation anti-apartheid movement, including that it was an explicit ideal and at times, practice. Rick Turner, in his 1980 book "The Eye of the Needle: Toward Participatory Democracy in South Africa" writes that participatory democracy "… enables individuals to have maximum control over their social and material environment, and encourages them to interact creatively with other people" (in Buhlungu, 2007:42). Towards the end of the anti-apartheid struggle in 1986, the grass-roots based mass movement, the United Democratic Front, declared:

> "We are struggling for a different system in which power is no longer in the hands of the rich and powerful. We are struggling for a government that we all vote for. We are struggling for elected bodies in schools, factories and communities. We want laws that are widely discussed street committee by street committee, before they are even discussed in parliament. We want courts where workers, peasants and teachers can be elected as magistrates. We want elected magistrates rooted in the communities which they are serving."

Buhlungu (2007) concludes that while some of these ideals were enshrined in the Constitution, the liberation movement that is now in power prioritises representative democracy in post-apartheid South Africa. This means increasing the distance between politicians and constituencies. Other analysts and activists have focused on working with these ideals on the basis of what is embedded in the Constitution. Political analyst Susan Booysen, in a background report written for a 15-year presidential review, argues that:

> "South Africa had started emerging as a democratic system in which continuous, between-election popular engagement and participation was emerging as crucial supplementation of electoral modes of participation. The manifestations of continuous participation were both initiated (or endorsed and directed) by government, and spontaneous in character. At the point of approximately 15 years after the formal introduction of electoral democracy in 1994, South Africa had therefore developed a system of tentative multi-dimensional participatory democracy, positioned within a base framework of constitutional and electoral democracy, but extended through a relatively wide range of initiatives that introduced multiple levels of engagement between

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1   The section reads: "Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws; All people shall be entitled to take part in the administration of the country; The rights of the people shall be the same, regardless of race, colour or sex; All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government".

government and citizens − forms of engagement that impacted on most of the phases of political and policy decision-making." (2008: 16)

Booysen (2008) sees a trajectory of spaces for participatory democracy created in the interim and final Constitution (RSA, 1993; 1996) being filled in and substantiated as the new South Africa progresses:

"The two constitutions offered the hope of the continuous evolution of democracy. The 1996 Constitution, for example, offered citizens a range of rights to political activity, including the right to campaign for a particular cause. It enshrined principles such as equality, human dignity and freedom of expression. In addition, every citizen was proclaimed to have the right 'peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions' (RSA Constitution, 1996: Chapter 2)." (2008: 18)

In the South African water sector specifically, the value of participation – and the need to strengthen it – is widely acknowledged and embedded in water sector policy and legislation based on IWRM, which also results in participation of water users (and to a lesser extent water custodians) as an operational requirement. Whether these principles are followed in practice is a question dealt with in subsequent chapters, including Chapter 3.

The question then is, given the history of a number of forces pushing for a participatory democracy, transformation, liberation, and the flourishing of all, what can the SAWC do to build a participatory democracy in the South African water sector? What does 'participatory democracy' mean when we understand humans within ecology, so that rights, equality and relations are not just interpersonal/ social, but also ecological? And can the actions and activities of SAWC in this project – the citizens monitoring of NWRS2 – contribute to this objective?

To answer these questions practically, it is necessary to develop a more specific understanding of the ways and the spaces in which the practice of participatory democracy can be built.

2.11 Spaces for Participation

Participation is an important term in this research. We used the general theories around participation, namely, the "ladder of participation" (from consultation to power sharing) (Arnstein, 1969), the differences between government-established "invited spaces" and movement-established, "invented" spaces (Miraftaab, 2004) and Gaventa's understanding of multiple "spaces" for influence (Gaventa, 2006).

The spaces for participation for the SAWC have been constitutional requirements for consultation and participation, as described in the previous section, as well as from the general policy framework inspired by the international paradigm of IWRM. The principles of IWRM are written into policy and law, and provide the ideas for governance. Catchment management agencies (CMAs) and CMFs provide for civil society participation in a formally structured way, following from IWRM principles and practice. Section 2.13 deals with this framework more specifically. The legal basis, the description of which was an important sub-objective of the project, is discussed in Chapter 3 as well as Appendix 1. In addition, the SAWC and other social movements have created spaces for participation, including in public opinion and the media.

2.12 Spaces, Power and Cognitive Justice

Spaces in this sense are constituted and maintained through the dynamics of power, which could be power of the state, corporate decision makers or civil society activists. The implication in all these cases is that what happens in these spaces influences society as a whole. Thus, there is public interest in the outcomes of what happens in these spaces. Gaventa's (2006) "Power Cube" enables us to ask whether spaces are "closed" (decisions are made behind closed doors), "invited" (for example government-led consultation) or "claimed/created" (Miraftaab, 2004).

There are other descriptors for spaces that serve as "opportunities, moments and channels where citizens can act to potentially affect policies, discourses, decisions and relationships that affect their lives and interests" (Gaventa, 2006: 26). There could be any number of "conquered" or "instigated" or

"transitory" spaces created and maintained by different configurations of power. Power could be direct (for example, refusing participation), hidden (inviting participation but setting agendas and declaring some issues to be non-issues), and invisible (power that is carried in assumptions, ways of talking and in the mind of self-excluding persons). This sense of inferiority is constructed, and can be undone. However, it plays an important role in situations of "symbolic violence", which refer to the overpowering of some people by others with more symbolic capital: those who speak the official language, or even the main dialect; those who have authority to pronounce as a result of academic training, other recognition (e.g. in church), or those who carry titles such as doctor or professor (Bourdieu, 1992). The social hierarchy is reproduced in, and constantly reproduced by, the order of symbolic capital that is expressed in discursive relationships. Often these discursive hierarchies are part of a silent power structure (Fairclough, 1989).

Gaventa asks how civil society activists can align their activities in different spaces to achieve social change. For this, activists need to recognise what types of power operate in different spaces, how this power can be challenged when entering those spaces – as well as to create our own spaces and find creative and effective ways of linking these spaces together. But, how do we tell the difference? An early approach to this question is Arnstein's (1969) "ladder of participation" from an urban activist background, which presents a continuum of "participation".

Participation can have several meanings, and activists need to work out what the purpose of participation is. It could be manipulation to support pre-existing decisions; "therapy", which is making people feel better about pre-existing decisions; simply a case of "informing" people; "consultation", meaning eliciting responses from people; or "placation", finding out what grievances are in order to deal with them or subvert their energy. But, participation could also involve forms where people or citizens have agency, such "partnership", "delegated power" and "citizen control" (Arnstein, 1969).

We can also learn from the long tradition with the intention to "put the last first" (in development projects). Robert Chambers (1997: 30) for example, made distinctions between participation (in development and research projects) that could be (1) cosmetic, (2) a co-opting practice, or (3) "an empowering process that enables local people to do their own analysis, to take command, to gain confidence and to make their own decisions".

The environmental justice tradition in South African uses the concept of "exclusion from decision-making" by various means or mechanisms, including a "politics of knowledge", to explain the tactics that lead to the imposition of externalities, and enclosure of resources and thus environmental injustice (Hallowes and Butler, 2002). In this analysis, practices that can be described as cognitive injustice lead to environmental injustice.

The concept of cognitive justice enables us to consolidate the above approaches into a much more complex picture – a parliament of knowledges in dialogue and learning from each other – and a strong principle: the equality or equivalence of knowledges rooted in the lifeworlds of the participants. Fundamentally, the participants' own knowledge of their lifeworlds is important because it connects knowledge, practice and being by reckoning with the consequences of development plans or, in this case, policy decisions (Visvanathan, 2005; 2009). More conventional scientific knowledge is also linked to the lifeworlds of scientific investigators and is enacted according to the scientific communities' cultural practices. However, this is not made explicit, which is one of the reasons why science and knowledge generated from the practice of science can lead to cognitive injustice (Latour, 1999).

> "The idea of cognitive justice ... sensitizes us not only to forms of knowledge but to the diverse communities of problem solving. What one offers then is a democratic imagination with a non-market, non-competitive view of the world, where conversation, reciprocity, translation create knowledge not as an expert, almost zero-sum view of the world but as a collaboration of memories, legacies, heritages, a manifold heuristic of problem solving, where a citizen has both power and knowledge in his hands." (Visvanathan, 2009: 7)

Participation, however, can also become a form of manipulation that has the form, but not the substance of democracy. The phrase "tyranny of participation" refers to two books (Cooke and Kothari, 2001; Hickey and Mohan, 2004) that questioned the actual practices of participation, as well as the thinking behind it. These books are extremely useful in diagnosing a number of dynamics that can pervert participation into manipulation.

2.13 IWRM in South Africa

The South Africa water sector was one of the first to respond to the political spaces of the new South Africa during the interim period 1990–1994 (from releasing Nelson Mandela from jail and unbanning political parties including the ANC, to the first democratic election in April 1994). Reasons internal to the water sector included the devastating drought around 1992, which also revealed the dire conditions (lack of access to water for the most basic needs) as an emergency drought forum did the first survey ever of apartheid water conditions. But, external reasons were also important, in particular the formulation of an international consensus based on development industry experiences as well intellectual work and consensus seeking at international conferences following the United Nations (UN) Decade of Water, 1980–1990. Together, these influences resulted in the South African water sector formulating principles for water policy in a white paper in 1994.

The upshot of this history was that the international consensus on IWRM, including its principles of decentralisation and participation, was entrenched in South African policy and legislation, notably the National Water Act of 1998. The Act was translated into a NWRS (in 2004) and nine years later a second edition, NWRS2 (in 2013). This policy was institutionalised by creating 19 CMAs in 19 water management agencies, which were reduced to nine CMAs in 2012. In tandem with this process – but sometimes also independently in reaction to specific water resources threats, mainly water pollution – a number of CMFs emerged within each CMA along different trajectories. These are currently a mix of invited and invented spaces for water governance.

The concepts of IWRM, in particular the Dublin principles, also form a strong part of the background against which the South African water sector operates and formulates its policies. IWRM is a contentious and contradictory approach, uniting many different agendas in a single space, ranging as it does from the principle, on the one hand that "water has a price", to the other of entrenching principles of participation.

2.14 Understanding the Policy Cycle as a Series of Participation Spaces

Participation opportunities are often created in the form of consultation and negotiation with the state, or interacting with the state. This is underlain by a view in civil society of the state as an instrument or potential instrument of society. The following section describes the opportunity spaces created by the policy cycle in South Africa (following Dunn, 1994, as quoted in De Coning and Sherwill, 2004), which is the standard interpretation of the policy cycle.

From the early 1990s, the South African political system opened up many of its decision-making arenas through policy processes. A large number of "forums" brought South Africans together as stakeholders to develop water, housing, health, art and other policies. While these processes may have created an impression of policy as mainly a list of intentions, in practice, civil society and other stakeholders continued their involvement based on a (possibly implicit) understanding of the complete policy cycle.

It is important in general, but in particular for this project, that 'policy' should be understood as the full policy cycle. Policy can be understood as an iterative cycle of six moments – that is, it could start at any point and is constantly repeated. But, for clarity sake, we will assume that it starts with the setting of a policy agenda, as indeed it did in the early 1990s after unbanning of the liberation movements.

Firstly, agenda setting usually takes place in the public sphere (the media and civic organisation contexts), and in specialised or expert policy and identified, active stakeholder circles. In South Africa, this took the form of a large number of sectoral forums in the early 1990s, which produced amongst other the South African Water Policy Principles, and the 1994 White Paper on Water Policy. Agenda setting continues for a number of reasons. It may result from the lessons learnt from efforts at

implementing policy, for example, the argument that elaborate policy systems should be replaced by simpler, more pragmatic but still principled policies. Or, new agendas may be set as the dynamics and the balance of forces change in society, new policy goals acquire more urgency, for example, the decolonisation of education.

The second step in the policy cycle is translating agendas into clear tasks and objectives, usually documented in policy format. Formal policy processes require participation in debates, which may turn on the wording of specific texts as much as the thinking behind them. The SAWC has participated in many policy processes, including the NWRS and the World Commission on Dams (WCD).

Third, policies are formulated into law through parliamentary processes. Legislation creates rights and obligations, which can be enforced through action in courts.

Fourth, legislation is used as the basis for building institutions. Civil society engages with institutions, including how they are staffed and budgeted for, and what the action of staff is, for example, the Department of Mineral Resources, DWS and Department of Environmental Affairs as regulators. Civil society may work with state institutions in implementation, in bringing issues to their attention, or insisting on accountability for their actions.

Fifth, programmes and projects are created, funded and implemented by institutions. This is the detail of delivery and regulation in action. Civil society activists are often able to closely observe implementation and comment on it.

Sixth, the whole society is implicated in the monitoring of implementation, which may identify gaps and points of tension which, together with dynamic changes in the situation, lead actors in the policy space to set new agendas, thus renewing the policy cycle (see Figure 2).

Figure 2: The full policy cycle

The NWRS2, an important document that sets the strategic direction for water resources management in South Africa over the next 20 years, is an example of such a process. It is also an example of a repeating or iterative policy cycle, as it is legally required to be rewritten every five years. It however comes out of earlier process, since the basic approach to water resource management had been set in the early 1990s, in the Standing Committee on Water Supply and Sanitation process, strongly influenced by the then, as now, internationally dominant framework of IWRM. The first NWRS was published in 2004. The 2004 iteration dealt with a wide range of topics. It set out the framework for the NWRS in law and policy, gave an overview of the water situation, described the strategies needed for water resource management and the need for cooperation with other departments and water users.

2.15 Critical Realism: An Approach to Interdisciplinary Research

In this final section, we describe how critical realism can hold these theories and approaches together. Critical realism provides ethical, ontological and epistemological perspectives; that is, it answers to the questions of what is good action, of the nature of society and of how we gain knowledge of it. It allows ways of thinking that appreciate the dynamic reality not only of our material world, but also institutions, words, and ideas, and the layers of the personality that embodies agency in the world – with others. Its ethical vision is that "the free flourishing of each as a condition of the flourishing of all" (Bhaskar, 1994: 154).

Critical realism has grown from the critical tradition of the Frankfurt School, and the broader Marxist tradition. It is critical in the sense that it sees emancipation, which is transformation towards a society where all can flourish, as its central task. Because of this, it fundamentally agrees with other emancipatory approaches such as the philosophy of education for liberation expressed by Paolo Freire that underlies our version of social learning (see Chapter 5). This critical and emancipatory intention also underlies the approach to public opinion and the public interest and to social movement and civil society studies as an attempt to understand where social change comes from, and how social agency can be supported.

Critical realism is a useful ally in the struggle to overcome the narrow knowledge that reductionist, positivist science holds between us and reality. The precautionary principle, for example, does not function well within reductionist science that insists on proof (of harm) on a very narrow basis. Reductionist science argues that only what we perceive is real. But, critical realism argues that what we perceive (the empirical) is a small subset of events in the world (the actual), which is also less than what could happen according to the nature of things (the real).

We have consciously adopted a critical realist approach to inter/transdisciplinarity because critical realism, as an emancipatory philosophy, best articulates our understanding of the way the world works and provides useful philosophical and methodological tools for investigating complex social phenomena. We have drawn on conceptual tools from critical realism to understand learning and change in this research project.

Critical realism was used in this project because of its ability, and expressed intention to "underlabour" for other social theory. By this we mean that it provides ways of thinking that can stretch to accommodate what project participants perceived and felt about a number of issues for which more conventional (positivist) thinking was too restrictive. This included the experience of the SAWC as a decentred, networked and continuously developing and shifting organisation or social organism. While social movement theory allows us to identify and question deeper into aspects of the SAWC as a social movement, there was a strong feeling among participants that it did not allow us to fully understand how the SAWC operates.

Critical realism can help us understand how the SAWC can be described as a complicated entity. For example, as a network with nodes, different interfaces, and circulation of knowledges, as a social movement with social movement characteristics, and as consisting of social relationships that will give rise to views of the SAWC that depend on how each person is positioned within it – and to argue that these can all be valid at the same time. Critical realism offers the notion of dynamic constellations and

open totalities, made up of very different entities interacting with each other, and with these entities and interactions changing over time, but nevertheless hanging together in a systemic way. An open totality is a constellation of elements that work together, but also receive inputs from the outside, change over time and shift in relationships (Norrie, 2010). This resonates with the network nature of reality of Fridjof Capra (1997).

A crucial function of critical realism was to draw the wide variety of concepts used in this study together in a harmonious way. Harmony derives from the Greek for "putting things together". Even in music theory, harmony contains tension – and indeed in theoretical work concepts are continuously "tuned and retuned", sometimes flipping into new meanings. However, what we are looking for here is the more fundamental goal of communicating without confusion. It is interesting to note that most of the theories used in this project, including particularly social movement theory and critical realism, relate in some way or another to the social and intellectual turbulence of the 1960s, "when revolution was in the air" (Thom, 2006).

Critical realism emerged in a context, around 1968, when there were many signs that the ground was shifting:

> "… (at) the end of the post-war boom, more than a whiff of revolt and even revolution and the rebirth of a free Marxist current in the new eclecticism of a still malaised social science … Relativity theory, quantum mechanics, the liberation of the colonies, the threat of a nuclear holocaust and looming ecological crisis rendered conventional assumptions obsolete. The time was ripe for ontology; and as the seventies made way for the eighties and the events of 1989, for a new account of change, especially in the context of the collapse of communism, the poverty of most materialist dialectical philosophy and the monstrous inequities of the strife-torn, crisis-ridden chaotic new world order that Bush, Benetton and Hayek were in the process of ushering in." (Bhaskar 1994: 280)

The perspective switch emerging from the 1960s student uprisings and the subsequent growth of social movements at that time remains a pivotal point for both social movement theory and critical realism (Munnik, 2015).

The critical realist interdisciplinary tools of a scale lamination and four planar being can assist with understanding what we mean by taking the "realness" of grass-roots reality and personal experience into a policy space that (inherently) functions via abstraction or generalisation (Hartwig, 2007). Critical realism deals with natural and social sciences in one framework, while also studying how they differ. An interesting reminder of social complexity in critical realism is the argument that ideas – even false ones – are real because they have real consequences.

Critical realism helps us to organise a complexity whole into different analytical aspects. We often have a sense that there are different levels or aspects of reality, that the ideas of theories that apply at one level do not apply or may even contradict what is true at another level. Critical realism offers two tools to deal with this. One is to view the engagement between people and the world through four aspects (four planar being or the social cube, see Hartwig, 2007). We use that in Chapter 5 to understand the changes that have occurred as a result of the social learning course. These are:

1. Within the individual: the reality of individual thoughts, experiences, perspectives, self-image etc.
2. Between people, at the face-to-face level of personal interaction.
3. At the level of structure, where people meet each other in institutional roles, where the logic is that of an institution such as local government, or a school.
4. In the interaction between people and the natural world, where humans constantly transform the material world.

The second tool is analysing scale. It assists us in moving from what is real at the level of the individual internally (a psychological level of the make-up of the personality), to a global level, where world ideas and world systems operate.

Participation spaces such as CMFs combine Levels 1 to 4, with the bigger levels also structuring the space and its possibilities. So, on a psychological level, one would ask whether an individual is comfortable and confident when appearing in such a space. This may have to do with a person's life story (and lifeworlds) on the level of an individual biography. In these forums, people meet face-to-face (Level 2), as people. But, behind them are the institutions that enable and constrain them through the roles they play in and for it (Level 3) – "what they get paid to do".

Institutions are constellated in bigger and bigger circles. Local government may be "close to the people" and observable. However, national and international institutions, discourses and practices may not be clearly visible, for example, the dynamics of the world economy, and long run cycles such as European colonialism and Chinese ascendancy.

Table 1: A summary and comparison of theories used in the project in terms of scale

	Scale or level	**Theory used in this project**
1.	Sub-individual psychological: beliefs, motivations, stratified personality	Bourdieu: symbolic violence through view of self and social distinction; agency, social learning
2.	Individual biography	Activist biographies such as December Ndhlovu and plantations, Bhaskar biography shaping his thinking from 1960s, social movement activists' careers influenced by their experiences of 1960s uprisings
3.	Face-to-face, personal interactions	Water caucus meetings, national and provincial, sites of the four case studies, CMFs
4.	Individuals and groups in institutions and their roles within them	Activists, officials within their roles, hierarchies of decision-making, CMFs, local government, government departments, provincial and national
5.	Whole societies or regions within them	South African Constitution, South African water sector, legislation for participation, building a participatory democracy, transformation after apartheid, civil society
6.	Mega-level of the analysis of whole traditions and civilisations	Colonialism, participatory practice theory, IWRM
7.	Planetary (or cosmological) level concerned with the planet (or cosmos) as a whole	Climate change, deep ecology, complexity, transitions to democracy and sustainability, neoliberalism, capitalism, racism, sexism, reductionist science

3 THE ROLE OF CIVIL SOCIETY IN THE WATER SECTOR

3.1 Introduction

3.1.1 Introduction and background

This chapter explores the roles that civil society could play in the water sector by analysing the multiple meanings that the concept of civil society has, and the roles that these concepts imply; the legal requirements and general democratic or participatory discourse in the water sector, which practically creates spaces for civil society in the South African water sector; and the experiences of civil society in general in post-apartheid South Africa, which are comparable with the experiences of the SAWC and other CSOs in the water sector. Appendix 1 provides detailed legal analysis of requirement for participation in the water sector.

3.1.2 Rationale and context for participation

The participation of civil society is crucial to the water sector functioning; it is a fundamental part of the IWRM approach, and it is part of building and maintaining a participatory democracy.

A good window into how civil society is, and has been, participating in the South African water sector, is to look at its role in the NWRS2, adding, where needed, its involvement in other policy initiatives. The NWRS2 is underpinned by the vision of, among other things, "a committed and dedicated water sector, actively co-operating and contributing towards sustainable water management".

Civil society is one of the key role players in this sector, and the effective and appropriate implementation of the NWRS2 requires a strong civil society. Civil society can contribute powerfully to this strategic imperative. It moves and builds bridges between households, communities, the public sphere and other water users. It has "eyes and ears on the ground", and is well placed to monitor developments on the ground, as illustrated in WRC Research Report K8/968/1, "The Potential of Civil Society Organisations in Monitoring and Improving Water Quality" (Munnik et al., 2011).

However, the role of civil society – especially in the monitoring of water resource management – is only partially understood and in some places, contested. While civil society is a popular term, widely discussed in development and academic literature (Hall, 1995), it is also "one of the most used – and abused – concepts in current political thinking" (Kaviraj and Khilnani, 2001: Introduction).

One of the aims of this research is to explore and clarify the role(s) that civil society can play in the South African water sector. An arena in which this can be pursued is strengthening the relationship between civil society, the DWS and local water governance structures, such as CMFs that form part of the Upper Vaal (VEJA) case study. However, this is not the only such arena.

Civil society, broadly speaking, sometimes fails to play its role to the full extent, often due to lack of capacity and understanding of the contribution it could make. This research aimed to both understand and facilitate a deeper and more meaningful contribution of civil society to the safeguarding of South Africa's water resources, via engagement with key issues covered by the NWRS2. In so doing, civil society was strengthened, and key principles framing the NWRS2, such as equitability, democracy and sustainability, furthered.

3.2 Understandings of Civil Society from the Scottish Enlightenment to the Arab Spring

The oldest Western theory of civil society, deriving from the Scottish Enlightenment in the eighteenth century (Oz-Salzberger, 2001, and other writers in the collection "Civil Society: History and Possibilities", Kaviraj and Khilnani, 2001) argued that "the whole of society should be civil". This theory was interested in achieving a civil, polite and liveable society. It did not identify civil society as a space between households and the state, as is common now. But it did ask, "What is the relationship between citizens, state and capital?" at a time when capital existed in the form of relatively small merchant capital. It was applied more widely in Europe to ask whether there was space for political activity besides the space occupied by the monarchy and the clergy.

It could be argued that this sense still attaches to civil society understandings in the form of the notion of "public interest", a test of arguments in the public sphere, which is a public space where people can argue about matters of state and their society (see Habermas, 1996, who traces the emergence of public space in Europe). There was a notion of solidarity in the public interest, which is still an aspect of today's civil society, for example, in climate change debates. Of course, the question arises of what exactly is in the public interest, and who defines it. At the historical opening of a European public sphere, the answer to this question was the new rising bourgeoisie based in trade outside of the landed gentry. First pamphlets, and then newspapers created a space where the affairs of state were discussed, leading to the emergence of a "public sphere" (Habermas, 1996). Merchants, writers, intellectuals and "café society" (coffee houses where newspapers could be read were popular spaces) followed the decisions of rulers like the Prussian king and his advisors, often from a position of more extensive knowledge, and with concerns about what these decisions meant for the economy.

This public sphere dominated by the elite, and made possible by a growing system of news gathering and the media, was a forerunner of today's civil society, but also very different. Only later did a civil society theory develop as we know it now, arguing that it is the role of active citizens to push back the state and capital, after capital had become really powerful. This theory did not isolate "civil society" as a specific part of society, distinguished from government and capital.

For the West, an early fully fledged civil society movement in the modern sense can be traced to the movement to abolish slavery, which started in the 1780s complete with meetings, petitions, marches and lobbying of the British parliament – while slaves themselves were active in their own liberation (Hochschild, 2005).

Civil society practice and theory has gone through many twists and turns since then, but experienced a particular revival in the later 1980s and early 1990s, as the "iron curtain" tumbled and a number of East European societies went through dramatic changes. The original preoccupation with civil society theorists about the nature of power came back into play as one-party states again became "civil" and redeveloped a relatively free public sphere (Keane, 1998). In the build-up to the Arab Spring, questions were asked whether groups such as the Muslim Brotherhood should be understood as civil society since they seemed to be playing a typical civil society role in opposing authoritarian power, but at the same time created a very circumscribed public sphere because they are "neotraditional" (Zubaida, 2001). This question is a serious challenge for funders (see, for example the analysis of who to fund in Arab civil society after the Arab Spring by the Finnish Institute of International Affairs (Behr and Sittonen, 2013)). On the other hand, Bottici and Challand (2013), who publish on a website dedicated to providing "information about the Arab world as it is", welcome the arrival of a "combative civil society (which) is patently different from the professionalised, liberal civil society that Western political theory praised for a long time and that many Western donors sought to promote", and argue that what we saw in the Arab Spring was "a civil society in revolt". Bottici and Challand (2013) argue that while modern social media was important as a means of organising the uprisings, focusing on it obscures the driving forces behind it, namely, the long-standing organisation of trade unions, the rising prices of food, and "a new political language mixing social justice, dignity, and the end of fear in front of ruthless authoritarian regimes".

This diversity of approaches raises the question of how far this concept can be stretched, and whether it can fruitfully be used in societies that have very different histories from Western Europe where this first developed. For example, activist scholars Camay and Gordon (2007) trace a history of South African civil society to its roots in kinship, neighbourliness and ubuntu before colonialism. Public opinion, and government awareness of it, and therefore some form of civil society, was recognised thousands of years ago in China and other places (Graeber, 2011).

The widely varying experiences, as well as the contexts that emerged when societies outside the West were analysed, lead us to the conclusion that civil society is a very flexible concept, but at the same time, remains very useful – perhaps because of its flexibility.

3.2.1 The left critique of civil society as a neoliberal ally

Civil society is a concept generally not welcomed by Marxists. Thus, critique of civil society as a neoliberal ally (doing the work that government should be doing, and contributing to the shrinking of the role of the state) is often heard. The critique relies on a different concept of civil society, which is traced back to Antonio Gramsci. Gramsci was an important influence in the Marxist tradition, who put great weight on the role of ideology (Femia, 2001; Gramsci, 1957; 1971). During the civil society secretariat's preparation for the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002, a version of Gramsci's theory was used to attack civil society as a "liberal formation" that is reactionary and working with capital to impose neoliberalism. In some cases, this can clearly be seen in action: for example, big aid organisations (international NGOs) who do align with and implement neoliberal policies, and in some of the compromises that smaller NGOs make in response to funding pressures (Munnik and Wilson, 2003).

Gramsci's theory was that elite segments come together to form a ruling bloc or government. Institutions of civil society defend the interests of this ruling bloc (for example, the church, the arts or the educational establishment). Those who want to challenge the ruling bloc are diverted and confused by ideas of obedience, rarity and excellence, for example. An elite culture may disempower the working class by making them feel inferior, and thus inspire them to aspire to the standards of living of the elite, even though their chances of achieving it are slim (for example, rewarding individual excellence as we see in sport).

Gramsci's ideas are important because he was a pioneer in analysing how ideology and especially hegemony (dominance) through ideas is engineered. While current developments, for example, social movements and networks that combine NGOs, grass-roots groups and social movements critical of capital and for democracy and the working class, have called into question the validity of this description of civil society (for example, where civil society actively opposes neoliberalism and globalisation), the theory enables questioning of the motives and effects of aid, charity work, big NGOs and the domination of the public sphere by the privileged in ways that bypass democratic structures.

3.2.2 IWRM, the role of civil society and the idea of a water sector

The SAWC is also bound with, and active in a space determined by theories of IWRM, and specifically its view of the existence and structure of the South African water sector (the "sector-wide approach"). The early formalisation of IWRM (e.g. Dublin principles in 1992) coincided with the period of policy formation in the new South Africa. Many of these ideas of "water reform" were drawn into South African water policy. They landed in a vacuum. Before the 1990s, there was a very different "water sector": farmers, a department of irrigation, municipalities that provided water, fragmented provision in the homelands, although of course there was a commercial water sector providing engineering services, hardware, treatment chemicals etc.

The Dublin principles, agreed by a meeting of water experts on 31 January 1992 at the International Conference on Water and the Environment, are:

1. Fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment.
2. Water development and management should be based on a participatory approach, involving users, planners and policymakers at all levels.
3. Women play a central part in the provision, management and safeguarding of water.
4. Water has an economic value in all its competing uses and should be recognised as an economic good.

Two of the four principles call for participation, while the idea of water as an economic good has built in an ambivalence about participation: the fate of "economic goods" is seldom decided democratically.

The need for participation in IWRM is often expressed in terms of the subsidiarity principle. Subsidiarity is an organising principle that a matter ought to be handled by the smallest, lowest, or least centralised authority capable of addressing that matter effectively.

An important part of IWRM thinking is that water resources are best managed when all users participate. This has given rise to the practical idea of a "water sector". In terms of water as an industry – with engineering firms, water professionals organised in Water Institute of Southern Africa (WISA), water officials in government, trade journals and trade shows – there has been a *de facto* water sector. However, according to IWRM, this sector has stakeholders who need to confer with each other, understand and recognise each other's needs, and co-operate for IWRM to be successful.

The government, in the shape of DWS, acts as the sector leader because it legislates, implements and indeed can change institutional structures (DWAF, 2006). This theory has found formal expression in the Masibambane Programme, and in the Water Sector Leadership Group (WSLG), which is a summit forum for the whole sector, including business, water boards, and civil society. The SAWC has participated in the WSLG. The WSLG can be used to share information, make decisions, hold officials accountable and report on progress. These functions are also fulfilled elsewhere, for example, in the WISA biannual meetings, although these are industry-led.

IWRM has also had a strong institutional impact on water policy in South Africa, which has given rise to the idea of CMAs, and extensive research on participation, adaptive management, resilience, social-ecological systems etc. of which this research is also an outcome.

This approach was very influential in the writing of South Africa's National Water Policy and the National Water Act (DWAF, 2004: 13). The NWRS defines IWRM as "a process which promotes the co-ordinated development and management of water, land and related resources in order to maximise the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems" (DWAF, 2004: 13). It also reaffirms that "people must be at the centre of sustainable development and use of water resources", again putting participation at the centre of water resource management.

While the SAWC was not directly inspired by IWRM, its participation in the South African water sector, South Africa's water policy and legislation, and its broader involvement in UN systems sustainable development and environmental management questions, all frame its participation on the basis of IWRM and related theories.

3.2.3 Agenda 21 and the UN system of major groups

Why a *water caucus?* The tradition of civil society organised in the form of a *caucus* came partly out of the logic of the UN Major Groups, in particular in relation to the WSSD. A caucus in this tradition is a forum where independent organisations come together and discuss matters without the caucus being an organisation on its own. Rather, a caucus is facilitated and supported (often hosted or provided with secretarial support) by an alliance of otherwise independent organisations. But, it has more permanence than a forum, and unlike a forum, a caucus is often bound by a common set of values, or in a manifesto, as in the case of the SAWC (see below).

This logic is developed in Agenda 21 (UN, 1993) that was formulated and signed by heads of state at the Earth Summit in Rio in 1992, where chapters describe the need for the participation of, and the basis for that participation in terms of how specific groups relate to the planet, and what contributions they can make as groups. The major groups identified are: women, children and youth; indigenous people; NGOs; local authorities; workers and trade unions; business and industry; the scientific and technological community; and farmers. Faith-based organisations almost immediately claimed a strong role for themselves.

The major groups do not coincide with usual definitions of civil society. In particular, business and industry are sometimes seen as part of civil society (in IWRM), and sometimes as definitely excluded from civil society (by the vast majority of civil society as a result of their positions on globalisation and

the profit motive, although they often exempt small farmers and small businesses). There is much ambivalence about partnerships with business, for example, in the promotion of renewable (non-fossil fuel and non-nuclear) energy.

This logic has been used to organise the participation of some parts of civil society in UN events, for example, climate change negotiations and the 2002 WSSD, which was highly contested in terms of who civil society is, and what the relative weight of different organisations should be (see Munnik and Wilson, 2003, and the discussion on social movements below). While this tradition has had an influence on the SAWC, including its networking internationally (for example, to the International Freshwater Caucus, and its participation in UN events), the SAWC has also been influenced by the South African forums tradition of the early 1990s.

3.2.4 South African civil society and the forums tradition

The South African forums tradition was particularly influential in the early days of policymaking in democratic South Africa, or South Africa in transition. There were forums in every policy sector such housing, health, water and environment where citizens and organisations were consulted and co-formulated policy for the new South Africa. There were also a host of local and provincial forums.

In the water sector, such forums led to the early formulation (1994) White Paper on Water Principles under the auspices of an organising committee located in the Development Bank of Southern Africa. In the environment sector, Consultative National Environmental Policy Process (CONNEPP) was instrumental in formulating the National Environmental Management Act (NEMA), which provides framework legislation for environmental issues including water, energy and waste. Many environmental issues emerged and were debated in forums. CONNEPP also led to the formulation of section 24 of the Constitution, which is the environmental right. The Environmental Justice Networking Forum (EJNF) assembled a constituency as big as possible (500 organisational members were claimed at one stage!) and had very big presence in CONNEPP. The forums tradition persists to today, for example, in policing forums, CMFs, wetland forums, etc. Forums are generally understood to be open access spaces, organised or hosted by a government institution, or with the intention of addressing or influencing government (for example, as the regulator in wetland or CMFs).

Many commentators observed that the practice and influence of forums waned as the policymaking phase came to an end in the mid-1990s. This is often dated as the replacement of the Reconstruction and Development Programme (RDP), which was the election platform for the ANC's overwhelming victory in the first democratic elections in 1994, with the Growth Employment and Redistribution (GEAR) programme, which introduced both neoliberal measures such as cost recovery, and a new much less consultative style of policymaking (Ballard et al., 2006).

In practice, forums are mainly involved in the monitoring and renewed agenda setting phases of the policy cycle (Figure 2), and in some cases supporting implementation. While the SAWC originated during this period (see history below), it could be argued that it does not meet the criteria of an open forum. It is not a multi-stakeholder institution. In its founding documents, members of the SAWC were only admitted on the basis of signing a manifesto of principles, which included opposition to the privatisation of water, for example. It is thus closer to a social movement.

3.2.5 Social movements

Social movements operate in the civil society space, but are often taken to be different from civil society. Chatterjee (2010), for example, makes a sharp distinction between civil society that engages in the public interest, dominated by a well-resourced elite, and social movements (which he calls "political society") that make demands on government as a collective, not based on individual rights. For others, social movements are only some of the many structures that operate in the space of civil society "between the household and the state". In South Africa, this has included the ANC and other liberation movements (until their entry into government), trade unions (Habib and Valodia, 2006), the Treatment Action Campaign (TAC), the Soweto Electricity Crisis Committee (SECC), the Anti-privatisation Forum

(APF), the Western Cape Anti-eviction Campaign (AEC), the Homeless and Landless people's movements, South African National Civics Organisation (Sanco), the Jubilee Campaign, the Women's Movement, and the Lesbian, Gay Bisexual, Transgender and Intersex Social Movement (Ballard et al., 2006).

The flowering of social movements in post-apartheid South Africa has given rise to an extensive body of scholarship. After the first wave of social movements responding to neoliberal policies, three sets of theories are important to understand social movements (Ballard et al., 2006).

1. What is the context, or the structure of opportunities and constraints in which movements "may or may not develop"? This approach pays attention to what issues spark social movements – for example, water and electricity cut-offs in poor neighbourhoods as a result of neoliberal policies. But, this also includes constitutional rights, such as access to information, right to a healthy environment and water, etc. It also calculates the openness or conversely, the threat of repression, and issues such as the responsiveness of political parties.

2. What resources do social movements have or make available? These can include networks, some the result of previous struggle, or of solidarity, financial resources and assets such as meeting places (or activities that allow for meetings, e.g. sports clubs or women's associations). This includes traditions of organising, as well as discourses of rights or custom. It also includes repertoires of protest, for example, public marches, strikes, access to the media or flinging excrement at decision makers (ANC Youth League in 2013; Ses'khona in 2014).

3. How do participants understand or describe themselves, their agendas, and the world they are active in? Are people working class, eco-warriors, anti-globalisation or pro-poor? How do others see them and how do they deal with perceptions from outside?

Social movements are both campaigns (as the name Treatment Action Campaign shows), and institutions with members, leadership and assets under their control. They may be funded, or entirely volunteer or community-based. Having resources enables social movements not only to act, but sometimes to also be able to meet and build democratic practices as the experience of the AEC showed (Oldfield and Stokke, 2006). On the other hand, funders may interfere with strategic agendas, as in the case of the TAC (Friedman and Mottiar, 2006), while rendering them vulnerable to accusations by politicians of being foreign pawns.

The choice of working with the state – or against it – is sometimes made on ideological grounds, but sometimes on very practical grounds. Many campaign for government to take specific steps, either to provide a service (free basic water (FBW), sanitation, policing or antiretroviral (ARV) medicine) or to perform a legal function (regulation of pollution) that the movement itself cannot do. Therefore, there are structural reasons for engagement with the state. However, social movements are also seriously concerned regarding being co-opted by the state, and even when working with the state, retain strategies of popular mobilisation, legal cases forcing the state to act, media criticism and direct action. Matters of tactics may shade into matters of principle, depending on the fundamental framing of the issues and self-identities of social movements, and their intellectual leadership.

A later wave of scholarship (Dawson and Sinwell, 2012) took a more critical approach, in part because some of these social movements were floundering, in part of a maturing in the study of social movements, and also because of a rising tide of social protests, often including better water and sanitation services as a demand, which were being explained in contrasting ways.

3.2.6   Working practically with civil society concepts

Civil society and social movement concepts and theories are manifold and contradictory. A big theoretical question is how well they apply outside their place of origin, which is Western Europe. Another is that they divide along the lines of cooperation with or opposition to neoliberalism. These divisions among others make it easier to contest civil society space, which is intrinsically a contested space. It could be confusing – even bewildering – for government officials who get caught up in these

debates. However, this cluster of concepts remain useful to describe actual existing spaces, practices and institutions that play an important role in our democracy and in the water sector. For the purposes of this report, we remain aware of a multiplicity of concepts, and that participants in the SAWC may indeed have different perspectives on what their own actions mean. Some expectations for the role of civil society come from outside – it creates the space for civil society to act in – but may not coincide with what activists themselves intend.

Heywood (2014), veteran of the anti-apartheid movement, the TAC, Section 27 and the Right to Know campaign, identifies the following five "facets of failure" in civil society, which give a broad and practical view of civil society as it exists today:

1. Civil society is often unstrategic and uncoordinated: It works on too many issues and resolving too few … there has been a blossoming of a million flowers. But, they are on a million different stalks, sometimes blooming merrily in the same field, blithely oblivious to the flower that blooms from the clod next door.

2. Parts of civil society have been co-opted into propping up inefficient consultative institutions or programmes. There is not enough critical discernment, so time is wasted in endless processes that are offered up as sop to participation, but which often deliver nothing. If you want evidence of the lack of real conviction in many of these processes, witness meetings where gilded civil (society) servants are lost in their iPhones, iPads and laptops.

3. CSOs are denied hard managerial skills: Unlike the other powers, many NGOs and social movements have weak management and accountability systems. Achieving a balance between bureaucracy and spontaneity is not easy. Campaigns that institutionalise easily ossify. But campaigns do need to be sustained and this requires management systems. The failure to find activist managers means that complex organisations, who are full of potential, frequently collapse.

4. Civil society is dependent: when the trade union movement was built, its power – which continues to this day – came from the fact that low-paid workers drew from meagre wage packets to invest in their own struggle. By contrast, civil society funds itself from governments and foundations that do not want radical change. Fitting in with donor cycles creates permanent insecurity, short-termism and allows minority agendas (even when they are 'progressive') to cherry-pick how people should mobilise around majority concerns. Then, the need to constantly replenish funds from these fair-weather friends often takes the best activist leaders away from people and communities where change is needed.

5. Parts of civil society are complicit: as organisations have grown they have been bought, taken over, their leaders moneyed and made risk-averse.

Heywood (2014) argues that civil society needs to understand politics and what causes and perpetuates inequality.

The SAWC straddles the divide between an NGO-based civil society network (with the better resourced NGOs acting as secretariats, finding and sharing financial and intellectual resources), and the world of social movements. Different organisational types make up the SAWC. They network into different constituencies, and also have differing self-understandings and issues definitions.

There is often strong leadership in social movements, access to material and intellectual resources, but removed from the base (Ballard et al., 2006). One of the achievements of the SAWC has been to avoid developing a leadership under a single person (although there are strong personalities in the SAWC), or a narrow clique who sees itself as a vanguard (discussion, SAWC Strategic Planning, 2013).

The terrain of civil society and social movements is controversial because of a number of fault lines running through it. Tactics and principles are often mixed in the question of whether to work with government – or not – and how. This depends on the fundamental stance of the social movement or civil society organisation to the government and its legitimacy. In practice, this is a complicated question as social movements are often layered, including funded NGOs, volunteer organisations at community

level, and activist individuals. According to Oldfield: "The nature of the power that state and civil society actors and institutions draw on becomes an empirical question rather than a conceptual assumption (2005: 13)", and the divide between opposition and engagement a false one.

Historically, SAWC has been at the core of this confrontation, as its participation in the WSSD showed: it was both on the side of the Social Movements Indaba march, as well as part of the negotiating NGOs in the official part of the WSSD. Behind the scenes – although at times also very publicly – the organising team for civil society participation was subject to intense contestations (see Munnik and Wilson, 2003 for details).

3.3 Requirements for Participation, in Policy, Legislation and Discourse About Democracy

Since 1994, founding documents of the South African democracy has required participation as a fundamental principle. Some SAWC members, for example the CER, use this legislation to advance progressive struggles, while nationally and provincially, the SAWC uses some of the opportunities created through legislation. The following section explores what these are in both legal and broader policy terms. It should be read with the CER's legal note in Appendix 1.

3.3.1 Participation requirements in the South African Constitution

The South African Constitution, in Chapter 10, 195 (1)(e), (f) and (g) enshrines the principles that:

> (e) "… people's needs must be responded to, and the public must be encouraged to participate in policymaking, (f) Public administration must be accountable and (g) Transparency must be fostered by providing the public with timely, accessible and accurate information."

An information piece on the official website of the South African parliament proclaims that:

> "(t)he Constitution … stresses the principles of accountability, transparency and openness. This has relevance for public participation in that it imposes a general obligation on government …"

Participation is also embedded in the Bill of Rights (Chapter 2 of the Constitution), since it includes rights that enable the practice of citizenship, including freedom of expression, freedom of assembly, demonstration, picket and petition, and freedom of access to information. Moreover, participation is embedded through voting for government and the requirement that the National Assembly and its committees must conduct its business in open session, that is, in public.

In his foreword to the Report on the Assessment of Public Participation, 2008, Public Service Commission, 2008, then Chairperson of the Public Service Commission argued:

> "Public participation plays a critical role in deepening democracy and promoting good governance. Citizens' involvement in governance processes ensures that their experiential and grounded perspectives inform government on their needs and how these needs can best be addressed …" (Sangweni, 2008)

3.3.2 Participation in local government

For members of the SAWC, there are two main avenues of public participation apart from lobbying and participating in hearings in parliament itself, namely, local government and the evolving system of water resources management.

Local government is arguably a more important place for participation than IWRM for most South Africans. This is because local government is responsible for water services – an issue generally of greater immediacy to most people than the issue of water resources. Since 1994, water services and water resources have largely been treated as separate domains, although current discussions, recorded in the NWRS2, indicate that they need to be brought together (CMFs will be discussed later).

In any case, local government has been identified as the place where government and the people will interact closely (Everatt and Gwagwa, 2004; COGTA, 1998), and be responsive to people's agendas.

In policy and legislation, the provision of sustainable services, the democratic participation of people in their own development, and lifting people from poverty are central expectations from rural local government. These are given as the reasons why the specific role of "developmental local government" has been given to local government.

According to the Department of Cooperative Government and Traditional Affairs (COGTA), a functional municipality is one that not only narrowly meets the criteria of efficiency, but also realises the broader expectations of a developmental local government. The Local Government White Paper (COGTA, 1998) defines developmental local government as:

> "… local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives."

The Constitution supports community participation in Chapter 7, which deals with local government. The two essential points of the South African Constitution are that (Ashton et al., 2005):

- People should participate in decision-making processes that affect them.
- National government mandates are most effectively carried out by the lowest appropriate levels of government.

The South African Constitution (section 152) sets the following objectives for local government:

- To provide democratic and accountable government for local communities.
- To ensure the provision of services to communities in a sustainable manner.
- To promote social and economic development.
- To promote a safe and healthy environment.
- To encourage the involvement of communities and community organisations in the matters of local government.

The 1998 Local Government White Paper is clear that "municipalities require active participation by citizens at four levels":

- As voters – to ensure maximum democratic accountability of the elected political leadership for the policies they are empowered to promote.
- As citizens who express, via different stakeholder associations, their views before, during and after the policy development process to ensure that policies reflect community preferences as far as possible.
- As consumers and end users, who expect value for money, affordable services and courteous and responsive service.
- As organised partners involved in the mobilisation of resources for development via for-profit businesses, NGOs and CBOs.

Local government is regarded as the sphere of government closest to the people. Municipalities are at the coalface of deepening democracy and accelerating services delivery (Handbook for Municipal Councillors, 2006). For example, municipalities are required to develop integrated development plans (IDPs) in accordance with Chapter 5 of the Municipality Systems Act of 2000. One of the core objectives of the IDP is to be a tool for democratic local government by ensuring that community participation is institutionalised, and that citizens can play an important role in identifying their own development priorities.

3.3.3   Participation in national water resources management

The NWRS1 (2004) is eloquent on the topic of participation. Its overview starts with the 28 South African Water Policy Principles, which gave rise to the National Water Policy for South Africa (1997) and the National Water Act (1998). The preamble to the Water Act (1998) states that: "water is a natural resource that belongs to all people" with the water minister as the public trustee of the nation's water resources (2004:11).

The principle of subsidiarity is also spelled out early on. The NWRS1 says:

> "… the responsibility and authority for water resource management will be progressively decentralised by the establishment of suitable regional and local institutions. These will have appropriate community, racial and gender participation to enable all interested persons to participate." (2004:10)

The principle of subsidiarity is embodied in catchment strategies, which are the frameworks for catchment-level management of water resources. The strategies are decided in deliberations among local stakeholders, although their principles and outcomes may not conflict with national legislation. The resultant CMAs will have to establish cooperative relationships "with a range of stakeholders, including other water management institutions, water services institutions, provincial and local government authorities, communities, water users ranging from large industries to individual irrigators, and other interested parties" (2004: 14).

The NWRS1 also refers to the reaffirmation at the WSSD (in Johannesburg in 2002) that "people must be at the centre of the sustainable development and use of water resources". Which people exactly? In its discussion of gender, the NWRS1 emphasises that imbalances between men and women, "in for instance their levels of education and the influence they are able to exercise … must be addressed in initiatives to capacitate the two groups to participate in decision-making. Poor black women are one of the most marginalised groups in South African society. Conscious efforts must therefore be made to involve them in water resources management processes and to ensure that the management of water contributes to meeting their needs" (2004:15).

CMFs, which exist in some but not all catchments, play some role in allowing citizens to participate in water resources management. The NWRS itself is subject to participation requirements:

> "… each edition of the NWRS may be formally established only when the Minister is satisfied that everyone who wishes to comment on the proposed strategy has been afforded an opportunity to do so, that all comments have been given careful consideration and that all changes arising from this process have been incorporated in the revised strategy" (2004: 12).

3.3.4   Active citizens

The growing literature on "active citizens" has taken the people-centred approach from its origins in development to an engagement with the questions of the relationship between citizens and the state. This is particularly useful for the debate on South African local government. Active citizenship means:

> "… that combination of rights and obligations that link individuals to the state, including paying taxes, obeying laws, and exercising the full range of political, civil and social rights. Active citizens use those rights to improve the quality of political or civic life, through involvement in the formal economy or formal politics, or through the sort of collective action that has historically allowed poor and excluded groups to make their voices heard. Ultimately, active citizenship means engaging with the political system to build an effective state, and assuming some degree of responsibility for the public domain." (Green, 2008: 12 & 19, for Oxfam, quoted in Clarke and Missingham, 2009)

Clarke and Missingham (2009: 956) argue that "active citizenship may be more effective at the local level where citizens make claims on "duty bearers" from a position as "rights holders". The rights-based approach develops this in more detail, investigating the relationship between governments and citizens which are described in terms of rights and duties. As a result, citizens, as rights carriers, can confront government duty-holders" (Filmer-Wilson, 2005).

Participatory democracy is superior to representative democracy in that it not only chooses who should govern, but how they should govern, Tadesse et al. (2006) argue in a recent analysis of participation and service delivery protests in South Africa. To them, participatory processes are necessary because "there is no superior authority, which with superior knowledge will undertake, on its own, the necessary analysis and in one fell swoop provide the package required" to address poverty, service delivery and human security (Schneider, 1999: 7, quoted in Tadesse et al., 2006).

3.3.5   The reality of participation

However, in practice, Sangweni (2008), Chair of the Public Service Commission (PSC), concluded:

> "The PSC's research … suggests … that the understanding of consultation of most departments reflect a misalignment with what was intended … departments' understanding of consultation includes information sharing, discussions and conferences … whereas … the public should be consulted about the level and quality of the public services they receive …"

In a 2006 "Critical Review of Participatory Practice in IWRM" for the WRC, Lotz-Sisitka and Burt (2006) found that participatory practice in IWRM and CMA establishment in South Africa and other developing countries was shaped by:

- Power relations and governance structures (including the role of donors), resources and capacity available to implement CMA type approaches and international trends towards IWRM that involve participatory methodologies.
- Tensions between the need for centralised control of natural resources management and international trends towards decentralisation, which appear to result in a form of 'deconcentration' rather than fully embedded and adequately resourced decentralisation.
- A need to consider the particular characteristics and processes of local community participation. This includes valuing local knowledge, how communities express their needs for participation, the potential of community activism, and access mechanisms available to communities.
- Issues of representivity, which are central to participatory practice. The terrain of establishing valid representation is characterised by power relations, capacity development issues, and issues of inclusion and exclusion. In developing countries, there is a particular need to consider exclusions related to gender inequalities and relationships that have historical and cultural antecedents.

They pointed out that many South African citizens did not have a clear understanding of democracy and democratic practices when it comes to water:

> "In the past, most people were marginalised with regards to water management, and participation is seen as a potential answer to this. But people can only participate in a system they understand. As a result of a lack of education or limited education many people do not have the basic skills and information needed in order to participate in water resource management. The same applies to political education. For most people in South Africa, no matter what their status, democracy is a new system and South Africans are still developing their understanding of this system. A personal and group responsibility for water management that will lead to meaningful participation is something that needs to be encouraged and developed in almost every South African citizen, from rich white farmers to rural dwellers to the urban middle class to DWAF employees. One cannot therefore assume that participation will take place by simply

calling a meeting or organising a group of people under the umbrella of a catchment forum. Providing the structures, systems and platforms is not enough. Making sure that a body is representative of all water users does not guarantee meaningful participation. It is however, the first step towards creating the environment for democratic governance and participation in water resource management." (Burt and Sisitka, 2006:13)

In conclusion, there are strong and enduring foundations to advance participatory practices in our Constitution, as well as in parliamentary, local government and water resource management policy and legislation. A participatory democracy demands active citizens who not only vote every five years to decide *who* must make and implement policy, but also active citizens who participate in policymaking, its implementation and its monitoring. However, such active citizenship is hamstrung by the realities of the past that has structured capacities and access to resources in our present. Participation cannot be assumed or simply given in law, it has to be supported and nurtured. This very task has been an important one for the SAWC.

3.4 Democracy in Action – What Can We Learn

This section describes civil society in action. It reviews the strategies and practice of CSOs in post-democratic South Africa. The aim of this exploration is to learn from what other civil society actors have done – their successes, failures and lessons – and to contextualise and inform the action of the SAWC (whose strategies and practice will be explored in Chapter 4).

3.4.1 Post-democratic civil society

The rise of new civil society formations post-1994 happened after a period of an 'opposition vacuum' due to the absorption of organisations and activists from the liberation struggle into the new government (Ballard et al., 2005). For a few years after the transition, opposition to the state was seen as inappropriate, and activists were encouraged to move from "resistance to reconstruction" (Lumsden and Loftus, 2003: 19). However, this period was relatively brief, and by the late 1990s a new wave of oppositional civic movements has developed. These formed largely in response to:

1. Certain policies of the new government (for example, the Congress of South African Trade Unions' (Cosatu) opposition to the post-apartheid government replacing the RDP with the GEAR, whereby neoliberalism and economic growth were promoted as the route to ending poverty and inequality).

2. Lack of service delivery by government (e.g. TAC's fight for access to affordable ARV medication for all South Africans).

3. The repressive ways in which government interpreted and enforced some of it is new policies (e.g. the SECC and the AEC, which were attempts to organise poor and working-class people to resist government cut-offs of water and electricity and evictions due to non-payment of bills) (Ballard et al., 2005).

   "Many movements suggest that they draw from class-based ideologies, with notable self-descriptions as: anti-neoliberal, anti-capital, anti-GEAR, anti-globalisation, anti-market and pro-poor, pro-human rights, socialist and Trotskyist." (Ibid: 12).

Subsequent scholarship has questioned whether social movement members actually self-identify with such descriptions, or whether this explicit naming of orientations is limited to a leadership level (Runciman, 2012; Walsh, 2012).

The growing South African Environmental Justice Movement, which emerged in the late eighties and early nineties at the time of political transition to democracy and the 1992 Rio Earth Summit, shared these concerns and identities, and had direct overlaps and affiliations with most of these new movements. For example, the EJNF had relationships with the AEC and SECC, the water and energy caucuses had relationships with and membership of trade unions, and shared concern about service delivery, for example, water and sanitation, and land redistribution.

3.4.2 The repertoire of civil society tactics

The strategies of these post-apartheid movements include a 'repertoire' of tactics, and a spectrum of approaches to engagement with the state, ranging from collaborative to adversarial. One campaign or movement might try to collaborate constructively with government at one time, and strategically shift to more oppositional tactics at a different time, as the campaign shifts or as government's own agenda and openness to dialogue shifts.

This repertoire includes:

- Taking the state or private companies to court; for example, the VEJA and its allies took ArcelorMittal South Africa to court in 2013 after the company refused to make their environmental records available.
- The shaming of the state through pickets, personal stories of injustice, hunger strikes, and media exposés; for example, 250 members of the TAC went on a hunger strike and lie-in at Chris Hani Baragwanath Hospital in 1998 to protest the lack of affordable treatment for HIV/ AIDS (TAC, 2010).
- Using prominent personalities as champions for particular issues; for example, Equal Education invited Archbishop Thabo Makgoba to participate in and be the spokesperson for an Eastern Cape Schools Solidarity Visit in 2013.
- Trying to engage decision makers in dialogues or other meaningful participatory processes; for example, EMG hosted a dialogue with the City of Cape Town and local councillors in Makhaza on leak fixing in 2012.
- Commenting on policies and legislation through written submissions and parliamentary presentations; for example, the SAWC's engagement with the NWRS2 in 2012 and 2013.
- Civil society monitoring of corporate compliance with the law and government's implementation of policies; for example, groundWork's facilitation of bucket brigades, whereby citizens monitor air pollution to hold polluting companies and government regulators accountable.
- The holding of commissions of inquiry; for example, a coalition of CSOs, including the Social Justice Coalition (SJC), called for a commission of inquiry into policing in Khayelitsha in 2012, headed by Justice Kate O' Regan and Advocate Vusumzi Pikoli.
- Trying to build broad-based grass-roots support for greater legitimacy and pressure on government; for example, National Union of Metal Workers of South Africa's efforts from 2013 onwards to build alliances within the labour movement and with broader social movements and civil society.
- Pilot projects and demonstrations to show how alternatives could work; for example, TAC facilitated a pilot demonstration of HIV-positive people in Khayelitsha embarking on the rigorous ARV drug regimen to show that it was possible and beneficial in poor communities (TAC, 2010).
- Education and awareness raising and solidarity building; for example, groundWork's Environmental Justice School, International Labour Research and Information Group (ILRIG's) globalisation school, EMG's water and climate change school.
- Peaceful and violent protest marches; for example, the peaceful demonstration in solidarity with Gaza attended by approximately 20 000 people in Cape Town on 9 August 2014, and the Marikana miner strike that turned devastatingly violent in September 2012.
- Threatening to take votes away from the ANC through abstention or support of opposition parties; for example, Abahlali baseMjondolo in Kwazulu-Natal encouraged its members to vote for the Democratic Alliance in the 2014 national elections, in response to the ANC's treatment of informal settlement residents in Durban.

3.4.3 Civil society in action: the TAC and the SJC

The TAC

One example of a single campaign traversing this spectrum of engagement tactics is the TAC, which focused on securing affordable treatment for HIV-positive South Africans. The TAC is largely acknowledged as one of the most successful post-apartheid CSOs in terms of their impact on government. Their tactics and methods evolved over time in response to changing context. Upon reflection after over ten years of work, they described their approach as having four pillars: "understanding and using the law, doing high-quality accurate research, mobilising people in communities, and dealing effectively with the media" (TAC 2010: 109).

In the beginning, the TAC grew out of work started by Zackie Achmat and others at the Belville Community Health Project. It started in 1998 as a small campaign within the National Association of People Living with HIV/AIDS (NAPWA) to collect signatures for a petition calling for a mother-to-child transmission treatment programme (TAC, 2010). This was followed by a fast and lie-in of 250 people outside Chris Hani Baragwanath Hospital. Their pickets and press statements made the links between a local lack of affordable treatment and the global economy of HIV/AIDS treatment, including the negative role of the US government and pharmaceutical companies, rather than a focused and direct critique of the South African government.

Quite soon, it became necessary for the TAC to split from the NAPWA, which was more cautious and less willing to vocally oppose large drug companies, from whom they received funding. The TAC then helped to mobilise 5000 people for a march to the International AIDS conference in Durban, which got them more media attention. Early on, the TAC actually offered legal support to the South African government to fight a court case against large pharmaceutical companies who were trying to prevent the state from selling generic medication. However, when Thabo Mbeki became President in 1999, heralding the beginning of an era of AIDS denialism, the TAC found themselves in direct opposition to the state and had to resort to litigation against them. According to their report "Fighting for Our Lives: A History of the Treatment Action Campaign" (TAC, 2010), they resorted to the legal route only as a last resort, and tried to use it as an opportunity to build awareness and mobilise people:

> "We operated as activists, then as human rights campaigners, and only then as lawyers ... I realised that the law alone cannot fully transform our society, only people can. The most valuable and transformative legal challenges are those that mobilise and educate people so that communities use the law to give effect to their own voices and their own issues." (Fatima Hassan, cited in TAC, 2010)

The TAC also consciously worked to build grass-roots support and develop leadership beyond its largely middle-class founding members: "We knew we had to become a movement based in communities to have any integrity or we'd be just another NGO" (Sipho Mthathi, cited in TAC, 2010). They did this by establishing community-based branches across the country, which were supported by six district offices – following a model used in the liberation struggle. The campaign is membership based, and as of 2010 the TAC had over 10 000 members.

Another crucial part of the TAC's work was first learning about the latest in HIV science, and then sharing this information broadly through what they called 'treatment literacy'. The understanding of how HIV acts in the body, and how the treatment of the disease works, was an extremely important tool, and helped to build a group of well-informed activists who knew exactly what they were asking from government, and could easily refute misinformation put out by AIDS denialists. This work of sharing information on HIV and its treatment also acted directly as a public health intervention, empowering people to look after their health even better as they struggled with government to provide the drugs they needed to save their lives.

The TAC also partnered with *Medecins sans Frontieres* on a pilot project to administer ARVs to HIV-positive people in Khayelitsha. The purpose was demonstrating that with the right support and information, people were capable of managing the demanding drug regimen, and that the drugs were

very effective in treating their illness. This was an important source of evidence to counter those who said that ARVs would not work in Africa (TAC, 2010). Finally, the TAC became a prominent and highly recognisable movement in South Africa. This was achieved particularly through their 'HIV-positive' t-shirts, which all supporters of the campaign wore with pride, challenging the stigma of HIV/AIDS and standing in solidarity with all those affected. Nelson Mandela, among other global icons, was photographed wearing the t-shirt, and it became a powerful symbol of the campaign and of broader struggles for social justice.

The TAC is credited with contributing in large part to the turnaround from government endorsed HIV/AIDS denialism to a comprehensive national treatment plan. They used a broad repertoire of tactics as described above.

The SJC

The TAC has also been fertile ground for several other currently active organisations – the SJC, Equal Education, Ndifuna Ukwazi, Section 27 – all who use similar approaches to the TAC. The SJC is of particular interest to SAWC, since it has been very active on sanitation, and has contributed to getting water and sanitation services recognised as a significant political issue. The SJC formed in 2008 out of the response to the xenophobic crisis of that year. The TAC had taken a lead in the humanitarian and political response to the crisis, in the face of non-responsive or badly responding government. As the crisis waned, it was clear that there was a need to look at the underlying causes of the crisis. The SJC was then formed with a particular focus on safety and how to improve safety in poor and working-class communities (www.sjc.org.za).

Sanitation soon emerged as an important safety concern, particularly for residents of informal settlements, because of the extreme danger associated with having to use a toilet far from home at night. The SJC followed the organisational model of the TAC, although with a localised focus on Khayelitsha in Cape Town. They have 11 branches that elect people to form an executive council. Every two years the members elect a secretariat consisting of a chair, deputy chair, treasurer, general secretary and deputy general secretary. The general secretary and deputy general secretary become full-time staff, and there are other people employed as researchers, organisers, etc. The SJC also learnt from and replicated several of the TAC's strategies: building active leadership in communities so that the organisation is rooted in the poor communities whose interests are represented by the organisation; evidence- and research-based advocacy; productive engagement with government as far as possible; using the law, and protest and civil disobedience when relationships with government deteriorate (Kramer, *pers. comm.* 2014).

The SJC has had some success in getting local government (City of Cape Town) to be more responsive regarding issues relating to water and sanitation. According to Dustin Kramer, the Deputy General Secretary of the SJC, there has been an increase in delivery of sanitation in terms of communal flush toilets in Khayelitsha, and an improved janitorial service to those communal toilets as a result of the SJC's work (Kramer, *pers. comm.* 2014). They have also run a commission of inquiry into policing in Khayelitsha, which has been "a powerful process in terms of getting access to and understanding the state, and which could have serious systemic impact if the recommendations are implemented" (Kramer, *pers. comm.* 2014).

Of particular interest to this project is the SJC's use of social audits, a citizen-based monitoring methodology that was first developed in India. In a social audit, the people who experience a particular service carry out an audit on that service by first looking at the official documents that describe the service (such as tender documents or service delivery agreements), and then looking in detail at what the service actually looks like on the ground. After a week-long physical audit, there is a public hearing where government officials are invited and communities present evidence.

In 2013, the SJC carried out an audit on Mshengu Chemical Toilets, a contractor who was contracted by the City of Cape Town to install and service chemical toilets in informal settlements in Khayelitsha. Through the social audit, it was found that the service was wholly inadequate and, furthermore, that the

City of Cape Town did not have a comprehensive plan for improving access to sanitation across the City. Based on the findings of their social audit, the SJC filed a complaint with the South African Human Rights Commission (SAHRC).In July 2014, the SAHRC released their investigative report that found that the City of Cape Town's lack of sanitation plan was unreasonable and racially discriminatory. They instructed the City to develop a comprehensive plan for sanitation within six months (SAHRC, 2014).

This was hailed as a victory for all residents of informal settlements, and highlights another aspect of the SJC's activism, namely, the strategic use of Chapter 9 institutions – public interest institutions created in Chapter 9 of the South African Constitution. For example, based on their Mshengu social audit, the SJC asked the Auditor General to investigate the contract between Mshengu and the City of Cape Town, the Public Protector to investigate maladministration, and the SAHRC to investigate rights violations. These are important avenues available to post-democratic civil society in South Africa, although their ability to actually enforce their findings remain to be seen in most cases.

These two examples of active and successful campaign-based CSOs serve to illustrate the range of tactics and methods available to post-democratic South African civil society. Lessons can be drawn from their experiences for the environmental justice movement in general, and the SAWC specifically.

3.4.4 The environmental justice movement in action

The emphasis by post-apartheid green activists on environmental justice, where people and the planet were seen as equally important and equally threatened by the capitalist status quo, was a departure from earlier supposedly 'green' traditions of conservation and resource protection in isolation from social concerns. For the environmental justice activists of the early nineties, the urgent issues on their agenda included mining, toxic waste (e.g. mercury, asbestos), rural livelihoods, water pollution, water access, desertification, food security, opposition to nuclear energy, waste management, air pollution, and ocean protection (Munnik and Wilson, 2003: 13).

For a long time, environmental activists were treated with scepticism by others in civil society because of the perception that the environmental movement was mostly about conservation, or "white people who care more about animals than people" (Munnik and Wilson, 2003: 15). Over time, more people understood that social justice is at the heart of environmental justice, and, as climate change has become more prominent in the public discourse, there has been a greater awakening of the realisation that the destruction of the environment is the greatest threat facing all humanity – nevertheless that bias against environmental activists has persisted in some circles, and is used by anti-environmentalists. There remains an ideological gap within the environmental movement between the more politically conservative 'resource managers' (who have no problem with market-based approaches to protecting the environment) and proponents of 'environmental justice' (who are more fundamentally critical of the current global political economy). They manage to work together sometimes, but often end up at loggerheads (see Munnik and Wilson, 2003 for example of civil society politics at the time of the WSSD; and later in this section of Southern Africa Climate Action Network (SACAN) and Climate Justice Now! South Africa (CJN!SA)).

There have been several South African environmental networks or campaigns – the EJNF, Green Coalition, Coalition for Environmental Justice, SACAN, CJN!SA, the One Million Climate Jobs Campaign, SDCEA (South Durban Clean Environment Alliance) and many others – that have evolved at different moments in time. Their strategies, and reflections on the obstacles to their success, are relevant to understanding SAWC.

The EJNF

The EJNF was formed by environmental activists soon after the Rio conference of 1992, at a conference hosted by Earthlife Africa entitled, "What does it mean to be green?" (Hallowes, 1993). This conference aimed to critique mainstream ideas of growth and development, and to highlight alternative approaches such as 'sustainable development', the new buzzword fresh from Rio. It brought the latest international green thinking to South African civil society, and established environmental justice as the key principle

around which to organise. EJNF aimed to be a national network bringing together NGOs and CBOs with different skills, resources and knowledge to fight together for environmental justice. There was a national coordinator, and provincial organisation-based members. It was formed just in time to contribute to the development of new environmental laws for the country.

They participated in the CONNEPP, bringing important concepts to the fore, such as environmental justice, the precautionary principle, polluter pays – all of which were ultimately included in the NEMA (Munnik and Wilson, 2003). The EJNF focused largely on national issues, because it was such a crucial time for national policy development, but retained links with international partners on specific issues such as oil, pollution and waste. In the lead-up to the WSSD in Johannesburg in 2002, the EJNF also contributed to efforts to prepare South African civil society for the Summit (although this was a process fraught with tension and obstacles). Ultimately, the EJNF got mired in tensions between national and provincial offices. Such issues have dogged all the environmental justice networks and caucuses that have formed in the intervening years, including the SAWC (although the SAWC has always survived these times of crisis). Although EJNF ceased to exist, most of the activists and organisations who were involved continued to find ways to work together, either through new networks or just informally, coming together at critical moments, for example to comment on a new policy.

SACAN and CJN!SA

Another two examples of national environmental networks are the SACAN and CJN!SA, which both focus on climate change. The SACAN formed around the time of the WSSD in Johannesburg (2002) as a national network affiliated to CAN International, with a strong focus on the UN Framework Convention on Climate Change (UNFCCC) negotiations. By the late 2000s, the SACAN was a fairly prominent national network, well versed in the science of climate change, and recognised by government as 'the voice' of climate change-concerned civil society. However, the SACAN was perceived by some in civil society as 'not radical enough', because it did not have an outright position against carbon trading (see Lohmann, 2006, for a discussion of how polluting corporations benefit from carbon trading). The SACAN based most of its advocacy and lobbying on the UNFCCC, and it was not perceived to be in touch with the concerns of poor and working-class communities.

In the build-up to COP17 in Durban in 2011, CJN!SA was formed as an alternative climate network. CJN!SA was initially made up of people or organisations who split off from the SACAN. CJN!SA positioned itself as more radical, more justice based and more representative of 'communities'. They did not view the Kyoto Protocol or the UNFCCC as legitimate, and called for an end to capitalism as the ultimate climate change response. In some provinces (e.g. Western Cape), people were members of both the SACAN and CJN!SA. However, in Gauteng there was much more hostility and territoriality between members of the different networks.

Both of these networks fizzled away after COP17, and for a while existed only online as a place for sharing information. Members of these networks found that the time-consuming network meetings and processes for coming to shared positions were too onerous, and disproportionate to the benefits gained from belonging to the network. It was easier to 'network' and work together as organisations less formally when the need arose. Leadership tensions and personality clashes also, inevitably, contributed to their slow demise. Recently, however, there has been a slow revival of the SACAN in which NGO Project 90x2030 has taken the lead in organising meetings and helping civil society groups develop policy positions with which to engage the South African government. They have also shown an interest in strengthening local civil society to pressure the South African government to implement the UNFCCC Paris Agreement.

groundWork

Of particular interest to this project from the recent history of environmental justice activism are strategies that involved citizen monitoring of aspects of environmental health or government performance. A notable example is that of the 'bucket brigades' formed by Pietermaritzburg-based NGO groundWork in the early 2000s. This project aimed to empower community members living in areas of

high air pollution to monitor their air quality and to hold polluting industries and the authorities accountable. Using simple technology – a sealed bucket containing a Teflon sampling bag, and a handheld pump – community members in highly polluted areas such as South Durban and Sasolburg were supported to take air samples. These samples were then tested at independent laboratories, and proved beyond a doubt that there were dangerously toxic levels of pollutants in the air, to which these communities are exposed. There are many important recommendations and lessons from this project that will be considered and incorporated into monitoring aspects of the NWRS2 (for example, http://www.groundwork.org.za/specialreports/AirMonitoringReport2003.pdf).

3.4.5   New social movements of the poor

There has been a surge of new social movements in the last decade that have expressed a strong resistance to the treatment and living conditions of poor and working-class communities, particularly as enforced by local government in urban areas. These have crystallised around issues of basic service delivery, housing, informality, and inequality. Many of these movements have distanced themselves from political parties and formal NGOs (Magwaza, 2014) who are seen as privileged and disconnected from the 'real issues', as speaking on behalf of other people, and as pocketing money that should be going directly to poor people. However, none of these movements are entirely independent, grass-roots or community-based, and require support from 'outsiders' in different forms to have any endurance.

> "… social movements are not 'spontaneous grass-roots uprisings of the poor' as they are sometimes romantically imagined, but are dependent to a large extent on a sufficient base of material and human resources, solidarity networks and often the external interventions of prominent personalities operating from within well-resourced institutions." (Ballard et al., 2006)

Two contemporary examples of this kind of social movement are Abahlali baseMjondolo and Ses'khona. They are fiercely independent (although Ses'khona's independence from the ANC has been called into question) and strident, and act as a voice for the poor and a conscience for society (Magwaza, 2014).

There has also been a dramatic increase in service delivery protests since 2009 by community members where water and sanitation services are non-existent, inadequate, or polluted, where services are disrupted, relationships with authorities are bad, or inequalities glaringly obvious (Tapela, 2011). There seem to be few instances of this kind of protest having an impact until people are killed (e.g. the January 2014 protests in Madibeng) or formal organisations get involved (e.g. the Makhaza unenclosed toilets where the SJC and the SAHRC got involved).

Although the SAWC is very concerned with these same issues of service delivery and have community-based constituents, it is not very prominent in this protest-focused space. The SAWC has been criticized for not saying or doing enough in solidarity with protesting communities. This is an aspect that could be strengthened (e.g. by releasing press statements, helping to amplify and draw attention to the 'facts' on the ground, budgeting for visits to affected communities).

4 THE SAWC AND ITS ROLE

This chapter looks at the history of the SAWC, its impacts and role in the South African water sector, and its organisational form. This analysis is drawn from reflections by members of SAWC on its role and history through ongoing internal processes, and interviews with key members of SAWC and government officials who have interacted with it. The reflections in this chapter provide the context of the project and precede the impacts of social learning through case studies, discussions and action research. These impacts are described in Chapter 5, Chapter 6 and Chapter 7.

4.1 Defining SAWC – A Value-based Identity

Like an elephant being described by blind men, the SAWC is hard to define. It has different meaning for people depending on how they are interacting with it. Each of these meanings is valid. For members, two aspects are pertinent. Firstly, many members *identify* with it. There is something about the caucus that makes them feel part of it, even if they attend meetings only rarely, or if they last participated years ago. It has little to do with whether they have signed a formal membership form. Secondly, this identification links to perceived *shared values* and a sense that the caucus is on their side – it can be trusted to advance social justice and the concerns of the working class.

Beyond this, the integration of environmental issues and concern for the health and well-being of natural ecosystems has broadened participants' understanding of rights-based issues and has been an important part of SAWC's identity. It was one of the founding principles. Like other parts of the environmental justice movement, environment and development concerns are not separate or competing for SAWC members – the exclusion and exploitation of people and planet are seen as part and parcel of the same process.

The view from outside the caucus is not too different, perhaps with an added dimension. The caucus is seen to raise public interest issues including, for example, the accountability of government, *and* it is seen as an important vehicle for drawing civil society into consultation processes. This creates a tension, since it is clear that public participation is not viewed in the same way by the DWS and members of the caucus (Sangweni, 2008). For government officials, consultation is too often seen as something to be ticked off a list, and usually as a means of telling the public about something the DWS has already decided. At its worst, it is a gesture of show business – a performance to advance the brand of government, a particular department or Minister; pretence at caring; or a hollow fulfilment of constitutional obligations through self-promotion. For the SAWC, participation is much deeper and demands that government officials *listen* to issues being raised, and then *do something* to respond to them. Many government officials are sympathetic to concerns raised by the caucus. In some ways, the caucus seems to hold true values that some officials have shared in the past, but are unable to express through existing institutions. Thus, personal connections are formed, which is another characteristic of the SAWC.

The shared values held by caucus members have a recorded history. They were developed during the formation of the SAWC in the early 2000s when membership was confined to those organisations and individuals who supported the guiding principles. These principles form the main 'mandate' for those speaking on behalf of the SAWC. Any position developed by the SAWC needs to be in line with the principles. This implies a discipline within the solidarity, which means that the SAWC is an institution since it has rules – of which this is one good example. In the membership form (2006), the principles are captured as:

- Access to water and sanitation are human rights. All people should have secure access to sufficient potable water to meet their basic human needs including water for productive use to sustain livelihoods.
- Water management must be accountable to communities at a local level and communities must be provided with platforms to be involved in all decision-making. Information must be disseminated to ensure informed decisions are made.

- The integrity of ecosystems is the basis for all life – both human and nature – and river ecosystems and groundwater resources must be maintained, rejuvenated and enhanced.
- Large dams are destructive to humans and ecosystems. We therefore endorse a precautionary approach, with large dams being seen as a last resort to meeting water and energy needs. We call for the adoption and implementation of the WCD guidelines into South African policy and legislation, including the right to prior and informed consent.
- Water is a public necessity. The commodification and privatisation of water resources, water services and sanitation compromise the sustainability, equity and justice of access, and must be rejected.
- Cost recovery should not be a barrier to people's access to water or water services.

Over time, these principles have been used to guide and inform positions and campaigns. For example, they can be seen as the skeleton of the SAWC's submission on the NWRS2.

A 'way of working' has also developed. This includes a bottom-up approach, the presentation of alternatives (not just pointing out problems), a national identity, the importance of building solidarity through shared learning from each other's struggles, facilitation and acting as an intermediary, and organisational self-reflection. As one long-time member expressed it: "We have that community of spirit, of recognising that our greatest resource is our human resources" (Veotte, *pers. comm.* 2014).

4.2 SAWC's Role in History – Impacts and Influence

From the beginning, SAWC developed three main national campaigns focusing on:

- Dams.
- FBW and water services.
- Plantations and catchment management.

However, other issues were not neglected. At caucus meetings, members would give updates on local or national struggles they were engaged in, which included mining, water quality, climate change, water privatisation, public participation, water pricing and tariffs, institutional reform, and so on. And, the three main campaigns were always growing and deepening. For example, during the biennial general meeting (BGM) in 2008, SAWC members decided to have a focus group on dam-affected communities. This was partly due to solidarity work that was happening in other countries, including a visit by SAWC members to Swaziland in 2007 where they met international dam activists, and where Liane Greeff from EMG (and as a member of SAWC) made a DVD on Maguga dam-affected communities.

The list of policies, processes and forums that the SAWC has engaged with is numerous. Those initiated from outside the caucus include:

- Water for Growth and Development.
- Regulation Strategy for Water Services.
- New Partnership for Africa's Development.
- Pricing Strategy.
- NWRS1.
- NWRS2.
- Institutional realignment.
- The Water Dialogues.
- WSSD.
- Masibambane.
- WSLG.
- National Water Advisory Council (NWAC).
- Water Resources Regulation Strategy.
- Drinking water quality (leading to blue/green drop).
- Water services and FBW.
- WCD.

- IDP.
- Municipal budgeting processes.
- Establishing CMFs and CMAs.

This is close to a comprehensive list of processes in the sector, which means that SAWC has been part of – or at least aware of – most major developments in water policy and implementation. The level of engagement in these processes has largely depended on capacity within SAWC, both in terms of understanding the content or process, and in terms of people available to contribute the necessary time to read documents, attend meetings and give input.

Where possible, the SAWC would use these processes to strengthen its internal capacity and organisational outreach. For example, SAWC members attended workshops as part of the Water for Growth and Development consultation process in Limpopo, Mpumalanga and Eastern Cape – and used the space to start the Eastern Cape Water Caucus in 2008. Through this same process, the SAWC constantly challenged the concept of 'growth' and insisted on the inclusion of 'development' (Ngcozela, *pers. comm.* 2014).

4.2.1 Successful water policy and process interventions by the SAWC

Because SAWC membership spans from local communities to NGOs, it has legitimacy and leverage to act as an intermediary between government and specific local struggles. It can invite the power of the regulator. Three examples from the caucus history illustrate this. Acting as an intermediary, Hameda Deedat, SAWC Steering Committee member at the time, was invited by the Department of Water Affairs (DWA) to accompany them to Eastwood in Msunduzi where people were not getting FBW: "... can you come and facilitate this meeting because if we go with you we'd feel safe that at least if we come there, your comrades would recognise you ...", (Deedat, *pers. comm.* 2014). She participated in her capacity as Chair of the CSO regulations reference group.

This issue of limited access to FBW had been raised by the caucus, including at a meeting with the National Minister of Water Affairs. Researcher and SAWC member, Julie Smith, helped document and analyse the problem. In brief, the Msunduzi Municipality was charging people for their first 6 kℓ of water as soon as they used a drop more than 6 kℓ in a month. This meant that large households using a very modest 7 kℓ per month received no free water whatsoever. Instead, they were the subject of punitive debt collection. According to Deedat, the consequence of this visit by the DWA was a change in Msunduzi's tariff system. However, the change was not exactly what the SAWC had in mind.

FBW did become available to households using more than 6 kℓ per month, but only if they registered as indigent (Smith, *pers. comm.* 2014). According to Smith (*pers. comm.* 2014):

> "This is not a victory because the indigent policy is so horrible and few people who actually require it are registered; most people do not want to sign up even if they desperately need subsidisation. Indigent households are often restricted and targeted by the municipality."

The second tariff change demanded at the time was to increase the number of tariff blocks to make water affordable at low consumption levels (Smith, *pers. comm.* 2014). The proposal was to add three blocks between 7 kℓ and 25 kℓ (at the time, the only blocks were 0–6 kℓ and >7 kℓ). The municipality responded by making the blocks 7–30 kℓ; 31–60 kℓ and >61 kℓ. The price of the 7–30 kℓ block was not reduced at all (Smith, *pers. comm.* 2014). This provides no relief to low-income, low-consumption households. Despite the cynical response by Msunduzi Municipality, Smith argues that the intervention was still useful as residents could see that the National Office of the DWA was genuinely concerned and listened to them, which made them feel heard (Smith, *pers. comm.* 2014). However, it also showed that the DWA really lacks teeth and is unable to regulate effectively.

A second example comes from rural Limpopo, where through the SAWC, members met national portfolio committee members whom they could lobby. Because they had met the Minister and portfolio committee, local decision makers agreed to meet them (Munnik, 2004).

A third example of using the regulator to advance community struggles took place in Cape Town where presentations to parliament by Western Cape Water Caucus (WCWC) members on problems linked to Cape Town's smart meter, the water management device (WMD), resulted in a site inspection by a team led by the DWA Regional Director, Rashid Khan. Interestingly, the DWA saw this as an opportunity to test legislation, in particular, access to water as a human right within the Water Services Act (Sigwaza, *pers. comm.* 2014).

> "It was very interesting to find out that it's difficult to tackle the municipality because the Constitution does say that it is a progressive right; although it alludes to the issue of water as a human right, it says that it will be based on the municipalities' availability of resources, and it could be progressive." (Sigwaza, pers. comm. 2014)

This intervention by SAWC, which invoked the regulator, resulted in a recommendation for deeper dialogue between the Provincial Water Caucus (PWC), the City and the DWA, although the DWA believes some of the issues were addressed by the City (Sigwaza, *pers. comm.* 2014).

The issue of bottled water has been an area of growing concern for SAWC. It symbolises so much that goes against the SAWC's founding principles – commodification, neglect of public water quality, unaffordable drinking water, plastic waste, class, status, and so on – that the SAWC could not ignore it. Often, the SAWC has been confronted with the sight of bottled water at water sector meetings and other meetings that professed an interest in sustainability. In other words, bottled water was being promoted as the water of choice by the very organisations responsible for ensuring that public water supplies are of good quality and accessible to all. The SAWC could not let this go unchallenged; hence, it is rare to have a water caucus member at a meeting where the issue of bottled water is not raised. Two caucus members were invited to participate in a national process on drinking water quality, partly in relation to the 2010 FIFA World Cup. There they insisted that all stadiums had taps, and that not only should the drinking water in those taps be up to FIFA standard, but that all taps, in all municipalities, should also meet acceptable public health standards (Deedat, *pers. comm.* 2014).

The SAWC has also contributed to national (and international) spaces where policy and practice in the water sector are presented and discussed. For example, through close relations with the DWS, and an understanding that civil society should not be 'left out', SAWC members were invited to present civil society perspectives at the 2nd Africa Water Week hosted by the African Ministers' Council on Water and the DWA.

Further in the past, the SAWC and the organisations that helped bring it into being were involved in the collective struggle around water services that led to legislation on FBW. They were also successful in facilitating the inclusion of community voices into the WCD. The SAWC then played an active role in the South African initiative on the WCD, again ensuring that dam-affected communities were represented directly.

4.2.2   Pushing definitions of civil society and the right of all to be included

Beyond engaging directly on water issues, the SAWC has continuously used public space to challenge definitions of civil society and processes of public engagement, as well as the drive by government to turn citizens into 'customers' or 'consumers', thereby fundamentally changing the relationship between local government and people who live there. The caucus has been particularly vocal when faced with exclusion, or when government has tried to 'divide and rule' by including some members and excluding others.

In the SAWC's formative days and towards the middle of the 2000s, the APF and affiliates, such as the Coalition Against Water Privatisation were strong and active participants in the caucus. There was a great deal of internal debate regarding, for example, whether the SAWC should participate in The Water Dialogues, which was a multi-stakeholder process to explore the role of the private sector. The SAWC decided to participate, but minority views were noted at the 2004 BGM. Nevertheless, when government tried to consult SAWC members but exclude 'ultra-leftists', the SAWC insisted that it was all or none.

Exclusion has often linked to resources, where members have been unable to participate in government-initiated processes because no funds have been made available for transport. Exclusion has also happened where processes are deemed 'highly technical'. This makes it impossible for ordinary citizens to participate, which reaffirms the belief held by many government officials that consultation is ineffective because the 'experts' know best. The SAWC has challenged these notions too. Note that the NEMA requires that the capacity to participate should be ensured.

The SAWC challenged the Masibambane Programme through which millions of rands were channelled by the EU to the DWA to support civil society capacity building. Initially, these funds were earmarked for organisations that were doing good local work, often grass-roots based, in helping to implement government priorities, particularly on water services delivery. The funds were not available to 'activist' organisations, advocating for change and challenging government. Thus, began a struggle for the recognition of the SAWC and the definition of 'civil society'. This was successful and meant that the SAWC could access funds. A collegial relationship developed between the two civil society groupings – for example, each would inform the other about processes. The implementing agent for the Masibambane funds was Mvula Trust, who was asked by the caucus to mentor a new implementing agent from the caucus. This never happened – no additional funds were made available to Mvula to enable it.

While the overt conversation in relation to Masibambane was about who represented civil society, there were also issues around money: who had access to it, how it was used and the level of transparency of decision-making and allocation. DWA provided money to civil society groupings but there was no follow-up or assessment of how those funds were used. Members of the SAWC were distrustful of Mvula Trust.

From 2010 to 2012, money was ostensibly made available to the caucus through a Masibambane contract with Cape Peninsula University of Technology (CPUT). A SAWC steering committee member had proposed this arrangement at the SAWC BGM in 2008, and it was agreed that she "hold the water caucus space" in relation to this capacity building project, valued at approximately R1.2 million per year. She was then contracted to be the civil society coordinator by CPUT. However, concerns over decision-making and transparency of funds were not resolved, and promises of capacity building on rainwater harvesting and river health were never fulfilled (Ngcozela, *pers. comm.* 2014). There are different interpretations of what went wrong, including poor project management, lack of transparency with respect to project plans and budgets, poor communication, personality conflicts, inherent tensions in being accountable to both SAWC and Masibambane, internal weakness in SAWC coordination and to hold members accountable, etc. (Deedat, *pers. comm.* 2014, Sigwaza, *pers. comm.* 2014, Ngcozela, *pers. comm.* 2014). The result was that some community groups were left feeling used and angry. They had been consulted, visited, and promised training which never materialised; and no letter of explanation was forthcoming to the groups in Eastern Cape and Makhaza who had been excited to learn about rainwater harvesting and river health (Ngcozela, *pers. comm.* 2014).

Another tactic government has used at various times over the past decade to exclude the SAWC and its members was to define civil society as those people (communities) *directly* affected; they did not want to work with NGOs as intermediaries, but with "direct community representation". This tactic was used to keep the SAWC off the NWAC in the late 2000s (Deedat, *pers. comm.* 2014) to delegitimise the Water Leaks Project initiated by the water caucus in the Western Cape, and to dilute conversations with the regional office of the DWS in the Western Cape. This was an echo of the struggle during the WSSD to claim political space for the SAWC and not to be side-lined as a lackey of foreign donors working to destabilise an elected government.

This attack on the legitimacy of NGOs and networks that are considered to be part of civil society and represent the interests of poor or marginalised people was not ignored by the SAWC. They used it to ask the difficult question of how 'communities' or those affected are represented in policy. Who translates the local issues to national debates and how open and honest is this process? In an internal

discussion document on members' perceptions, some CBOs commented that they felt marginalised by the bigger NGOs (Jobela, 2006). Ngcozela (*pers. comm.* 2014) provides useful historical context to this:

> "Reading about the NGO-CBO tension took me back to when we started Ilitha Lomso (a community-based organisation in Harare, Khayelitsha). We realised it was advantageous to link with a resourced organisation and started to build our own capacity as an organisation. When we knocked on EMG's doors in 1995, the director just accepted us. A senior staff member helped us to write a letter to Golden Arrow (she was sitting in its foundation) and lent us a phone to call whoever we wanted to assist with our event, which was happening the next day. It was this kind of capacity to be able to do this – so twinning an NGO and CBO could help build the capacity of CBO to make its role as shock absorber for communities more prominent. I was Western Cape Provincial Coordinator at EJNF and recognised that if we took out all the NGOs, then the CBOs would not be able to take any form of environmental justice forward. In other provinces, white NGOs were kicked out, and EJNF remained only with CBOs and organisations like Sanco with no environmental justice experience or administrative capacity. White people are associated with the Democratic Alliance (DA), so race and politics always come into the Western Cape. From my point of view – environmental justice affects all of us, regardless of culture or where you stay, so partnering ... joint actions and joint campaigns ... worked best when we had EMG, WESSA and ILRIG. But those tensions remain that NGOs go out and seek money to work with communities maybe through CBOs. Moreover, when CBOs are not looking at building their own capacity it is easy to blame someone else and say, for example that NGOs are using us. This came up at the SAWC coordinating committee meeting in Joburg last year – the need for a structured relationship between NGO and CBO, so that don't end up with accusations that are unfounded because of uncommunicated expectations."

Yet, one other way that government officials have tried to exclude the SAWC and other CSOs is by appealing to 'election politics'. In Cape Town, when the dialogue on smart water meters between the City and Makhaza residents started to yield results (from the residents' perspective) and to challenge City policies and practice, City officials said that they could no longer liaise directly with the caucus and its affiliates, but only through the ward councillor who had been elected to represent people living in that area. This approach was given more weight at the National Water and Sanitation Summit in August 2014, where the new Minister emphasised the importance of working through ward councillors. The experience of this in Cape Town is bad. Ward councillors have political agendas that often have very little to do with residents' concerns. They act as gate-keepers between residents and City officials who are supposed to be delivering decent services. This is representative democracy trumping participatory democracy!

4.2.3   The SAWC as educator

The SAWC provides education and awareness and clarity for activism. It brings a wealth of information to the table about the state of water throughout the country, the crises on the ground, the heartbeat of the communities and their struggles and needs.

A DWA official cited water caucus success in campaigning on meters in Cape Town. In relation to the Phiri court case on whether prepayment meters were constitutional or the FBW sufficient, he said:

> "I didn't need to read much about the case because I think the water caucus had created enough awareness and understanding inside and explaining the issue locally, even before it came to a court case. The whole campaign made clear, and in some detail, that what government thinks works doesn't work."

He believed this awareness had been gained by many other officials, but that they would not admit it publically as they have turf to defend. Johnny de Lange, the Parliamentary Portfolio Committee Chair during the NWRS2 hearings, also highlighted the importance of this role of SAWC in bringing real-life

experiences of people on the ground to the attention of policymakers. He said that it was rare for parliamentarians to hear such perspectives.

The SAWC is also a political educator. Some key members have been particularly helpful in keeping the power of language and the importance of using words that reflect the world we envisage alive, rather than the world of neoliberalism. For example, during the development of the regulation strategy, the SAWC insisted that the DWA refers to people receiving water services as 'citizens' rather than 'customers' or 'consumers' (Sigwaza, *pers. comm.* 2014). Such arguments are not semantic, but raise awareness on how language constructs relationships. In this case, by choosing a word, people's right to water is quickly shifted from an equal right for all to a stronger right for those who have money; from a human right to a consumer right.

4.3   The SAWC Organisation and Interfaces

The SAWC meets every two years at a BGM where participants share their water struggles, key decisions are made, and future campaigns are planned. Meetings are also held when a member organisation raises funds for a specific process or discussion. The SAWC is not registered as a non-profit organisation, does not have a bank account and has never had dedicated funds, although money was raised through a member organisation to pay a coordinator for several years during the 2000s. The BGM is financed through money raised by member organisations.

The SAWC has always functioned as a loose network. This has been a strategic choice but has not been without tension. In particular, the lack of a coordinator and dedicated funds have been cited as hampering the SAWC's work. The informal structure also stresses the relationship between weak and strong members, and on who represents the SAWC in public meetings. However, there are also strong advantages to being less formalised: decentralised power, no struggle for the control of resources, and an ability to respond quickly and appropriately to emerging issues. The strong pressure to remain decentralised comes partly from many members' experience of the structure and eventual collapse of the EJNF. This shows that active members of civil society draw from past struggles and 're-form' in ways that show internal learning and are appropriate to current contexts and capacities.

Two other SAWC strategic choices worth examining are:

- The importance of engaging with government, for example, through participation in forums such as the WSLG and annual meetings with the Minister of Water Affairs, while recognising its limitations.
- A decision (partly in response to misgivings over the amount of effort put into national engagement with limited visible outcomes) to 'provincialize', namely, to strengthen and support local struggles through building the capacity of the provincial caucuses.

This decision was taken at the 2011 BGM in Coffee Bay. Subsequently, three NGO members were tasked with supporting development in three provinces each: the EMG to support Western, Eastern and Northern Cape; Geasphere to support Mpumalanga, Limpopo and KwaZulu-Natal; and the VEJA to support Gauteng, Free State and North West.

4.3.1   Responding to context

The SAWC's formation and identity was responsive to context. In particular, the campaign on water services, FBW and cut-offs and member organisations active on this, was a direct response to government's embracing of neoliberalism and its reach into the water sector.

> "Moving from the apartheid welfare state to a neoliberal liberation government has had ironic consequences. While access to water has been extended to millions, cost recovery principles have put these out of reach of millions of poor South Africans. The figures on provision of water services have been seriously questioned by analysts in the sector ... Water cut-offs in various cities and towns have led to mobilisation of social

movements like the SECC, Orange Farm Crisis Committee (also members of the water caucus)." (Munnik and Phalane, 2004).

"... we're doing what Margaret Thatcher wouldn't even dream of doing in terms of commodification of everything ... for instance the prepayment meters were outlawed in Britain ... very much in-lawed in our country with constitutional backing, god forbid." (Rudin, pers. comm. 2014)

Early on, the water caucus allied itself with the South African Municipal Workers Union (SAMWU), a member organisation, and won a victory against prepayment meters in Cape Town. The ANC mayor (Nomaindia Mfeketo) agreed to a moratorium on their installation. But, the relationship with the City remained strained, and a few years later the carefully constructed Water Leaks Project, initiated by the WCWC was "hijacked and messed up completely" by the City (Veotte, *pers. comm.* 2014).

"The caucus really wanted to ensure that when we fixed leaks in certain areas that we would leave behind some skills within the community to ensure sustainability." (Veotte, pers. comm. 2014)

This effort was sabotaged in two ways. Firstly, money earmarked by the DWA to support the implementation of the initiative was channelled through the City and never reached the caucus. Secondly, the City attached conditions to the fixing of leaks, namely, the installation of a WMD and an agreement to use no more than 6 kℓ (later 10.5 kℓ) per month for the first year.

The caucus once again transformed its struggle on water services in Cape Town to respond to this new context. It has engaged in research, education, mobilisation, and campaigning around the devices, leaks, bills reading and massive municipal bills. In fact, this new campaign that called for a moratorium on WMDs was cited by DWA officials as a successful example of the SAWC engagement for two reasons. It invoked the national regulator (DWA) to investigate concerns that a municipality was depriving its residents of FBW (Sigwaza, *pers. comm.* 2014), and it educated government officials on the problems experienced by households in relation to 'smart meters' (Brutus, *pers. comm.* 2014).

SAWC responded to a water sector initiative 'Raising Citizen's Voice' in contrasting ways. The intention of the Citizen's Voice was for people to understand their rights and interface with local government. In the Western Cape, activists were suspicious of the City's adoption of this programme as they believed it might be used to coerce people into accepting water restricting meters. However, in eThekwini, activists embraced the space provided through this programme to engage the municipality. This shows that through its decentralised structure, the SAWC is able to respond in different ways in different contexts.

4.3.2 A national caucus with international links

Linking local struggles together at a national level has been critical for the caucus and the sector. It brings collective struggles to the centre and provides an opportunity to learn from what is actually happening where people live. Those working on, for example water services, are enriched by hearing about struggles about acid mine drainage or timber plantations; and vice versa. Likewise, sharing stories internationally is empowering. As one SAWC member recounts:

"When I attended the World Summit [on Sustainable Development] my thinking was based on the local community. But afterwards you realise you don't have to fight for local issues only, but you also have to look at other people who are affected, like in China, Uganda, Nigeria. It has made me feel strong. We got advice from other people and we can go for the problem and challenge it." (Vukile Manzana in Munnik and Phalane, 2004: 31)

There have been three main international processes that SAWC has concerned itself with. The first was the WSSD, which in a sense gave it birth. The second was the WCD, and follow-up processes and networks, including the Dams and Development project housed by the UN Development Programme and international allies such as Network for Advocacy on Water Issues in Southern Africa, which the SAWC helped to establish, Africa Rivers Network, which the EMG as a member of the SAWC also helped to establish, and the International Rivers Network. The third process was the Private Sector Participation review, which led to The Water Dialogues.

The Water Dialogues operated in five countries and had an international steering group, in which the SAWC member EMG was active. In South Africa, the SAWC was represented directly on the multi-stakeholder committee, as were two of its members, the EMG and SAMWU. They helped to guide the research and dialogue process around nine national case studies. The presence of the SAWC and member organisations provided a critical voice in the process that would otherwise have been absent. And, in turn, the dialogues influenced the SAWC's thinking and tactics. While the SAWC remains opposed to privatisation, insights were gained into the extent of municipal dysfunction and the critical need for interventions there, regardless of the role being played by the private sector.

Internal politics also played out internationally. For example, the SAWC decided not to affiliate to the African Network on Water (ANEW), an African network focused on water services and sanitation, because it was seen to be sympathetic to privatisation. It was during the time of our privatisation struggles. Many African countries privatise water more than in South Africa (Ngcozela, *pers. comm.* 2014). Nevertheless, some SAWC members joined ANEW and found it useful for information sharing.

The SAWC also has relationships with some international CSOs that share its values, e.g. the Anti-water Privatisation Movement (Council of Canadians/Blue Planet), International Rivers Network, Africa Rivers Network, and others. In the past, the SAWC operated and made contributions to the global debates (for example, in relation to big dams) much more than they do at present. There have been shifts in the NGO/CSO spaces internationally and in South Africa that have led to decisions (sometimes strategic, sometimes pragmatic) to keep a tighter focus on local issues, operate at a smaller scale, etc. It is important to understand the strategic advantage of working with international CSOs to determine whether the SAWC should try to enhance this aspect of their work.

4.3.3   A self-reflecting organisation

SAWC members, government officials and parliamentarians agreed that the fact that the SAWC exists is a key strength – the sector would be weaker without it. It brings a much-needed critical voice. "Even though we don't have a very loud voice, there is no other voice" (Veotte, *pers. comm.* 2014). This is probably the main reason that the SAWC has kept going over the past 14 years: the SAWC is needed, and knows that it is needed.

The SAWC has a healthy history of self-reflection. During the years, through BGMs and other specialised meetings, it has continued to examine both the reason for staying alive, and the form best-suited to play its role. For example, in 2007, SAWC members organised and participated in a national workshop "reflecting on strategies and tactics for civil society organisations active in water services". This took four case studies where different strategies of engagement had been used. Firstly, it was sought to understand what was happening within the case study – to share struggles. Secondly, it was sought to understand what the case studies could teach us about how civil society interventions make a difference, and what the gaps and contradictions were. The case studies chosen were (EMG, 2007):

- The Water Dialogues.
- Prepaid Water Meters: The Case of Phiri, Masibambane.
- Citizen's Voice.

SAWC has also had deep internal debates on the form of the network. The demise of the EJNF, the Rural Development Services Network and other key networks was instructive. Activists who had watched these networks collapse advised against centralising and resourcing a large office. However,

some kind of central coordination was seen to be needed; things worked better when funds were available to pay a dedicated coordinator.

The question of engagement with government has always been a heated point of discussion. Although most members argued it was critical to engage with government, some raised a word of caution. Rudin (*pers. comm.* 2014) argues that seeing the *fact* of engagement (e.g. meeting with the DWA Minister) as a measure of success hides a weakness that these meetings often do not lead to any tangible changes. At a meeting with the Minister, it was clear that the DWA never actually *listened* or acted on information that civil society brought (Rudin, *pers. comm.* 2014). This view is contradicted by Deedat (*pers. comm.* 2014) who cited a regulatory visit to Msunduzi to investigate FBW provision being a direct result of the SAWC raising this issue with the authorities. There are other examples, but the fact remains that many of the concerns raised by the SAWC through meetings and consultation processes fall onto deaf ears, or into unexamined filing cabinets.

4.3.4 SAWC members and allies

The caucus is strong because it is able to activate individuals who have organisations behind them. The organisation with the largest membership is trade union SAMWU, with a membership of 160 000 workers. The SAMWU has been a member of the SAWC steering committee from its inception until the 2013 BGM, which they were unable to attend due to internal struggles. The logic was clear for the SAMWU to work with others in civil society and to align itself with the caucus.

> "One can simplify it by saying that you have municipal workers working for the municipality, but that same worker is also living in the community. Therefore, they have a deeper understanding of the struggles and the needs of the community. We have learnt from our past struggles that as the trade union you cannot stand there as an island. It was the trade unions with civil society groupings, right down to street committees that managed to overthrow the previous regime." (Veotte, pers. comm. 2014)

For the SAMWU, their primary interest was to fight privatisation, which resonated with citizen groups faced with water cut-offs, poor services and unaffordable water. Participation in The Water Dialogues, an international process on private sector participation in water services, was a logical next step, which deepened the dialogue and learning.

This collaboration between trade union and civic movement, and the strong critique of government policy was a contested space. The SAMWU is a member of Cosatu, the trade union federation that is in a tripartite alliance with the ANC and the South African Communist Party. Even Cosatu recognised the importance of working with others in civil society, but from early on they were selective and "wouldn't work with NGOs that said anything nasty about government ... and that tension of course remains" (Rudin *pers. comm.*, 2014). In the mid-2000s, the Advisor to the Minister of Water Affairs was so angry with SAMWU's claim that water had been privatised, that he refused to talk to an old comrade when they found themselves seated next to each other on a flight. He was not open to a conversation on how one understands privatisation (Rudin, *pers. comm.* 2014). The SAMWU is not currently active in the SAWC.

Aside from organised labour, the SAWC has consistently had NGO, CBO and individual members. These have included organisations working nationally, or even internationally, locally, in rural areas, in urban areas representing dam-affected communities, protecting rivers and wetlands, and so on. Many members see the caucus as a local network, and have not actively participated in national processes. The SAWC does not have members from outside South Africa; however, throughout its history it has maintained links with like-minded organisations working in other countries.

4.4   NWRS2 Campaign

The NWRS2 campaign emerged naturally from the history of SAWC and all the issues it had worked on to date. The form was perhaps unique to the circumstances, but the fact of engagement and the concerns raised had deep roots.

The SAWC's involvement with the NWRS started in 2004 when the first draft of the NWRS was developed. It held consultations with members in Cape Town, Durban and Johannesburg and submitted extensive comments on the draft version of the NWRS to the then Department of Water Affairs and Forestry (DWAF). As an exercise in monitoring the effectiveness of public participation, the SAWC, through EMG, then commissioned an activist consultant to review the comments it had submitted and the extent to which they were reflected in the final version of NWRS1. The results showed that the impact was disappointing (Greeff, *pers. comm.* 2014; McDaid, *pers. comm.* 2014).

The SAWC identified three reasons for engaging in the NWRS2 drafting process. The first was to influence policymakers and what is in the text. The second was to bring progressive perspectives to the public discourse. The third was to deepen its own understanding of the issues and to strengthen its internal functioning and networking.

The SAWC recognises that engaging with policy text is hard – the language is alienating, and the scale is very different from day-to-day lived realities. Water policy is also developed in a broader context, which means you cannot take the words at face value, but have to understand how they will be interpreted or ignored by government officials, industrial groups, farmers and citizens.

The SAWC tackled these challenges by recognising that it was engaging in a broader paradigm that undermines human-centred development, social justice and ecological integrity, and that comments on water policy need to be understood in that context. It then highlighted two principles, enshrined in law, that if implemented would make a big difference. These are the protection of the ecological and human reserve, and the principle of the polluter pays. Numerous issues that the SAWC has been involved with over the years were linked to the NWRS2 and discussed at the national meeting in August 2012, and in subsequent meetings in the provincial caucuses. These were consolidated into a formal submission to the DWA and presented to the parliamentary portfolio committee and the WSLG. In the EMG's civil society guide to the NWRS2 (2013), these issues were grouped into five interrelated categories:

1. Access to local water for domestic consumption, food-growing and the ecological reserve. This included comments on water conservation and demand management, productive water, communities without water living next to large dams, rainwater harvesting and protection of the ecological reserve.
2. Institutions and participation. This included clear and detailed recommendations on CMFs and participation, as well as comments on gender, countering the dominant voice of big water users, institutional restructuring and the reinstatement of meetings between SAWC and the Minister of Water.
3. Industrial power and abuse. This included impacts on water quality, acid mine drainage, industrial timber plantations and timber processing, fracking, bottled water and the enforcement of the polluter-pays principle.
4. Climate change.
5. Access to information, licensing, monitoring and enforcement, including citizen monitoring.

At the 2013 SAWC BGM, many participants said that participating in the NWRS2 process and the SAWC submission were a highlight of its work over the past two years. It is something that the SAWC should continue to do, and learn how to do better.

After the SAWC's final submission, the NWRS2 task team reflected on what had been learnt, which is that (EMG, 2014: 12):

- "Engaging with the DWA is not easy – for example, there was no initiative from them to involve us; documents and funding for participation weren't readily available; it was difficult to know who the right people to speak to were.
- The DWA programme to support civil society (hosted by CPUT) was not effective and almost undermined initiatives that the SAWC had already undertaken.
- Linking policy analysis (content) with provincial representation (accountability) strengthened our organisation and our submission.
- There are important parts of the NWRS2 that we do not have skills and/or time to engage on, for example, we know institutional reform will have wide-ranging impacts, but we do not know what these will be for us.
- It is difficult to see how policy will translate into changes on the ground, and how people's grass-roots struggles can be reflected effectively in policy.
- We are one of the only organisations bringing public interest and eco-people-centred views to the debate (for example, during the Parliamentary hearings on the NWRS2, we raised unique perspectives that stood in contrast to the interests of big water users such as farmer associations and industry).
- Cooperation with NGOs that have expertise in certain areas strengthens our work. For example, the CER's work on licensing and compliance, the EMG's work on urban water demand management, Timberwatch and Geasphere's work on timber plantations, and World Wildlife Fund's work on grasslands and wetlands. Most of these NGOs are SAWC members.
- There are possibilities emerging from this process, including building more structured engagement with the DWA on, for example, the CMFs."

SAWC engagement with NWRS2 was done in an organised, collective, considered, quality way, which is important (Rudin, *pers. comm.* 2014). Inside the DWA, things were more chaotic, and it was difficult for outsiders to find out what was going on. Even DWA officials found it stressful. According to a Western Cape official who was drawn in because he has a history of working with public participation (although his official role does not include participation), the NWRS2 was internally complicated and confusing, even for those inside the DWA. Coming together to meet (e.g. on NWRS2) helps the caucus in two ways. Firstly, putting everything together in the form of a presentation or booklet consolidates thinking and, secondly, it builds or sustains national links and gives encouragement to people who might otherwise feel very isolated.

4.5   SAWC as Seen by Others: Allies, Government and Industry

"I know that it's a voluntary organisation consisting of activist people who are passionate about water issues." (Sigwaza, pers. comm. 2014)

"The water caucus always had a lot of credibility; an ability to mobilise people who it has continuing and active links with ... areas where voices aren't usually heard from." (Brutus, pers. comm. 2014)

These two quotations both point to the fact that the SAWC is seen to be a genuine organisation that raises legitimate issues by people who care. More than that, the SAWC plays an important role in a sector that cannot be fulfilled by government or other players. It provides independent regulation and reminds government that water is not just a technical issue. The SAWC works on equity issues and climate change (which is also an equity issue). It also promotes the accountability of government – making IDPs and budgets more transparent and readable.

One interviewee noted that the caucus has fun! People would stop following it if it was too dry and grinding or irrelevant or if it talked down to people. The SAWC has done a respectable job of developing a system to ensure people feel there is space to learn and grow (Brutus, *pers. comm.* 2014). Using tools like mapping, cartoons, etc. has really "enriched my appreciation of what can be done and that often is not done because government starts going for the glossy big picture of the minister on the front page – you know, big infrastructure" (Brutus, *pers. comm.* 2014).

The SAWC is a reminder of people's activism against apartheid and that we must work with what we have – there is power in this and it is appropriate not to go big and glossy, especially in this time of self-enrichment. The SAWC also allows for personal connection but does not come across as crusading. This is evident in, for example, EMG's book "Water and Climate Change: An Exploration for the Concerned and Curious" (Wilson, 2011). It has not been written to build a profile or promote a particular individual. There is an authenticity about it which is very precious (Brutus, *pers. comm.* 2014).

The SAWC's role in the sector is critical in holding government accountable, educating and bringing fresh perspectives to policy discussions. It pricks the consciousness of government to make information available (although often the information cannot be found even within government). The SAWC could also help with 'aftercare'. For example, once the DWA has installed rainwater tanks, the SAWC could help make sure they are used and maintained, and alert government to any problems. The importance of the SAWC's role in the sector in bringing grass-roots voices to decision makers has been affirmed by parliament, the SAHRC and government officials at both local and national levels.

However, participation is not always embraced by authorities. One interviewee stated that government did not like participation in the past and still does not like it. DWA officials are engineers and scientists who think they should just be allowed to get on with their jobs. This view is supported by an analysis of post-democracy environmental policymaking, where it was identified that water was one of most technical of policy processes (Peart and Wilson, 1998). Money is not set aside for processes – public participation often comes in the form of a 'show' for the Minister, which is all about the looks and conforming to a brand, and nothing about the content of level of engagement.

However, there is another stream within the DWA that supports participation:

> "People [in the Department] have gone through the experience of working with civil society and they know that you need to consult the people. I think there is this consciousness within the Department that we need to strengthen. And we learned it through the water caucus, through making mistakes and all of those things." (Sigwaza, pers. comm. 2014)

Sigwaza argues that consultation is important because the DWA needs to understand the views of ordinary people:

> "... because sometimes if we are in government we think that this is how it is, and yet we do not understand the perspective of other people. So, it is important that we listen to the people who are using the service on a daily basis, as to how they experience it; not to think for them." (Sigwaza, pers. comm. 2014)

Both the SAWC and DWS have noted that consultation seems to be weaker or stronger, depending who the Minister is, and what their views are. This is worrying as it means that public participation is *de facto* 'discretionary' despite legislative requirements. A Minister who sees it as important makes funds and time available to consult, and require senior members of DWS to report on it. Without this interest, participation can revert to something to tick off a list, no matter how poorly it is done. Until the late 2000s, the SAWC held regular meetings with the Minister of Water Affairs, who would make funds available for members from various provinces to attend. Even when there were disagreements, SAWC members found value in talking to Ministers who were easy to engage. Minister Sonjica, for example, would "sit down and talk with us, and listen without being arrogant or angry" (Ngcozela, *pers. comm.* 2014).

The SAWC's strengths include shaping policy.

> "It has been very useful in thinking through things and providing feedback on policy issues. I think I would say around the policy development, policy environment, and also consultation." (Sigwaza, pers. comm. 2014)

The SAWC has also effectively allied itself with academics and universities. Bringing in academic rigour, for example, in the development of a survey on Cape Town's WMDs, provides legitimacy to the research findings, as well as another forum in which to raise critical issues. There are academics, researchers and students who use or want to use the SAWC networks to make their research more legitimate and relevant.

5 SOCIAL LEARNING AND THE CHANGING PRACTICE COURSE

This chapter outlines the research and learning approach that was adopted for this citizen-monitoring project. It focuses in particular on the Changing Practice course that was designed to take water activists from the SAWC through a social learning process to change the difficult situations they face together with their communities. This course formed the basis for generating on-the-ground knowledge of how (and to what extent) the NWRS2 is being implemented and, therefore, what policy shifts need to happen to strengthen the public interest aspects of water policy.

5.1 Considerations in Designing the Research and Learning Approach

Many South Africans have been denied access to good quality education and thus struggle not only to access further education, but also to access the knowledge networks and social capital networks that these institutions provide. This research project engaged in an action research process that considers this context when designing a research and learning process. Furthermore, we acknowledged that:

- There is value in local, indigenous and spiritual knowledge and that we need to find a way of engaging with this knowledge in equal dialogue with other forms of knowledge.
- The playing fields are unequal, and some people have not had access to quality education.
- Civil society activists need to learn to contextualise local cases within a policy framework so that they can participate more effectively in local, regional and national water governance. This means that inter/transdisciplinary research needs to consciously integrate learning into research processes.
- Researchers who have had access to formal education have a lot to learn from and about local contexts and experiences, as well as dialogue across knowledges.
- We need to deal head-on with power dynamics that arise from an unequal society by designing a research process that creates opportunities for dialogue at multiple levels.

The focus of research and learning is not only generating knowledge but also on generating change by building the capacity and knowledge within existing institutions, particularly civil society institutions. This meant housing both the research and learning process within the social movement of the SAWC with the explicit aim of strengthening this institution.

5.2 Social Learning as a Guiding Process for Change

Social learning has emerged strongly in the field of environmental education. This is in response to the transition of an industrial society to a risk society (Beck, 1992) characterised by uncertainty, unpredictability and insecurity. In preparing to respond to risk, learning needs to be designed to enable people to critically engage in many different ways of knowing, to be able to organise as a collective and to be reflexive and adaptive in a time of great uncertainty (Burt et al., 2014; Wals, 2007).

Social learning is the learning that takes place through the act of living as we participate in the social practices that make up our daily lives. Social learning educators harness this natural ability to learn and design processes that equip people to be more reflexive and conscious of our everyday learning. This includes questioning whether our learning is leading us to be more sustainable, more adaptive and more responsive to the risks and uncertainties we face as a collective. A good way of thinking about social learning is as a collective engagement with *practice*, which brings about a change in what we know about the practice and how we act.

> "How people learn from each other as they participate in water practices can transform the way that knowledge is thought about in the water sector. This is because the focus of these theories is not on only providing information, but also on collectively transforming practice." (Burt and Berold, 2012)

'Practice' refers to the activities we do day to day that give us agency in the world. A practice could be the way in which we manage our workload, or it could be the way in which we govern a resource. Monitoring a river is a practice. This new focus on practice in education and research (Schatzki et al., 2001) is associated with a realisation that changing individual behaviour is not enough; we need to

change our collective practices that are damaging the Earth. Exploring practice is a particular approach to learning, or epistemology, which situates the individual within a social and cultural context. We are not islands but historical and cultural beings networked in a particular space in time and a particular culture (Engeström, 2000). This particular space, time and culture impact on what we know, how we know it and what we can do about it. Social learning, as well as critical pedagogy (see below), acknowledges this cultural and historical nature of the learning space, which is why the focus shifts from changing the *individual* to changing the *practice* of which an individual's actions are a part.

A social learning approach allows educators to acknowledge that they do not know the answers. There is no one discipline or knowledge system that can be imparted to people to help them solve the difficulties they face in the world. This means that the learning process is designed for people to learn together how to address complex problems. The educator or facilitator is as ignorant about possible solutions as the participants are. The educator's role is to guide participants through a process of understanding what is going on, what we know already, what we do not know, how we can find this out and what we can do. This role includes helping participants identify different knowledge from different places that could help us to understand the problems we face, as well as investigate possible solutions. Some examples of what kinds of knowledge this may include are:

- The actual biophysical nature of the problem such as the pollution levels of a river.
- Understanding how the river came to be so polluted by linking the kind of pollutants to the industries, waste water treatment works and upstream settlements.
- Understanding why industries, waste water treatment works and even communities are polluting or getting away with polluting. This may include understanding why institutions are not working, why government systems of compliance are failing, and how this is linked to the past as well as different scales of governance.
- Cultural knowledge and the ethics and values it holds. This may guide us not only to know more about our world but to change our relationship with the world.
- The tensions or contradictions between what we know and what we are told, or what we know and the way the practice is unfolding on the ground. For example, we know that the polluter-pays principle is there in law, but in reality, the polluter rarely pays. Why is this so?
- Possibilities for change that we consider once we know the tensions and contradictions.

The social learning educator does not hand out information but engages participants in a process of co-learning where knowledges are in dialogue with each other with the explicit aim of coming up with possibilities for change. This means that social learning includes intangible aims like learning to trust and respect each other, learning to communicate with each other and learning to work together for change.

By engaging directly in a social learning process, one of the Changing Practice course participants developed deep insight into the nature of social learning and described it this way:

> "Social learning is like a mountain pass through all these very difficult obstacles. On every level the challenge of trying to understand what social learning is, the challenge of trying to make a difference when we feel so tiny compared to the hugeness of the problem. We are forging this even though we can't see where we're going. It feels like we are in quite a narrow space together we are forging this path."

Social learning, although critical about the way in which learning happens, does not adopt an emancipatory pedagogy overtly. It was therefore also important to situate the course politically if it was to be designed and implemented as a change-oriented process that would be transformative.

5.3 Designing the Changing Practice Course for Emancipation and Transformation

5.3.1 Education as political practice

Learning is not a neutral activity. The great critical educator, Paulo Freire, was outspoken about how education is a social and political practice and how this practice can either transform or perpetuate the status quo (Bowers and Apffel-Marglin, 2005; Czank, 2012; Dardar, 2014; Freire, 2000b). We have only to think back to South Africa's educational history to know that what Paulo Freire advocates rings true.

Formal education usually reproduces social structures that are unjust (Bhaskar and Scott, 2015) and denies diversity in culture and values. Therefore, environmental educators have started to incorporate the words 'transformative' and even 'transgressive' into the concept of social learning. Educators argue that we need to design and engage in learning processes that bring about transformation in the way we usually do things (Lotz-Sisitka et al., 2015). The recent emphasis on 'transgressive', which means consciously pushing beyond boundaries, is because environmental educators are realising even more that environmental change is not only linked to social change but that it is also not possible without radical political and economic change. Transgression allows environmental educators to start critiquing their own work and start considering whether our educational processes are addressing and preparing people to engage with the root causes of suffering and environmental destruction in the world or just surface issues. It also forces us to critique our own position as teachers or facilitators. Are we remaining neutral or are we also acting against oppression? This new emphasis has led to a re-engagement with critical educators such as Freire who always stated that education should be a political practice of transgression (Dardar, 2014).

There are many approaches to social learning that suggest models for transformation. We worked with Wals' model of the three stages of social learning (Wals, 2007):

1. Confront: The guiding question is: 'What is there?' As social learners, we use this question to confront our context and to investigate exactly what the problems we face are.
2. Deconstruct: The guiding question is: 'What do we know?' As social learners, we use this question to look more deeply at what we know and identify gaps or tensions in our understanding. It also asks us to reflect critically on what we know.
3. Reconstruct: The guiding question is: 'How should we act?' As social learners, we use this question to consider the possibilities for change and what action should be taken to bring about this change.

In this citizen-monitoring project, we used these three questions to design the overall approach to the Changing Practice course. We also drew on other transformative learning approaches that provided more guidance on how to investigate context and how to unearth contradictions. As the whole intention of the course was to catalyse agency in the world, we also considered what mediates agency. In other words, which tools, artefacts and social processes provide social learners with the opportunities to enhance agency (Bhaskar and Scott, 2015; Engeström et al., 1996; Engeström, 2001; Haapasaari, et al., 2014; Vänninen et al., 2015).

5.3.2 Cognitive justice and critical consciousness

For Freire, the purpose of education is to transform society to be more just and equal, and to liberate the mind. All educational processes then are about questioning the structures in our world that perpetuate injustice. One of these structures is the knowledge systems we draw on, and the reason why we are taught some forms of knowledge and not taught other ones; why some knowledge is seen as more important than other knowledge; and why some knowledge is hidden in certain structures such as in schools or in the way in which we formulate government institutions and policy (Kincholoe, 2008). For example, pupils learn in school about a particular history that often excludes the role of women. History often focuses on the achievements of a few individuals, usually men, rather than focusing on the way human relationships or structures changed. Often history is structured around conquests or resistance such as wars or revolutions and is written from the perspective of the victor. It also ignores

other human ways of being that have made our world the way it is. This knowledge is shared between people informally. For example, at a recent SAWC gender dialogue, both men and women spoke about the power of women in communities. Yet, this cohesive power is often not recorded or recognised as vital for human organisation and community governance. As a critical educator, this means that we encourage drawing on different knowledges and also engaging in the politics of knowledge (Kincholoe, 2008) and why certain knowledge is ignored and why other knowledge is prioritised.

A critical educator brings into the learning process conversations around powerful structures that perpetuate injustice such as systems of racism and sexism. It is as important to understand how prejudices play out in situations we face and the practices we engage in, as well as to understand the empirical reasons for these situations. We also need to continually question our own assumptions regarding race, culture, nationalism and gender, and whether the way we work together and learn together perpetuate these structures.

In India, scholars also began to question the role of a neutralised and depoliticised 'knowledgeable' action in relation to the Bhopal gas spill. It was argued that science can also be violent and uphold unjust practices in the world. Visvanathan calls this "paying attention to cognitive justice". He argues that citizens are not only consumers of knowledge, but also producers or generators of knowledge (Visvanathan, 2006). This concept became very useful for the research team to understand what we were trying to do in the course and in the whole research project. Our interpretation is that cognitive justice "is understanding that knowing and knowledges are linked to people and landscapes and just like land and water these knowings cannot just be unconsciously consumed, used, removed, appropriated into the language and meaning of other knowledge systems without causing damage" (Burt and Wilson, 2015).

For Freire then, education was a process of learning a critical consciousness. Freire believed that the ultimate pedagogical aim was liberation. He understood liberation to be the liberation of the self; a quest for human completion (Dardar, 2014). This process of liberation is ongoing. Unlike psychological theories that speak of 'self-actualisation', Freire embraced a more Marxist or Buddhist approach to liberation where one could not be liberated alone but only if all beings were also liberated. This emerges from a deep understanding that an individual is part of the world and cannot be free in a world where most people are not free. Freire went as far as to argue that oppressors are also not free. Their oppression of others traps and enslaves them and it is an act of love to free them from this oppressor status through resistance (Czank, 2012; Freire, 2000b).

A liberation pedagogy then means engaging with the social structures that inhibit freedom and enabling certain people to oppress others. An educational process should enable participants to confront the world and the reasons why oppression is possible. In this age of massive human influence on the planet, this includes what makes it possible for humans as a species to oppress that we completely rely on – our living planet.

Freire emphasises dialogue as the main pedagogical method. This does not only mean dialogue with each other in a workshop setting, it means dialogue with the world, of which we are a part, so it includes a dialogue with ourselves and with nature. This kind of dialogue means drawing on many different knowledges but starting with what we know to be real and through a process of questioning and problem statements, to begin to widen our reading and our questioning of what is and what can be changed (Freire, 2000b).

This understanding that Freire gives us as to 'what liberates', helps us as educators to consider how to provide learning opportunities that enhance agency at different levels to enable a critical reading of the world and to open up spaces to imagine new possibilities.

5.3.3 Four planar being and expansive learning

Bhaskar considers agency to be enabled at four levels. He calls these levels the four planar being (Bhaskar, 2012; Bhaskar and Scott, 2015). The first is at the level of our relationship with ourselves, the second is at the level of our relationship with others, the third is at the level of social structures, and the fourth is the level of our relationship with the Earth. Bhaskar argues that transformation needs to happen at all four levels (Bhaskar and Scott, 2015). Environmental educators need to 'plug in' to these levels of potential agency when designing learning processes. They also give a lens to understand what kind of learning has happened from a learning intervention.

In designing the course, we also drew on Engeström's work in activity systems that are based on Vygotsky's educational work that learning happens around a cultural and historical embedded activity. Engeström (2001) provides a well-thought through process for bringing about change through learning, which is very similar to the action research cycle but with a conscious focus on learning. This is called the expansive learning cycle. Expansive learning includes modelling possibilities, building solutions, implementing, reviewing and consolidating new practice. In this way, it is similar to the more traditional action research (Engeström, 2001, 2007; Koopman, 2014; Mukute and Africa, 2009; Von Becker, 2014).

As mentioned above, learning often focuses on the individual and the individual's personal experience. The Changing Practice course starts here, acknowledging individual experience and suffering. It then moves learning from the personal experience towards engaging with the contradictions that lie within our collective activities and the activities of institutions, countries and corporations that can perpetuate or transform suffering. These contradictions become the focal point of learning. Once contradictions have been identified, the group works together to model possible solutions and try them out. This core position draws on the original work of Vygotsky that has been taken up by cultural-historical activity theory (Engeström et al., 2007; Vygotsky, 1980). It is particularly important when relating to environmental issues which are often highly complex, involving multiple drivers and existing within the open systems of human social interactions (Engeström and Sannino, 2010; Lotz-Sisitka et al., 2015).

5.4 Changing Practice Course: Design, Process and Observations

In environmental work, one of the challenges is bridging the gap between knowledge and action. This course responds to this challenge. It does so by taking each participant's current level of knowledge, their working context (what they do), and their aspirations for improving an aspect of natural resource management or redressing environmental injustice as the starting point. Freire calls this the 'generative theme', which becomes the space around which learning is designed and the core catalyst of learning (Kincholoe, 2008). The generative theme that we worked with in this project was called the change project. It was something the participants were passionate about and that affected them directly. It drew on relevant knowledge, skills, needs and aspirations. It was also linked to one of the four NWRS2 themes identified by the SAWC to be monitored.

The primary objective of the course was developing the competency of water activists to support the improvement of local natural resource management practices, water governance and environmental justice. It was also intended to challenge the status quo whereby community-based activists are often positioned as 'fieldworkers' or 'data collectors' and then the research is written up and published by salaried 'professionals' in NGOs or universities. Through the social learning course and the development of case study booklets, the learners themselves were empowered as researchers in their own right.

To do this, the course helped participants to work with knowledge in a way that is relevant to the context that they work in. It helped participants to understand the complexities and politics of knowledge use in practice. It aimed to improve the educational practice (both mediation skills and social learning) of activists in the environmental sector who work directly with groups of people involved in natural resource management practices, water governance, service delivery or in activities that affect the environment. The course required all participants to interact with and contribute to the development of their community and work contexts through their chosen change project.

Another way of describing such an approach is to say that the course used a reflexive 'work together'/ 'work away' structure, drawing on the expansive learning approach (Engeström, 2007) that allows for participants to apply what they have learnt in between course sessions. Through this process, participants learn the skills of how to mediate knowledge in response to questions that arise out of the work that they are doing. This approach leads to changes in people's thinking (cognitive change) and in their social action.

Participants' change projects also contributed to a broader research project. The on-the-ground experience of learning to develop a change project included doing a contextual analysis, building a knowledge network, building a case study, and planning and implementing an action plan that provided evidence of what enhances and constrains civil society participation in the NWRS2. Therefore, the course was about building change projects in local areas and about reflecting on what it means to build a social movement that is responsive and active in the water sector. As part of the course, participants were asked to reflect and analyse their own experiences of working as civil society activists. The results from this action research then fed into the project deliverables such as the draft Citizen Monitoring Guidelines (Appendix 2) and what it means to engage in and support participatory water governance in South Africa.

The 'work away' sessions also consisted of mentoring meetings that were led by one of the participants from each case study area and attended, when possible, by one of the researchers or the course coordinator and facilitator. The course model and how it fits into the overall research project is outlined in Figure 3.
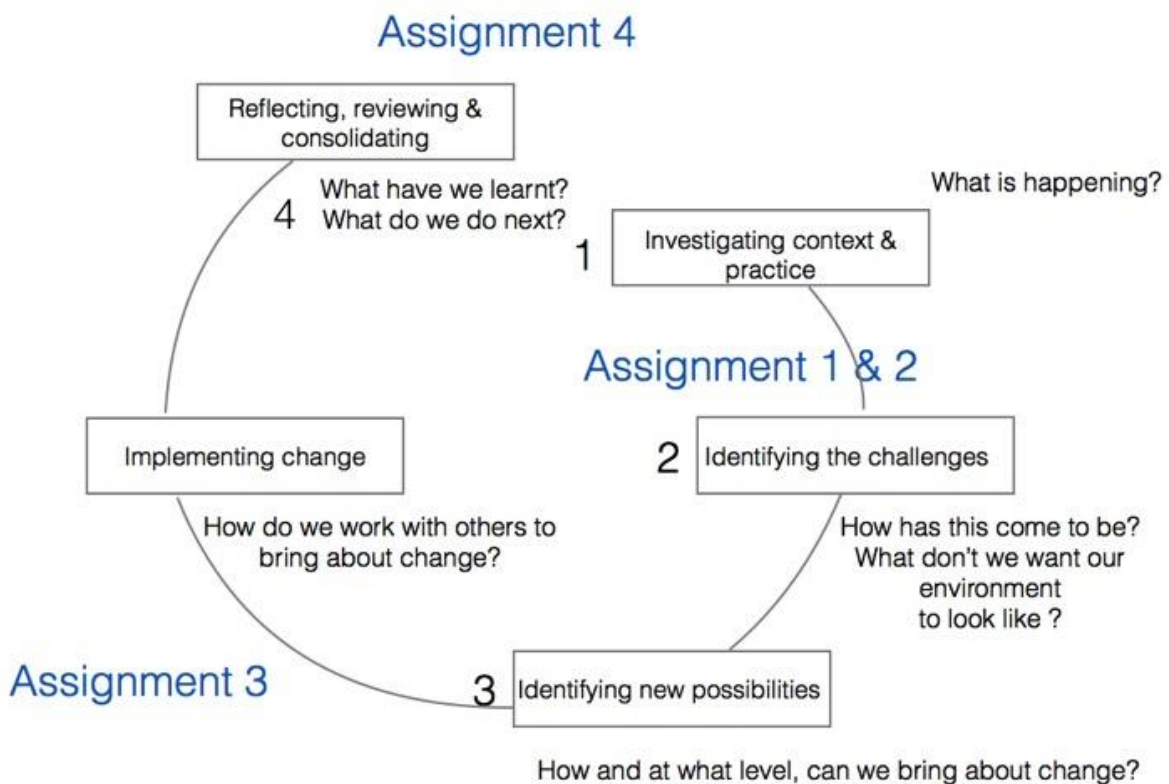
Figure 3: The social learning course model

The course is guided by four key questions drawing on Wals' (2007) approach to social learning and the stages of expansive learning (Engeström, 2001). These questions also guide, but are not tied to, each of the four modules:

- What is happening? (Module 1).
- How has this come to be? (Module 2).
- How can we imagine new possibilities? (Module 3).
- What have we learnt and what do we do next? (Module 4).

5.4.1 Exploring context and practice

The first two questions that guide this course (What is happening? and How has this come to be?) encourage a rigorous reading of the world with others. Czank (2012) argues that this is necessary to understand how things have come to be through the history of individuals and structures and how these histories have produced the "material and symbolic layers of human life." This 'reading of the world' (in this case the local practice) is encouraged through photo-narratives, observing and questioning through narratives of practice in the context of the NWRS2.

Mdluli's exploration of context through photographs

Patricia Mdluli, who worked on the issue of 'plantations, ecosystems and water', developed a story of context by taking photographs and then describing the photographs. This is an example of one of her photos.

Figure 4: Prophets discussing water issues

"This picture shows prophets discussing about lack of water in the rivers and they don't know how they can solve these problems of water. The issue it represents is a shortage of water to the rivers, and the prophets are no longer baptising people very well. People need to know especially government and farmers that the gum trees are draining more water. It represents challenges that they face – farmers are farming more gum trees while the traditional healers and the prophets are suffering because of the drainage of water by the gum trees." (Patricia Mdluli)

Engaging with these questions does not only encourage participants to consider their local context as it exists right now but to ask questions about how and what has happened in the past have led to this situation and to consider the different scales of influence that make the problem what it is today. This includes considering their local issues in the context of the NWRS2. This is done by encouraging participants to see their local context as situated within broader social life where influences at all scales, from the local to the global, impact on their issues. Another way of saying is that it helps us understand social phenomena by viewing it as laminated (Bhaskar, 2010).
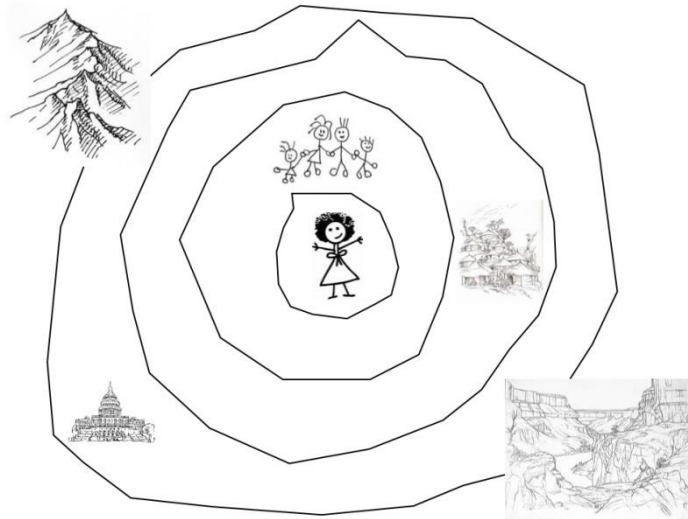
Figure 5: Participants broaden their understanding of context

Participants start with their current understanding of their context then broaden this understanding through engaging with different knowledge at different scales and considering how their issue is part of a much broader context.

The focus of this aspect of the course also encouraged participants to expand their understanding of issues beyond how they manifest in individual lives to consider the contradictions and issues in the practice that they are trying to change, for example, the practice of participating in a CMF or the practice of traditional healers and their relationship with polluted water. By focusing on practices, participants broadened their attention to consider how to change what we do rather than just critiquing an issue or representing a problem. It also gave participants the tools to reflect on their own practice, for example, the kind of actions activists take, and whether these lead to the kind of change we want to see in the world.

James' exploration of context and practice through 'narratives of practice'

Manelisi James worked on the issue 'water conservation and demand management in the context of climate change'. Participants were asked to explore what people in their case study area did, said and how they related to the water practice being focused on. James describes Steven's salon:

"Steven is a Nigerian nationalist and he has been in Dunoon since 2011. He decided to open his salon in front of the house that he is renting, and he needed water to run his business in order for him to put bread on the table for his family; and many of the household have water management devices and due to the fact that these devices are not functioning effectively, this affects the community because they cannot get a reliable water supply.

Figure 6: Steven's salon

Doings: To run his business, he had to connect the pipe from the landlord`s house and he had to connect a wire for power supply for heating water. He had to hire a welder to cover the drain with a piece of flat iron so that it does not get blocked by the dirty things that are thrown negligently by the people. This does not end here as he had to build a corrugated shack and buy burglars in order to secure his business.

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Sayings: *Steven says connecting water and electricity is not an easy thing to do as there is high cost involved. He says he is very happy about his business as it is not easy for foreign nationals to get employment. Steven is worried about the installation of a water management device as it will affect his business. Steven also has a lot say about the municipality. He says the municipality should fix leaks and educate people about the water wastage and pollution.*

Relatings: *In order to access water, Steven has to rely on his landlord and to persuade members of the community not to throw dirty things in the drain. He also needed to speak to community leaders to speak with the local councillor so that there must be a space for emerging small businesses in the township." (Manelisi James)*

Figure 7: Covered drain to avoid pollution

The key skill learnt was how to stand back and reflect on how we are doing and how things could be done better. This was done by encouraging participants to really understand the context they work in and what practices already exist in these contexts that either inhibit or enhance change towards social and environmental justice.

Lusithi observing the context as if for the first time

Thabo Lusithi worked on the issue 'water conservation and demand management in the context of climate change'.

> *"It was 2014 in October when I visited the area and the weather was not hot nor cold it was just pleasant that particular day. I finally decided to drive to Dunoon and not ask to be driven this time around. I remember being happy and nervous at the same time as I was not sure what to expect on the roads also I was not confident about the direction. Just imagine I've been going to Dunoon for years now. I remember coming from the N7 taking the offramp to (Plattekloof) and being greeted by this huge tank of the refinery that is owned by Chevron now, formerly owned by Caltex. Seeing this refinery just took me back to a conversation I had with Tex Dludla from Dunoon about how the smoke and dust affects them during the night in Dunoon, and I could feel the mood changing in me immediately. I continued driving until I arrived in Dunoon where I was welcomed by taxi mini buses just stopping at anytime and anywhere that's when that's what disturbed my Chevron moment. First thing you will notice is the amount of people in the streets, the piles and piles of garbage on the sidewalk, water creating a soapy and greasy carpet on the road. Luckily, I was driving (and that feeling so un-activist), but I truly did feel glad. Other observations would be the unbelievable architecture of the houses NO! They are not beautiful; they are incredibly small. You would also see that there are no spaces in between houses and most of these houses have a business run in their property. This is done to generate income through rent because most of these shops are owned by foreigners." (Thabo Lusithi)*

5.4.2 Evidence gathering and building a knowledge network

Participants were also encouraged to explore what it means to have evidence for statements that we make about the practice and the issues of the practice. This starts to get participants thinking beyond their standard statements about a problem and consider what the evidence, in this case the observations and the narratives, are telling us about the situation. This was explored through mapping both onto maps of the physical environment, and also mind mapping and brainstorming. (This was explored again after participants had expanded their explorations beyond the local context.) They also identified key questions that they wished to explore further. They were introduced to the idea of a knowledge network where knowledge is not something that is handed down from one person to another but is created in networks of people and contexts. Therefore, it is easier to access knowledge by becoming part of the network where this knowledge is shared and where it has meaning. The participants were encouraged to think about the networks that they already belong to and then to think about how they could extend these. The course also explored how we know if knowledge is trustworthy, reliable and useful.
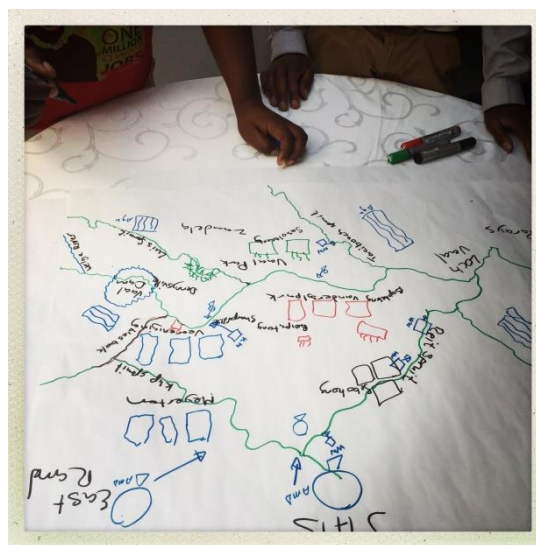
Figure 8: Participants mapping what they found out during their explorations

5.4.3 Imagining new possibilities

The third question (How can we imagine new possibilities?) encouraged participants to consider where their minds took them as they thought about how they could change the world and what actions to take. This imagining is not ungrounded, but emerges from an authentic and meaningful investigation. 'Authentic' is used as Paulo Freire uses it, where education and learning are about developing a critical consciousness. Freire describes a valid investigation of the world as a 'dialectic play between ourselves and the world'; where critical consciousness means having a 'true grasping of causality which is realised through an experience of and with the world' (Czank, 2012). Being denied agency in Freire's terms means being denied access to knowledge, to the production of knowledge *and* to the collective process of knowing and learning through a relationship with the world.

Often people say that a lack of critical thinking is due to a lack of good education. We disagree. A lack of critical thinking is not a sign of a lack of education; rather it is a sign of miseducation. The course did not attempt to teach people how to be critical but to remove what inhibits their natural ability to question their world (Burt et al., 2014).

To begin the journey into new possibilities, the participants began pulling together their story into a case study. A key aspect of this step was that participants began to work with increasingly more people. Their case study was used by the anchor organisation or PWC to develop an action plan. The case studies were presented at the SAWC BGM and used to discuss future plans and campaigns of the organisation. They were also used to catalyse discussions at an ongoing dialogue between the SAWC

and the DWS, which was initiated through this project. The dialogue focuses on what civil society sees as critical issues for DWS to respond to if the NWRS2 is to be implemented fairly and effectively. At the first meeting, a senior DWS official commented that SAWC was well-informed. This informed position, which is generated through the careful and passionate contextual work, and the support of academics and NGOs, paid off in this context. It was also clear, from other comments by governmental staff, that they were mostly unaware of the lived experience of people that seemed to contradict the intended outcome of policies.

5.4.4 Case study documentation

The final step of the course was to consolidate the work done during the course into case study booklets that could be used by other members of SAWC as examples of how to monitor policy. These are publications of the SAWC (see http://changing-practice.sociallearning.development.hupu-labs.biz/change-projects/ to access 'Saving Moholoholo', 'Water and Tradition', and 'Devices Put Livelihoods at Risk in Dunoon').

Figure 9: How individual change projects became a catalyst at different scales

5.5 How Social Learning Catalysed Agency in SAWC

Reflection on learning was included throughout the project. In particular, sessions were included during the course modules and in team meetings. During the final module, a whole morning was set aside to reflect on what the full project team, including course participants, had learnt from the entire process. This session was facilitated by Athina Copteros who had not been involved in the project to date and so was able to bring a fresh, external eye. Additional knowledge on what people had learnt was generated through one-on-one interviews by Jane Burt with individual learners. Italicised quotations in this section are by learners and drawn from these reflection processes.

We consider four levels of learning and change based on the four planar being (Bhaskar and Scott, 2015):

1. Learning and change that have occurred within the individual.
4. Learning and change that have occurred between people (relational agency).
5. Learning and change that have happened at the level of structure.
6. Learning and change that have occurred between people and the natural world.

5.5.1 Learning and change that have occurred within the individual

Assignments as a mechanism for personal growth

Each assignment was designed to assist participants in developing skills to further their change project or 'generative theme' as described by Freire (Kincholoe, 2008). Participants reported how their assignments became a record of personal growth particularly in relation to writing skills. They could see as time passed how their skills in articulating themselves through the written word increased.

> *"The pre-course assignment was very useful as you can go back to it and see how far you have come."*

The course encouraged participants through a technique called 'free writing' to let go of the difficulties associated with writing assignments that often come with a more formal education system where assignments are marked as either right or wrong. Participants expressed how the experience of doing assignments in the Changing Practice course was different from what they experienced in other learning environments.

> *"In the beginning I was nervous to hand my assignment to Jane [Burt], but when I got it back I realised that her comments were there to help me learn and I had a chance to rewrite my assignment again and again."*

Participants gained a variety of skills and insights, such as the ability to generate questions and to be able to talk to someone using these questions.

> *"The assignment on knowledge networks gave me the tools to know how to talk to people, what questions to ask them. It showed me the importance of having a knowledge network and how to build it. I now approach people very differently after doing this assignment."*

Having to listen to people's stories and understand the situation from their perspective developed empathy for their situation. This was particularly so with municipal officials as participants started to understand their very difficult working circumstances. They also developed a greater understanding of the problems people face once they spoke directly to them. For example, when Lusithi and James spoke to a plumber who worked for the municipality, they started to get a sense of the personal difficulties that he had to deal with in trying to implement the City of Cape Town's policy. They learnt that the plumber sympathised with the people from Dunoon and their plight.

Respect grew for people when engaging with them around their practice. This was particularly the case for the participants from the Vaal. Ngcanga, Tshabalala and Mokoena were all deeply touched by the spiritual practitioners that they came in contact with, and this enhanced their respect for traditional spirituality. It also increased their own passion for their change project and the worth of the work that they are doing:

> *"What helps is the manner of the approach where one has to do the research. The focus on developing questions helped. I think it is a skill again to develop the question and go to talk to somebody about it. Getting to understand the practice itself and how it interacts. I know how important water is for them. So, it becomes more meaningful what we are doing. It is something that is worth it."*

One participant in particular found great personal benefit from investigating the context (which includes an investigation of the history of the practice/issue). His family had been removed from an area during apartheid. Now that he was older, he had returned to the area and chose to investigate the history of the landscape as part of his first assignment. He expressed how he felt this process reconnected him with his past. He was also a new member of the water caucus. The investigation of the context of plantations in the area opened his eyes to environmental issues that he felt, up until now, he had not considered.

> *"It opened a vista or a horizon of experience. I had to read about a place that appeared new to me now".*

He also commented on how people from his tribe appreciate the historical work he is doing and which he hopes will affect the youth in the area. There is a strong sense from him that he is reclaiming something that has been lost or taken away.

> *"What excites me is going back into the history of Mariepskop. That excites me and finding out what it really means because it got lost somewhere."*

Participants reflected on how the course and participating in the broader research activities led to more confidence in their work. This was partly due to participants feeling that their change project cases are strong and evidence based. One participant reported that by going through this process, he has a much better in-depth understanding of the process.

> *"This has led to a change in how we present at the [catchment management] forums. We have already done the research; we already know what we are talking about. We have evidence that the practice exists and how it works. We are more resourceful."*

This quotation highlights that the process of developing a strong case has led participants, particularly young participants, to feel more confident in their work. The projects have also helped participants see connections that they had not seen before and in some cases to change their minds about people, issues and organisations.

Another aspect of the course that built confidence is that participants were encouraged to draw on a range of knowledges including their own local knowledge. This includes traditional spiritual beliefs and practices. One participant reflected on how doing the change project on traditional spiritual beliefs had built his confidence. He argued that it is as if African beliefs have had to hide in the dark, which erodes people's confidence. When knowledge that is so a part of one's life is given space to be heard, then it builds confidence. He said that in most spaces, African traditional knowledge does not have a voice but in the course, this was encouraged.

Some participants felt that the course helped them to find their passion. One participant discovered his love for history and how important his own personal history was both to him and his community members. Another participant described how she is new in the sector and was not sure what she wanted to focus on, but through the course she discovered that she loves working with people. Her real passion is helping to ensure good quality water for everyone. The more she learnt about water quality, the more she wanted to know and the more she wanted to work in this field.

Creating a place for the emotional historical being

In reflections and research team meetings, participants spoke of very difficult and very challenging situations that they needed to negotiate daily. Many experienced traumatic life events during the 18 months that we worked together. Often participants needed emotional and psychological support. Two participants became very sick while doing the course. This meant considering how to keep them updated, involved and informed with limited resources. When we reflected during the final module, it was apparent that the role of civil society change agents in South Africa is a rewarding, challenging and exhausting one. Participants commented after the reflection session that they felt lighter but also quite saddened.

When running courses such as these, it is worth considering how to provide spaces where people can let go of the role of being an activist for the world and be given the freedom to be themselves with their own struggles and challenges, their own painful experiences and wounds and to acknowledge their own joys, strengths and achievements.

5.5.2 Learning and change that occurred between people

Through the assignments, participants reflected on how they learnt to generate questions, engage and approach people. Ngcanga reported how she went to interview a government official. The official helped her with her interview skills once he understood that she was doing a project for a course run by Rhodes University. She said that the government official would stop her and ask her if that was the question she really wanted to ask. When she asked a good question, he would give her a compliment.

Lusithi reflected on how the knowledge network assignment helped him understand what networking was all about and how you go about doing it. He found this changed the change project for him because the knowledge network assignment helped them bring people from outside of Dunoon into conversation with their work. Many participants commented on how learning to find the right questions helped them to approach people. Mokoena reflected that he learnt that it is important to do your research before approaching people; this takes longer than he thought.

As mentioned above, the contextual work of Assignment 1 changed the way in which participants viewed the people they were working with. They also learnt that developing relationships with different organisations takes time and different tactics. For example, in the Vaal Ngcanga, Mokoena and Tshabalala found that they learnt a lot more about traditional spiritual practice by going to the traditional health organisations rather than speaking directly to practitioners. They also learnt about how these groups were networked with other government departments and learnt more about the policy tensions that existed for spiritual practitioners.

The mentorship design of the course helped participants rely on each other and work together. In particular, Mokoena enjoyed the role of mentorship even though it added to his workload. It inspired him to see the younger members of his team grow and develop through the course.

> *"What excited me the most about this course was seeing the change in Thandiwe [Ngcanga]. I can see how she has changed from the pre-assignment until now. It gives me hope. I am not academic. I am a normal person but seeing the young people grow and helping them makes me feel that they can go somewhere."*

One of the key principles of social learning is that learning is a collective process, particularly, when the issues or tensions we are dealing with are highly complex. The group reflected on how this element of the course design really helped them draw on each other's skills and learn from each other's cases. For example, two groups were exploring traditional spiritual practice. A participant from one group commented that he had not thought of the problems around access to traditional plants that a participant from another group raised.

The interactions between these two groups was seen as so valuable that they organised a field trip to take spiritual water users (SWUs) from the Vaal to visit those in Mpumalanga as a way of exploring each other's case study work. For some, the value was in learning about what others found significant. The group was also seen as valuable in and of itself. Copteros, who facilitated the final group session, observed that the significance of the group coming together for the participants is that the group itself has become a knowledge network. A participant reflected:

> *"This is when I've met the group, we did not realise that a knowledge network was built ... As we are growing, the knowledge network is starting to be broad."*

The participants also valued each other's experiences, which built the relevance of their work. Some commented that by working with others they realised they do not have to do this work alone and can draw on other people to help them. Another participant commented that it felt like they were building a big picture together. This suggests that the social learning group developed a camaraderie that built solidarity.

> *"It is not just a problem here. So, we are one. We all fall into the same bowl."*

The younger participants were proud to be working with and learning from more seasoned activists. One commented that he couldn't believe he was working with Comrade S because he is so well-known and, in the beginning, he was a bit intimidated but "we are buddies now." Participants realised that in the Changing Practice course they were all learning, and the more seasoned activists struggled with the same challenges as the new, younger participants. In some cases, the younger participants were able to help the older ones with social media and computer-based skills.

5.5.3 Learning and change that happened at the level of structure

Anchor organisations and PWCs as catalysts for broadening change projects

For this citizen-monitoring research project, the Changing Practice course was situated within the SAWC, a social movement made up of organisations and individuals. Each course participant was supported by an anchor organisation. Each anchor organisation was a strong member of their local PWC. Each PWC connects with the national water caucus (SAWC) through regular information exchange via an email group and periodic strategic meetings. The SAWC is situated within the water sector where it both influences and is influenced. See Figure 1 in Chapter 1 for a graphic representation of this structure and how the citizen-monitoring project was situated within it.

The anchor organisation managed the funds for the local change projects and provided support to the participants. Together with the PWCs, they also engaged with the case studies and helped the learners to frame them within broader policy discourse. Each of the four anchor organisations played their role a different way based on their own internal capacity and organisational culture.

Being able to influence change at the level of social structures often needs a collaborative and organised approach (Du Toit et al., 2013; German et al., 2005; Pelenc et al., 2015), which is what we were hoping for by embedding the change projects within anchor organisations that were key players in a broader social movement.

Of the four anchor organisations, the VEJA provided the most support to the social learners and was able to share what they learnt with other task teams in the organisation. This could be because of three factors:

1. A senior member of VEJA staff was a participant and mentor on the course and could work on integrating the change project work into the everyday running of the organisation. By being a participant, he understood the struggles of his fellow participants.
2. The VEJA's own network may be the kind of network that most benefits from this kind of social learning process.
3. The timing worked for the VEJA as it was emerging from a difficult period in their organisation. New leadership was able to draw on the skills and research from this project to rebuild the organisation.

What is clear is that where participants did not get support from an anchor organisation, their ability to complete their change projects suffered. This may not be the only reason for the struggles of these particular participants, but it is a contributing factor. The difficulties experienced by one participant who attended all the 'work together' modules but was unable to complete the 'work away' assignments are reflected in the following quotation by a fellow learner:

> *"Comrade T's journey has not been smooth ... some of the bumps are caused in terms of mind shift because for him when we started talking about the social learning, for him that was for academics. When he went through the first module... it was something serious when he went there. What he heard there started to open him up but when he went back to his anchor organisation ... there was not really an uptake or support, he felt demotivated ... The support is coming from outside [from the course and PWC]. That outside support caused pressure for him."*

Some PWCs were very interested and motivated to hear and learn from the social learning change projects. This added pressure on this particular social learner to deliver while he felt unsupported by his anchor organisation. It was hoped that the course would be able to build capacity within the anchor organisations. However, our initial reflections indicate that unless the anchor organisation has a certain kind of capacity, the organisation is unable to integrate and support the work of the social learners.

The level of engagement of the PWCs in the social learning process also differed. In the case of the Western Cape, the action plan that made up Assignment 3 and drew from the findings of the change project case was developed in collaboration with the whole WCWC. One reason was that the WCWC coordinator was a social learner on the course. In Mpumalanga and the Eastern Cape, the social learners were asked to give informal feedback regarding their progress. The Mpumalanga Water Caucus (MPWC) has a keen interest in the social learning process because members can see how the learners have developed due to their participation in the course. At their recent annual general meeting, members agreed that they wanted the social learning to continue in some form and to include other members of the caucus.

At a national level, the change project case studies were presented at the SAWC BGM and provided a basis for dialogue and debate about some of the future focus areas of the SAWC (SAWC, 2015). The cases were also presented at the meeting between the DWS and SAWC as evidence of issues relating to the NWRS2. These presentations were developed in collaboration with the participants and researchers who are part of the WRC project and who are also members of the SAWC. This again shows how situating the course and the social learning process within an established network allows for greater support for the participants as well as other members of the network. Other members consist of community-based activists, activist researchers and established NGOs. These members are able to take the work done by the participants to a broader policy level to support the work of the network as a whole.

Learning to navigate structures

At a local level, some participants struggled to engage with government whereas others made small breakthroughs by finding at least one person within a municipality to talk to. One group spoke about how they could not get the municipal person to agree to a meeting. Thus, they asked another municipal person if they could interview him in his role as a CMF chair. At the same time, they asked him questions about the municipality's issues and position. This became a topic of conversation in the course and made its way into the Citizen-Monitoring Guidelines (Appendix 2). Drawing from the rich history of SAWC as well as the experiences of the Changing Practice participants, researchers wrote up these guidelines that include how to develop relationships within structures that are not necessarily open to civil society participation or do not have the capacity to facilitate engagements with civil society.

Working with issues of gender violence and poverty as a lived experience

Part of critical pedagogy is to work against oppression of any kind. This means that the critical educator needs to be on the lookout and challenge any forms of structural oppression that emerge through participants' engagement with their 'generative themes' or during the course.

One of the young women on the course was sexually harassed when she started interviewing people in her community. The woman was very brave to talk about her experience to all the participants during Module 2, as well as in her reflection interview with Burt. She expressed the all too familiar feelings of guilt that come with experiences such as these.

> "... there was one member I experienced emotionally ... That is where I talked about that guy that we agreed that we are going to do the interview and when we get to the place where we are supposed to do the interview, he said to me he would bring the pastor, but when we get there it is just him and his stories. So that was difficult for me and it made me want to maybe feel guilty or ask myself that I shouldn't have been involved in this course because now these things are happening, and I started to feel

that this is not where I belong. But, then after that I realised this is just only one person and I'll just move from this and not all people will be like him. And other people were cooperative. The assignment that I enjoyed more than the others was the one where I interviewed the official from government (Assignment 2)."

This led to a discussion about gender violence and gender inequality in South Africa, including subtle forms that prevent women from participating fully in society. It highlighted the responsibility of educators having to consider societal issues and contexts that may seem to lie outside the mandate of what we are trying to achieve.

It was also quite apparent during the course that women in the group spoke less and, in some cases, were silenced by their male comrades. It was also telling that only one woman on the course completed all the modules. This does not necessarily mean that the women were unable to attend because of gender exclusion, but it does say something about the lives of women in South Africa and the everyday pressures that make it difficult to engage in activities that develop their own learning or give them an opportunity to engage on a more public platform.

In response to the experience of female learners, and gender inequalities and gender-based violence rampant in South Africa, it was agreed to address the issue of gender, in particular the vulnerability of women, in three ways. In the interim, we agreed to make sure that female participants did not interview or talk to strangers alone. This is a mechanistic solution and, although important, does not deal with the underlying cause of gender violence. The second intervention was to begin a dialogue on gender within the SAWC. This was initiated at a meeting in October 2016 through skilled external facilitation. It generated a desire on behalf of all participants to explore this issue in greater depth, perhaps through designing a SAWC project through a gender lens. Finally, we resolved that future social learning courses need to integrate a stronger exploration of gender issues. This would include mechanisms to help women navigate the pressures of their own lives in relation to participating in the course.

As was the case with gender, there was a power imbalance between people who have easy access to money and other resources, and those who do not. Course participants included people who were employed in stable jobs, volunteers and unemployed people. All participants attended the course in a voluntary capacity, but some were given time from their job to do this, and so – in effect – were paid to participate. Any research costs incurred by a participant were covered by the project. However, it was up to each anchor organisation to decide how to disburse this money. Some were given a monthly stipend to cover transport and phone costs, others were reimbursed for actual expenses. In three of the four provinces, the anchor organisation made their office available for free use of computers, internet and phonelines. This was not possible in Mpumalanga due to the large geographic distance between the learners' homes and the anchor organisation's office.

This uneven access to resources affected the ability of some people to participate fully in the course. The financial constraints for some were extreme. For example, when the course facilitator visited one participant she was ill and unable to afford medication. A few participants struggled to get access to a computer, which made finalising their assignments very challenging. It often meant finding transport money to get to and use an internet café. Any stipend received had to go to so many places.

Although this issue was raised among the research team, it was not brought up in the course or as a critical issue to dialogue around. Some efforts were made to address it at an operational level, but these could only go so far. It is a very complex issue that weaves through our whole society, and like gender, requires careful consideration in how it is addressed.

Learning to work with different knowledges, knowledge networks and universities

By speaking to and engaging with a range of people from academics and government officials to traditional healers and spiritual practitioners, participants began to see the value in the different knowledge that different people hold and how this deepens their understanding of their change project cases. It also helped them to see different people's perspectives. The learners were very aware of the complexity of the situations they work in, and that there never is only one side to an issue or problem.

This was articulated by participants during the final reflection session when they were asked to use a piece of cloth to describe what they found meaningful or valuable about their experience on the course. When reflecting on the cloth, a few people commented on it having more than one side. Flipping the cloth this way and that, they demonstrated how there are different ways of seeing and that there is an element of the unpredictable:

> *"I think I also believe what D said to say that it has got two sides. It might not be that visible for me with naked eyes but maybe if I can use some scientific looking eyes I can tell also this is the front, this is the back ... So, for me this represents problems of what has happened according to the initial planning. So, the back part of it has not really happened according to the way it was thought about."*

This interaction with different knowledge systems also initiated a different attitude or interest in organisations or groups that are sometimes not seen as part of the activists' world. The fact that the course was accredited by Rhodes University made the group consider the role that universities could play in bringing about change *and* the value of their work for universities. This was one of many relationships that they found themselves questioning and re-evaluating as they proceeded through the course. One of the aims of this WRC citizen-monitoring project was to explore and encourage the partnerships between activists' on-the-ground research and researchers who come from formal institutions. There are obvious challenges. Most community researcher-activists have very few resources and rely on strong NGOs or universities to make their work possible. They are often paid far less for the work that they do and are often excluded from more powerful platforms that academics can access where work is shared, evaluated and critiqued. One course participant presented his work as a poster at an international conference and said that the experience made him 'feel lonely'. What is hopeful though is that this research project and Change Practice course may be the entry point into further exploring how to develop meaningful change-oriented partnerships with intellectuals and activists.

Copteros highlighted the particular change in participants' attitudes to academia that arose during the reflection session. She appreciated the group's opinions about academia and that they expressed this openly and saw that they have something to offer through the course and through their own lived experience (Copteros, 2015).

> "Society we now tend to judge, as this is academic, this university does not represent us you know. But the journey has taken us to say there is a space of learning from both sides."

One of this research project's aims was to build more meaningful engagements between academic institutions and activists. Having scholars and an academic institution as part of the project gave participants the opportunity to draw on academic knowledge and see how their local knowledge provided important contextual understanding into complex environmental issues. This has led to a re-evaluation of the role a university can play in activist work. The question remains, "How does an academic institution interact meaningfully and effectively with civil society, especially when it is working to effect change?"

Copteros argued that social learning has a lot to offer in this regard, but that academic institutions themselves are slow to embrace this as a credible, valid and meaningful way forward (Copteros, 2016). One way to tackle this is through integrating the lived experience of all participants (including academics) into processes of learning.

Developing an understanding of social learning through being involved in a social learning process

The experience of being involved in a social learning process also helped the participants develop an understanding of what social learning means and how it is a valid process for their work as activists. They were able to identify that the process they were going through was different to any other learning experience they had been through before, that it was a collaborative effort and that they were going into

the unknown together, and that they were learning new things that they did not know before without having to be told what these things were. Below are a few quotations that represent the group's understanding of the social learning process that they were contributing to:

"I loved what Jane [Burt] said on the first day [of this course] that the case study should be so familiar and so comfortable that we wear it like a comfortable t-shirt, something about a shawl or something around the shoulders. That the work we've done actually makes us kind of stronger going forward, protected from the elements. I think this is sometimes what people wear in ritual. And that the work we've done (and it's a case study now) also has the power of everything that has been put into it to carry forward."

"This course is not like other courses. There people come to the front. They bring in one person, for example, on how to use the internet and they stand in front of the room and tell you. This course is different. Jane [Burt] doesn't run the courses like this, the participants are asked to pull something out and pull it up. They are not told what to do. This is very different and also very challenging. Like today being asked to think about the first steps of action. This is very different, and we have to pull something up out of our context and understanding."

As an outside facilitator, Copteros provided the following insight into the role and benefits of the Changing Practice course (Copteros, 2015):

"The Changing Practice group is an inspiring group of learners. They come from a very rooted space within their own communities. Their context presents them with enormous challenges and yet as learners it makes their contribution and learning incredibly relevant and valuable. Their embracing of social learning and acknowledgement of different knowledge systems has offered them ways of negotiating potentially unshiftable situations. Being offered a wider variety of tools and the language with which to research and negotiate their case studies seems to have contributed greatly to their ability to effect change. This complex space and the commitment of the learners is captured in the following quotation taken from a learner sharing his partner's learning journey as represented in the sand tray images:

'The municipality was very anti-working with him. They were preparing the community not to like him ... he had to fight to get through that. Fortunately, now that he's working through social learning, there is light in the tunnel ... the municipality has started understanding what is happening and the community although still not very clear about what is happening ... The only thing that helped was social learning because he had to start talking and explaining what is happening ... The social learning has really contributed a lot. The social learning for him has empowered him to find ways by which he could unlock, like the stuff that is happening her; so that this can stop ... He is keen to continue looking for the right key. He is not just going to be doing that alone, he will be doing that together with his colleagues and comrades ... until the river becomes blue again and the life returns.'"

5.5.4   Learning and change that occurred between people and the natural world

The focus on different knowledges, which include cultural knowledge and an expression of different versions of history that are not often articulated, led participants to reconsider their relationship with the natural world. Mashile's investigation of his own personal history and the links this had to the current situation in Mariepskop led to his whole team reflecting on how the plantations have done more than reduce the water flow. They have led to whole communities being displaced and losing touch with their connection to the Earth.

The Vaal case led Mokoena, Tshabalala and Ngcanga to question the way in which we articulate our relationship with nature. This became a key topic at the last module where the group had a dialogue

regarding how spiritual practitioners have a very different relationship with water. It is not viewed as a resource but as a living thing. Mdluli, the traditional healer on the course, reflected on how, for her, the plantations have changed the actual living force of water. She said that she goes to the rivers to do the rituals, but that the water is dead. This theme of viewing nature as a living entity in people's lives is a strong theme in the work of the SAWC. The change projects reignited this conversation and helped the participants develop strong cases to argue that spiritual knowledge holds within it a different kind of relating to the natural world that demands respect and a change in practice.

Most of the participants on the course, who are long-standing members of the SAWC, are already driven by an environmental ethic. Some participants were new to the SAWC and were brought on board because of their particular interest in the case or because they were affected by the issue. These participants reflected on how the course challenged them to consider the connections between environmental issues and social issues that they were struggling with. For example, Mashile started making links with the problem of plantations as a land use practice. He started to understand how land use has a direct impact on people. This made him think about the land under claim at Moholoholo and what should happen to it. He realised that one of his roles is to help people see this link. He has identified a tension in the community who is claiming land. He said that the people doing the claims are not interested in pollution and water. This is something he did not understand or considered when he started the course. He described his new understanding as follows:

> "It is always an afterthought. After going through, it is as if I have left my jacket there and I think how am I going to get my jacket back? I left my jacket in the other room, so I must negotiate to go and get my jacket but the person who I go to get my jacket from may not be interested in my jacket. So, those are the two things I am grappling with. I want to marry them ... they must marry ... as one is depending on the other. I must feel after completing I must see it as one."

6   THE CASE STUDIES

At the heart of this project are three case studies (known as change projects), developed by the learners on the Changing Practice course. The themes addressed by the case studies all have a long history within the SAWC, and relate to three of the ten issues raised by the SAWC in the NWRS2 consultation process. However, the specific details and areas of focus that the case studies looked at were defined and refined by the learners themselves in the process of carrying out their change projects.

The case studies are captured in two ways. They are available as three booklets as written by the learners in each case study area (available at http://changing-practice.sociallearning.development. hupu-labs.biz/). Secondly, they are written up within this report, in this chapter, as summaries of the local work, contextualised within the broader themes or issues which the SAWC has been tracking for many years, and which relate to implementation of the NWRS2 and other water policy. The case studies can also be seen as 'living processes' in that they continue to be broadened and deepened as new knowledge emerges and through actions that change conditions and reshape the issues and relationships within the policy cycle and geographic areas where the case studies originated.

6.1   Why Case Studies?

The reason we chose to work with case studies was multi-fold. It seemed clear in the work of the SAWC to date that "the devil was in the detail". In other words, the failure to implement public interest aspects of water policy, including public participation, related to specific, on-the-ground difficulties. For example, *how* a meeting is facilitated can easily exclude women's voices by failing to address a power dynamic where men dominate. Likewise, meetings might be scheduled at a time when women are busy with childcare. This means, for example, that women's perspectives will not be included adequately into catchment management plans due to ignorance of local contexts and not because there is a gap in written policy.

Case studies are a way of exploring what happens in the implementation side of policy in more detail. Grounding them within the broader policy cycle means that lessons can filter into new approaches and institutional structures. Case studies also allow us to root policy in the real, lived experience of people for whom water policy is designed. They provide a 'reality check' for well-intentioned policy that might have unforeseen negative consequences, such as domestic water demand management strategies that do not consider people's needs of water for livelihood activities. Thirdly, case studies provide a vehicle through which local knowledge is valued and given its rightful place alongside other knowledges, such as hydrology, climate science and financing water. Finally, case studies, situated as these are within the broader political economy, provide the potential to transform power inequalities present between local and national imperatives, and within different forms of knowledges. They have the potential to lead to cognitive justice.

Through an iterative cycle of question, action, learning and reflection, these case studies fulfil multiple roles or functions. They address issues of concern that the learners were already grappling with as activists in their communities, giving an opportunity for 'digging deeper'. They provided an area of focus for the learners to apply their growing repertoire of action research and social learning practices to. They were born out of engagement with the NWRS2, so that the work undertaken by the learners could feed directly into monitoring of water policy, thereby strengthening the practice of citizen monitoring and forming the basis for engagement with DWS. Lastly, they were – and continue to be – linked to other civil society work so that they continuously strengthen solidarity and networks within the social and environmental justice movement.

6.2   Social Learning Approach to Case Studies

The case studies (in their booklet form) were built up and developed over the course of the four Changing Practice modules and associated assignments (described in detail in Chapter 5), through working with context, building knowledge networks, understanding other actors and communication.

The learners were taken through a learning process and provided with skills to:

- Investigate context and practice through developing stories. Participants brought stories to the module from which we drew out questions about what is stopping the change that we want to see. So, together we identified the questions that come out of practice.
- See if any knowledge already existed to help answer the questions and if there were gaps. Participants learnt how to develop a knowledge network – that is, ways of connecting to the necessary knowledge.
- Mediate the knowledge they have gathered back into the context where they are working. Each group developed a draft case study that they took back to the people they had been working with to see if it resonated and could be improved.
- Review, reflect on and learn from what has been done together.

In order to graduate from the course, learners had to write up their change projects in the form of a case study, which included an action plan for the next steps required to bring about change at local level, policy level and in terms of building the social justice movement. These case studies now exist as tangible 'products' (in the learners' portfolios, in booklet form for distribution, and online), meaning that they can serve as the basis for ongoing engagement, conversation and action. The case studies are also ongoing processes, embedded in the communities in which they were developed, with impact reaching further into the water sector.

6.3 The Case Studies

The case studies presented below are analytical summaries developed from the written and oral presentations by the social learners, from discussions by the authors of this report, and contextualised within key themes of the NWRS2. Each case study includes an introduction to the activists involved as learners. This is to emphasise and centralise the individual activists involved, because the case studies are as much about the change in approach and perspective that the activists underwent, as about the issue that was researched.

6.3.1 Inclusion of traditional healers in water quality governance – Vaal, Gauteng

This case study looks at the participation of civil society in the monitoring of water quality in the Vaal area. It investigates why traditional healers and spiritual practitioners, who are important direct water users, are currently underrepresented in policy and catchment forums. Their everyday practices are impacted by poor water quality and they could potentially act as monitors of water quality in the Vaal.

Meet the learner activists

Figure 10: Samson Mokoena

Samson Mokoena works for the VEJA, which is the coordinating organisation for the Gauteng branch of the SAWC. He has been working as an activist against coal pollution for many years. His current focus is on stakeholders who are not consulted or informed of the effects of pollution caused by mining. These include traditional healers and spiritual groups. He will be addressing this with formal authorities and forums. He is the coordinator of the Vaal group.

Figure 11: Thandiwe Ncanga

Thandiwe Ncanga is also involved in water quality issues of the Vaal River. She consulted and worked with local church groups who use the water for spiritual rituals. Her aim is to both inform and involve these groups in the ongoing battle against pollution.

Mduduzi Tshabalala is interested in the health impacts, particularly regarding faith-based groups and traditional healers, of using rivers and dams for religious and cultural practice. He wants to encourage these groups to get involved and monitor the water before use.

Figure 12: Mduduzi Tshabalala

History of the issue

Originally, this case study was to explore questions of water quality in the highly contaminated river systems in the Vaal industrial triangle. The VEJA has a strong history of working with this issue, challenging polluters, and raising these issues in CMFs. However, the practice of spiritual and religious leaders immersing themselves and their followers in the Vaal and its tributaries soon came to the fore. This practice of 'purification' or 'cleansing' raises questions about the metaphysical properties of water, as well as the virtual exclusion of these SWUs from water governance structures, such as CMFs.

This case study positions African spiritual groups and traditional healers at the centre of protecting their water-related practices within a modern democratic society.

The Vaal case study

The learners on this case study conducted interviews with SWUs, visited special sites, spoke to leaders from traditional healer's associations, municipal officials and DWS officials, and they participated in CMF and CMA meetings. They were able to draw on the substantial networks and experience that the VEJA has established over many years.

They noticed the absence of groups such as traditional healers (SWUs), women's groups, fishers and emerging farmers in the CMFs in the Upper Vaal that they engaged with. During the case study:

> *"We realised that SWUs are much better and more relevant custodians and monitors of the rivers, fountains and dams, as they have a moral reason and will have strong support in advocating for access for clean water." (Vaal Case Study, 2016)*

The case study argues that there is non-compliance by DWS in regulating the pollution of rivers in the Vaal; that there is a group of people (SWUs) using the water on a daily basis and putting their health at risk by doing so; and that this group of people is overlooked and excluded from water governance. Furthermore, the learners are concerned that the Traditional Health Bill excludes some people who use rivers for spiritual purposes. Thus, these groups are even more marginalised.

Through their research, the learners have learnt more about African spiritual practices. This has broadened their understanding of water resources management in the area and opened their minds to other ways of seeing the relationship between people and water. The history of European colonisation included an attempt to annihilate forms of knowledge that did not support Christianity, such as African spiritual practices. Western education has also helped to denigrate worldviews that are not scientific. In response, holders of traditional knowledge adapted their practices to protect them. Now that we are seeing the devastating environmental consequences of "man's dominion over nature" and modern industrial societies worldwide, there is an interest in seeking and understanding traditional views and practices that did not see humans and nature as completely separate – or that used nature as an entry into the spiritual world. This case study provides an opportunity to explore this in a practical setting.

The VEJA's research found that it was difficult for learners to engage directly with individual spiritual practitioners. However, the organisations of spiritual and traditional water users were very interested in developing a relationship with the VEJA and exploring processes where they could have greater say in water governance. By its nature, the knowledge held by healers or priests is 'secret'. Like all socially held knowledge systems, it has its own rules and processes for knowledge protection and sharing.

There is no point trying to teach nuclear physics to someone who has not finished high school maths; likewise, there is spiritual knowledge that is unavailable to the uninitiated. Thus, working on questions of river protection through organisations of traditional healers makes sense. However, as with all institutions, these are not devoid of power, gender politics or vested interest.

One aspect of knowledge to explore here is the 'properties of water'. A conventional modern approach would include a list of chemicals and minerals that the water contains. It might include properties such as hardness, or biological and chemical oxygen demand. These would all be measurable indicators of water quality and allow a water manager to know whether the water was safe for human consumption, or other uses. Historically, the properties of water had a broader meaning. For many societies and religions, water has the ability to cleanse and purify. These properties do not disappear if the water is dirty. They are intrinsic – part of water itself. Thus, there is the seeming contradiction of people being washed clean in the contaminated waters of the Vaal. By bringing together different systems of knowledge, this contradiction can be worked with, resulting in less harm to rivers and the people who use them.

Policy links and lessons

One consequence of the lack of consultation of important grass-roots groups such as SWUs, women's groups, fishers and emerging farmers, is that the promises of transformation in governance remain unfulfilled. Another is that decision-making about (1) how catchment management happens, and (2) allocation of resources remains biased against excluded groups.

The VEJA aims to use their work to start a conversation between SWUs and government officials. The explicit aim is to counter the exclusion that this group of water users has had until now. The inclusion of SWUs and what they know is one of NEMA's principles. Section 2(4)(g) of NEMA (1998) states:

> "Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge."

The learners would like to see SWUs mentioned in the NWRS2 or future water legislation, and SWUs participating in local CMFs. This work could form a precedent for bringing in other excluded groups, such as fishers, small-scale farmers, women's groups and food growers. However, this conversation also opens another possibility that would be interesting to monitor and document. If there is meaningful inclusion of SWUs, the governance institutions (such as CMFs) would need to change fundamentally due to a meeting of different forms of knowledge. This could radically change approaches to water management and protection of rivers, as well as creating space for people to learn from each other.

Because rivers are indispensable for African spiritual practices, including initiation and communicating with the ancestors, there is a strong motivation to protect them. In the Vaal, SWUs are threatened by unregulated pollution that pours into the rivers, and by the privatisation of riverside property, which blocks their traditional pathways to the river. These two issues align closely with environmental justice concerns, and thus form a strong platform to build an alliance between the SAWC and SWUs.

Through the case study, the learners have encountered contradictions within the Traditional Health Bill, whereby certain SWUs are excluded because they are not defined properly or are not recognised. There is scope for trying to understand the implications of this better, as the learners and the SAWC goes forward in trying to create opportunities for traditional healers to participate meaningfully in water governance.

6.3.2   Plantations, ecosystems and water – Moholoholo/Mariepskop, Mpumalanga

This case study looks at the treatment of water-producing areas where plantations and mines compromise the ability of people to use water effectively and justly. It focuses on Moholoholo (also called Mariepskop) in Mpumalanga and works with communities and traditional healers who are dependent on river water of which the flow is determined by upstream activities in the catchment.

Meet the learner activists

Figure 13: December Ndhlovu

December Ndhlovu has been working as an activist for many years in the Mpumalanga province. He worked for the NGO Geasphere, is now an EMG staff member, a participant in the Sabie and Sand CMFs and Inkomati-Usuthu CMA (IUCMA), a resident of Bushbuckridge, and is actively involved in the MPWC. The main focus of his work is the effects of eucalyptus plantations on water flow, water quality and the livelihoods of people. He is also working to mobilise against the ineffective management of waste and how this is affecting local people. He is the coordinator of the Mpumalanga group.

Figure 14: Patricia Mdluli

Patricia Mdluli is a traditional health practitioner in Bushbuckridge. She is a preacher in the Apostolic Church and a local activist in her area. The main focus of her work is the effects that water flow and water quality has had on the practice of traditional healing and spiritual practice. In her lifetime, she has seen how the water levels have dropped due to the plantations at Mariepskop. She has also noticed how she and her colleagues can no longer find the plants they need because of the drop in the level of the water. She plays an active role in mobilising people to clean up local tributary rivers that flow through communities in Bushbuckridge.

Figure 15: Dr Alex Mashile

Dr Alex Mashile is the chief of the Chueu Tribe. He left Mariepskop at the age of 8 and has now returned after retiring from his career as a teacher and school principal. He leads the land claimants who have formed a trust. The focus of his work is claiming the land under plantation and removing the eucalyptus trees.

History of the issue

The MPWC has been active for many years. It has a strong focus on water consumption and ecosystem destruction by timber plantations, access to water for communities who live close to dams, rivers or pipelines and yet have no water connections, and participation in CMFs.

The impact of industrial timber plantations on catchments in Mpumalanga was an obvious issue for the SAWC to raise when engaging with the NWRS2. The argument that timber plantations guzzle water at the expense of people and the environment has been well-articulated by Geasphere and the MPWC, but not much has changed. This project provided an opportunity to explore a specific site in more detail and establish how change might happen there. A place in Bushbuckridge, Moholoholo, also known as Mariepskop, was chosen. The mountain and surrounding area are covered by timber plantations and invasive trees, but continue to carry a deep spiritual and cultural significance for the people living in its foothills.

In 2001, the then DWAF made a parliamentary decision to remove the plantations from Mariepskop and to rehabilitate the land. This has not happened to date, although some of the alien vegetations has been cleared on the slopes of the mountain. There is a contested land claim process underway in Mariepskop. One group of claimants has formed a community property association and another group has formed a trust. There is no agreement as to whether it would be more beneficial to keep or remove the plantations.

Moholoholo, Mpumalanga, case study

"What is the impact of large scale plantations on water downstream flow, ecosystems services and land claims in Mariepskop/Moholoholo, Mpumalanga?", was the research question as formulated by the learners. Ecosystem services focus on plants and sacred pools used by traditional healers. To develop their case study, the learners:

- Attended meetings with the Association for Water and Rural Development (AWARD), which is an NGO active in the area.
- Held workshops with community members and land claimants.
- Interviewed an environmental educator and other experts.
- Read up on the history of the area.
- Read technical documents from the AWARD and the IUCMA.
- Carried out river mapping and river cleaning activities with MPWC members.

They are interested in supporting a group of traditional healers to join the Adopt-a-River programme run by the DWS. They have also initiated a conversation with the DWS to try to get some answers about the status of the 2006 exit strategy for removing plantations from Mariepskop.

All three participants working on the case study were personally involved in the history of land expropriation and land use decisions. December Ndhlovu lost his childhood homes (two of them) to encroaching commercial plantations under apartheid. Dr Alex Mashile, as prospective chief of the Chueu Tribe, is part of a land claim that includes the disputed plantation. Patricia Mdluli is a traditional healer who has been affected by a local scarcity of medicinal plants, caused by the plantation and by its overconsumption of water in the area. This affects streamflow and other vegetation. The learners, along with other members of the research team, visited and climbed Moholoholo for the first time as part of their Changing Practice process. This was deeply significant for all involved, as it allowed a reconnection to the land and ancestors.

In an interview, Mdluli describes this connection and loss:

> "The Ngwarele River has many pools and sacred places. The sacred places are the places where the waterfall is. We do special rituals there. I even go under the water and communicate with my ancestors there. When I am there I can communicate with my ancestors more easily than other places. It is especially important during winter times, that is, when the strongest of the ancestors is there. They tell me what I must do. If I have a patient at home, and I am failing to treat them, I go there, and I ask the ancestors to give me an idea. They show me the medicinal plant I must use, they tell me where to go, and they tell me how to use it. I put my snuff on the ground and then I talk to them. Then when I go to treat my patient, I am able to heal them. I also go there to communicate with them when something bad is happening to someone in my family, if I have made a mistake, or other things, then I go to communicate and to ask for forgiveness. Now, sometimes there is no water falling at those sacred waterfalls. Then, there is nowhere for us to communicate with our ancestors."

The plantations use vast amounts of water, and are believed to reduce stream flow in the local Sand River catchment. A 2009 study of the impacts of the plantations on the area showed activists that:

- Small-scale farmers in the immediate areas of the plantations could not plant anything because of the water shortages.
- People were without water during winter.
- The number of traditional medicinal plants available to healers was reduced.
- Because of tree felling practices, the rivers were polluted with chemicals and there was soil erosion.

> "Sacred sites which are very critical components of our societal existence and well-being are destroyed" (Saving Moholoholo' Case Study).

Lessons and policy links

The argument for strategic clearance of trees from Moholoholo has deepened and become more sophisticated through a better understanding of the true impacts, for example, on sacred sites and river flow. A thorough exploration of the history, including the genesis of the different land claimants, and how this facilitated the establishment of plantations, provides important insights on how to move forward with questions of land tenure and land use. Ultimately, this case study raises questions of environmental justice, the entrenchment of an unsustainable economic system and the weakness of government to regulate. In particular, the case study teaches us that:

- Sacred and medicinal plants cannot survive in industrial timber plantations, or in the downstream ecosystems that are destroyed due to a lack of flowing water. Thus, the cultural and spiritual practices of the people who live there cannot thrive.
- Traditional healers require not only the presence of water, but also particular formations in the river, such as pools and waterfalls, and plants associated with different parts of the river. Water is 'alive'.
- It is not only water that is lost through monoculture timber plantations – entire ecosystems are lost and the cultural systems along with them. This killing of whole systems of knowledges is epistemicide (Leff, 2012). The loss of traditional culture and spirituality has implications for the communities affected, and for the environment of which they are custodians. It also has broader implications for natural resource management in that the knowledge lost could have been vital in restoring and protecting ecosystems.
- The failure to resolve the land claim and conflicting views by claimants on land use has have benefitted the industrial timber plantations in Mariepskop, as there has not been united opposition to them.

These lessons are embedded in the learners, who themselves changed during the process of developing this case study. For example, Dr Mashile is now passionate about the importance of clearing the plantations off the land of which he is the prospective chief, because he understands the impact on the river, ecosystems and people. Patricia Mdluli has inspired the interest of a group of traditional healers who are keen to work with her to learn more and to protect their rivers. They have been energised to learn that the loss of water is not their fault (e.g. through angering the ancestors) but the result of the eucalyptus trees.

At a policy level, links have been made to the national water pricing strategy, which is under review. The SAWC engaged in a national consultation process to ensure that the cost of the impact of industrial timber plantations and the pollution caused by invasive spread of their trees are reflected adequately in the national water pricing strategy. The DWS has promised to disclose the formula by which the charge for industrial timber plantations industrial timber plantations has been calculated, but has not done so to date.

Clearly the invisibility within policy discourse of the impact on ecosystem services means that traditional healers need to be brought into local water governance as users and custodians of water and the landscape through which rivers flow. This means that systems of water governance will need to change.

Despite the apparent conflict of land use and tenure, the *strategic* clearance of invasive trees and some plantations should go ahead. This is in keeping with the rationale of the exit strategy published by the DWAF in 2006. The rumoured cabinet decision to override the exit strategy and replant eucalyptus at Moholoholo needs further investigation as to its validity and legality. Unresolved land ownership should not be cited as a reason for maintaining trees that are severely impacting the flow of water in the rivers, particularly during a time of drought.

6.3.3 Water conservation and demand management in the context of climate change – Dunoon, Western Cape

This case study looks at water conservation within the context of climate change and the urban issue of unequal access to water. It asks the question of "How to build governance around water scarcity in ways that are fair and just". It focuses on the area of Dunoon in Cape Town and addresses WMDs, water leaks and wastage, and access to water for livelihood activities.

Meet the learner activists

Figure 16: Thabo Lusithi

Thabo Lusithi is an employee of the EMG. He is also the coordinator of the WCWC. He has played a strong role in the action research done by EMG in relation to unjust water management including the controversial WMDs implemented by the City of Cape Town. Although this is the focus of his work, he would like to explore the role of policy in community mobilisation and how the WCWC can become a stronger organisation. He is the coordinator of the Western Cape group.

Figure 17: Manelisi James

Manelisi James lives in Dunoon where he works for the community-based advice office that helps local people with a variety of issues. The focus of his work is water rights and an awareness of these rights. He is also interested in looking for more efficient and effective ways of dealing with water wastage such as leaks.

History of the issue

The Western Cape case study was intended to take the issue of equitable water demand management and water conservation forward as a response to climate change. This issue had been raised by the SAWC during the NWRS2 drafting process. The SAWC expressed concern that although water demand management and water conservation are necessary responses to water scarcity and climate change, these strategies should target high and wasteful water users rather than low-income households. The EMG through the WCWC has a long history of action research and analysis on this issue, in particular the strategy used by the City of Cape Town over the past nine years to roll out WMDs to low-income areas.

The WCWC, made up of activists from Cape Town from a mixture of formal and informal households, chose to focus the Changing Practice case study on WMDs in a northern area of Cape Town called Dunoon. Their concern was not primarily climate change, but that the devices were adding to their stress, instead of reducing it as promised. They worried that they would not be able to access sufficient water for domestic and livelihood activities such as food-growing and car-washing.

On the other hand, municipalities see smart water meters such as WMDs as the answer to low levels of payment for services and water wastage. They are trying to balance the books and, therefore, have an imperative to collect payment for water, and to find ways of keeping 'unpaid-for water' to a minimum. Although disguised as a water conservation policy, this results in punitive measures being taken against poor households who cannot or do not pay for water. As government is under increasing pressure to respond to climate change – and as the country faces a severe drought – we are concerned that these kinds of punitive approaches to water saving will be on the increase.

South Africa has a history of struggle against smart water meters. The installation of prepaid meters in Phiri, Soweto, was challenged as unlawful. The case went all the way to the Constitutional Court. The SAMWU used this to build a campaign that successfully called for a moratorium on prepaid meters in Cape Town. Instead, WMDs were developed and installed. Activists have called these devices 'prepaid

meters in disguise'. This device was first developed for irrigation in agriculture and can be programmed to allow a certain amount of water to flow, after which it cuts off the flow. In Cape Town, the devices are programmed to release 350 ℓ of water per day. This means that indigent households are restricted to receive their FBW of 10.5 kℓ per month but no more.

There has been massive resistance to these devices due to the inadequate community consultation, the general lack of clear communication, the high rate of technical failures resulting in people having no water for weeks or even months, the fact that huge recurring leaks mean that the daily allocation can be quickly lost through leaks, the weak response to complaints or reporting of faults, and the fear that people will have insufficient water to meet their daily needs – including for livelihood activities.

Dunoon, Western Cape case study

Thabo Lusithi and Manelisi James set out to work with community members to gain a deeper understanding of the impact of WMDs in Dunoon, and to try to spread awareness about how the devices really work. Their hope was to help organise the community in Dunoon to be able to respond to water-related issues. There was also an intention to engage with government officials to again highlight the problems that people experience with the devices, and to find out what the current status is of the City's rollout strategy. Finally, there was an aim to extend the WCWC's understanding and critique of the WMDs to include the impacts on livelihoods by them limiting the amount of water available to small businesses and food gardeners.

Through the WCWC, the learners organised five meetings in Dunoon, including one mass meeting (60 people). They also conducted interviews with individuals and recorded their observations of community life in Dunoon through a photo essay and contextual narratives. They experienced significant challenges when it came to mobilising and organising community members. The advice office was weaker and less influential than they had assumed, and there was often a low turnout for meetings. (This was not only true in Dunoon, but wherever the caucus met there was a low turnout of people from that area.) Through discussion, caucus members recognised that people face the risk of being persecuted by councillors and other political elite in their own neighbourhoods if they are seen to be organising or questioning the status quo in any way. Despite transport issues, it is thus often easier to meet *outside* of one's community. The learners discovered many of the same issues as those faced by other communities in Cape Town – mistrust from the community towards the municipality, a lack of understanding about how the devices work and why they are installed, frustration with the lack of follow-up from the municipality when faults are reported, and people being criminalised by engaging in activities to secure their water access, such as bypassing their failing flow restricting device.

Lessons and policy links

The Dunoon case study developed new understanding about the implications of WMDs for small business owners such as car washes and hair salons, who are fearful that their businesses will collapse because of limited water. These small businesses might fall below the radar in terms of registered and recognised businesses – meaning they do not benefit from policies that support small, medium and micro-sized enterprises. This shows how the municipal imperative of reducing unpaid-for water consumption by low-income users contradicts the national (and municipal) imperative of ensuring water for productive use, water for multiple uses, and water to help alleviate poverty. It has implications for the kinds of tariff curves, FBW policies and indigent policies we would like to see – ones that are least punitive to poor households, small businesses and livelihood activities.

The lessons from this case study have already been shared via the norms and standards consultative policy process. Through this, the SAWC has learnt that DWS Chief Directorate of Economic and Social Regulation has set up a task team reviewing water for livelihoods, and is interested in seeing how this case study can inform their work. There is also a DWS initiative to explore the need and feasibility of developing standards for domestic water meters.

Lessons from this case study also need to be integrated into national and municipal water demand management and water conservation strategies to ensure that they do not place an additional burden on poor households. These strategies will receive a boost from international climate change finance if South Africa's 'intended national development commitments' are supported. South Africa has asked for US$5.3 billion per year to implement water demand management and water conservation as a climate change adaptation strategy.

6.4 Lessons and Recommendations from the Case Studies

6.4.1 CMFs and the role of spiritual and traditional knowledge

Currently, many CMF meetings happen in uninviting spaces, for example, the headquarters of a chemical company, which is fundamentally distrusted by VEJA activists. Physical access is difficult; access to clear information about pollution incidents is sometimes absent and sometimes presented in impenetrable language. The ultimate ambition is to change catchment forums into spaces where people's governance plays its proper role.

The case study finds that the way in which CMFs meetings happen currently is not conducive to participation of groups such as spiritual healers. To make an inviting space for these groups, forums will have to present their discussions as accessible science and sincere explanations of water quality issues, including their origins, as well as in people's own languages. What is expected here is not excluding scientific water quality knowledge, but to make it available for dialogue with other knowledges, in the first place by abandoning its superiority and exclusivity, namely, what is needed is cognitive justice in a parliament of knowledges (Visvanathan, 2009; 2005).

But the desired and anticipated change is also more profound. Water plays an integral role in the beliefs and practices of SWUs. They are the custodians of a rich African tradition of working and being with water. They can therefore bring debates into IWRM and practice a wealth of understanding of water that are (1) not limited to its instrumental use, and (2) imbued with a strong African spiritual tradition. This is part of SAWC and the environmental justice movement's view that water – like other aspects of nature – is more than just a 'resource'; it is a lived reality with its own, intricate understandings, and embedded in the lifeworlds of people. To decolonise South Africa, it is urgent to understand and act on this.

On the level of social justice, and as noted in the case study, inviting SWUs into the CMFs would be to bring in a broad grass-roots constituency, thus simultaneously changing the nature of participation in them, as well as the support for and knowledge of water management issues.

Finally, these changes should have the result of changing water use in three ways:

1. The quality of the water (and therefore safety of direct river water users).
2. The quantity of water available, in other words, a reallocation of water on catchment forum level for emerging farmers and food gardening groups who often struggle to access enough productive water.
3. Access to the river, which is blocked (or under threat of being blocked) by private developments.

This will broaden and strengthen the practice of participatory democracy in the water sector.

6.4.2 Building identity and agency through history and nature

The Vaal case study points to the importance of personal involvement of activists lending credibility to local knowledge, but also resonating with a vision of a new relationship with nature. The knowledge and experience to engage with this issue was gained through painfully personal experiences of dispossession and pollution in VEJA activist Samson Mokoena's case. His community was destroyed by pollution from a neighbouring steel factory. Other researchers on this case study, like Mduduzi Tshabalala, were excited by the opportunity of reconnecting to spiritual water use, celebrating both the knowledge and the practices. The Mpumalanga learners, who all climbed to the summit of Moholoholo

mountain during the course of their research, felt deeply moved by their connection to this sacred landscape. These experiences helped to build a sense of identity and confidence by connecting with a rich heritage and history. It helps to decolonise the mind.

6.4.3   Influencing the policy cycle

Consider the Vaal case study in the context of the six phases of the policy cycle (see Figure 1). Initially, the case study participants found themselves in broad agreement with the policy agenda, policy documents and legislation, but were concerned about the institutions that had been set up – the CMFs, and how they were functioning practically. It seemed that it should be possible for participation to be supported, it was just a matter of getting the implementation right.

However, there are broader implications. One is that the intention to accommodate all knowledges is not seen to be applied in practice, which may be because its thorough going nature, its cognitive justice and because the contribution of African indigenous knowledge about water and ecology is not known or valued. These implications suggest that a revision of policy is required: both in its philosophical foundations (at Stage 1 of agenda setting) as well as by providing the means to implement this (from policy to legislation to budget provisions within institutions such as CMAs, thus covering almost all steps in the cycle).

The Moholoholo study touches on the same issues as the Vaal case study does. This drives the work of SAWC: the sense of unfairness in the past distribution of water and related resources, and the need to fulfil the promises of the new era that should lead to transformation and better lives for traditional healers and emerging farmers. It also raises an awareness of complicated local settings, and complicated – often very distant – relationships with the spaces where the real decisions are made. Finally, both case studies share an aspiration for healthy rivers that flow freely through the landscape, and that can be used for healing. CMFs, CMAs and other governance structures need to be reoriented and practical measures taken to achieve these objectives. Note again that the SAWC agrees with basic (current government) policy objectives – and therefore is in a position to work with government officials to achieve these agreed policy goals.

6.4.4   The intricacies of local spaces

The Moholoholo case study drew attention to the intricacies of local spaces. First, the disputed plantation is under land claims by two community groups, the Chueu and the Dihlare, each with their own community organisation and associated traditional healer's association. The politics on local level have therefore become complicated, as did the position of Dr Mashile in the research. Delving into history showed how the case study area had been affected by wars (between Swazis and Sothos), by community splits (between Chueu and Sehlare), by relocation to make place for new plantations, and more recently, in the process of land claims.

6.4.5   The difficulty of organising at a local level

The Dunoon case study is interesting in light of one of the researcher's disappointment and frustration that 'things didn't work'. By this he meant that no person or group emerged from Dunoon to champion the resistance, resilience and negotiation needed in the face of the ongoing WMD installation by the City. The issue that is always raised – with pain and frustration – at every water caucus meeting held in Cape Town, is that of the devices. Most people do not like them – they are confusing, cut water and make people feel excluded. As a pensioner from Mitchell's Plain stated: "It's like the government has given a two-year old a sucker and then taken it away" (WCWC, 2015). She felt infantilised and cheated – the government had promised water, shown it to them and then said you cannot have as much as you need. But somehow, a coherent, organised citizen movement challenging these devices has not emerged. The Dunoon case study gives us some insight into why. It also points to the need for a local 'home' for activists, such as a group of people who have organised themselves into a CBO.

The complications start at very basic levels, for example, choosing the venue for a meeting. Local political dynamics – often invisible and incomprehensible to an outsider – shape who can meet whom about what and where. This is not unique to Dunoon. At a WCWC meeting in 2015 in Kraaifontein (Cape Town), the turnout from local residents was close to zero – not because they did not want to come as the WCWC had been asked to hold a meeting there – but because neither of the two local (competing) political heavyweights had sanctioned the meeting. Without knowing who had given the go ahead, people were nervous to come. Alienating a local councillor could mean you have no chance to get part-time employment through the local Extended Public Works Project (EPWP). This is part of a broader trend in South African politics; personal political careers have become more important than people's politics, as foreseen in the liberation struggle.

In Dunoon, the problem was with the local advice office. This was unknown at the start of the research process. Some years before, members of the advice office successfully lobbied for the closure of an unhygienic clinic situated on a site and in buildings much too small for the community's needs. A new clinic was opened on better premises. This caused some embarrassment to the local councillor who really should have done something about the inadequate clinic himself. As a result, a community meeting, even about a different issue (water) and even organised by a different group (WCWC), could not take place successfully at the advice office. It took some months to understand that the real reason.

What manifested was a frustrated organiser who kept getting told by potential participants that they would be at a meeting, but they never turned up. When he followed up, numerous excuses were made as to why they had not been there. A successful meeting *was* held at a different venue. Between 50 and 60 people participated in a discussion on devices, and four people volunteered to be part of a task team to take things forward. This group was initially very strong and helped with community organisation around these issues. However, a little later, two of the volunteers were offered paid work (one through the EPWP), and one disappeared from the group with no explanation. The fourth person is still keen to be involved, but does not really know how to be since there is no leadership coming from the advice office. Therefore, none of the original volunteers are available and able to continue organising locally.

6.4.6   Corporate/state capture of natural resources

The capture of natural resources by big corporates – such as water and soil taken over by gum plantations in Mpumalanga – is often presented as part of a big political picture. In the Moholoholo case study, the issue of a broken promise to allow a badly located plantation to return to natural vegetation resonates on very personal levels of members of the SAWC. It is also a sign of change in the national political space from the idealism that characterised water policy under the first democratic water minister, the constitutionalist Kader Asmal, to a narrow focus on job development without considering the environmental costs.

The 2001 parliamentary decision to strategically clear some gum trees in the Mariepskop has never been implemented. Clearing the area would free up water for rural communities who lack water in winter because the streams run dry. This leaves the SAWC to argue that communities' access to water is being denied by the high water usage of large-scale industrial timber plantations and alien invasive trees in Bushbuckridge, Mpumalanga.

6.4.7   Elite capture of spaces for participation

There are also complications on provincial and national levels: it seems that National Cabinet decided to replant the area without considering past promises or present community aspirations (see below for a discussion that took place on that point during the meeting with the DWS). These decisions seem to bypass communities completely, contradicting any sense of a 'participatory democracy', and fuelling the urgency of this work for the SAWC.

The Moholoholo case remains in limbo for two main reasons: the one is divisions at local level, which are underlain by a history of division. The other is the uneasy suspicion that the decision to reverse Kader Asmal's promise may indeed be taken in a space that is not open to influence from, and

consideration of, the interest of communities and ecosystems. It has been difficult to find out exactly what is happening, which points to a lack of transparency. The locally responsible CMA staff were also unaware of the state of the plantations as was the director of the state programme responsible for clearing alien vegetation, or escaped gum trees – the Working for Water programme. This points to disjointed decisions being made and driven by certain agendas and an example of a 'closed down' space, which is supposed to be an invited space. Even DWS officials as water custodians are left out of this space, which seems to have been captured by political elite at cabinet level.

6.4.8 Supporting multiple water use in urban settings

What did emerge from the Dunoon work that a new group of water users has been identified. These are the people who are using water – often small amounts – to support an income-generating activity such as a hair salon or car wash. Their situation is precarious for a number or reasons. They might not be South African and are at risk of imprisonment or deportation if they have inadequate papers. They are also at a risk xenophobic attacks, which have flared up several times in Dunoon over the past three or four years. They might be using free water from a neighbour or landlord and risk losing this privilege if the water 'owner' gets a WMD. Their income-generating activities are more accurately described as 'livelihood activity' than a 'small business', which is important distinction when it comes to navigating policies and laws.

Broad national policy, which intends to support water for multiple use including livelihood activities, seems to conflict with narrow water and local government policy, which actually undermines livelihood activities and sustains poverty. Policy adjustments are needed. These should affect institutions, which should be geared, for example, via municipal local economic development programmes towards supporting emerging livelihoods and the implementation of water demand management.

6.5 What Is Special About These Case Studies?

If an external researcher had done these case studies, they would not have come to understand the local context in the way that these learner activists did. Knowledge is held in landscapes, and held with people in landscapes through their practices. When someone who is embodied and acting in a landscape describes the context, politics, people and networks of a place, a truer, richer and more nuanced story emerges than if someone from outside that landscape or community observes and describes what they see. In particular, these case studies highlighted complex aspects of the local political dynamics that external researchers would not have perceived.

As political activists, the learners also brought a political edge that would most likely have been lacking if a socio-ecological researcher had been conducting the research. For example, in the Vaal case study, the learners brought to the fore not only that SWUs are not in CMFs, but also that their very relationship with water is not acknowledged. This introduces a whole new conversation about the spiritual value of water and the severe constraints of current forums for participation.

The Mpumalanga case study has evolved from "Plantations extract too much water" to articulating that "The economic use of land is dispossessing us of our livelihoods". All three learners from Mpumalanga were moved from their homes so that plantations could be planted. Dr Mashile expressed that, "Every time we look up at the mountains we see the legacy of apartheid standing there"; Patricia Mdluli said, "the water is dead". These are personal, intimate experiences that are known and held deeply by the learners; it is an expression of cognitive justice that this deep knowing was allowed to surface and to be included in a body of research.

In Dunoon, Thabo Lusithi clearly articulates his struggle with the difficulty of building solidarity in such a resource-poor context; he really had to face it and surface it. He brought this personal grappling to the group where it allowed people in other areas to talk about those structural blockages that otherwise are just taken for granted as the unspoken backdrop for all community activists. Thabo Lusithi now serves as the WCWC coordinator with these lessons in ways of organising and building movements, which add so much depth to his abilities as an organiser and a leader. All the learners have learnt to

stand back and look at the issues anew, to separate evidence from analysis and argument, to become more sensitive to context, and to become aware of others working towards the same goal; the social learning approach to developing the case studies helped them learn these new skills.

6.6   Have these case studies strengthened SAWC?

The social learning approach required activists to look at their work with fresh eyes, including questioning long-held assumptions and finding other people in their areas of concern. There was an initial feeling of unfamiliarity and discomfort with a new way of learning, which gave way to excitement and empowerment. They learnt both to trust their own knowledge and to recognise its limitations and how to access what they need through a knowledge network approach. This shows that the approach of cognitive justice works.

People in the broader network can see the value and how much those who have done the course have learnt and grown in confidence. This has resulted in many SAWC members now calling for social learning in their own areas. The case studies have become the core of the discussions for many meetings. There is now a feeling that the progress made with these case studies and with the social learning approach needs to keep going and draw different people in. The social learning change project approach, including the development of well-researched case studies, gives people a place to bring their new knowledge into a network that can actually do something with it.

7   BUILDING A PARTICIPATORY DEMOCRACY AND STRENGTHENING CIVIL SOCIETY THROUGH SOCIAL LEARNING: SOME CONCLUSIONS

This chapter draws together insights and conclusions from this project. The analysis situates 'what happened' in the social learning and action research aspects of the project (Chapters 5 and 6) within an understanding of 'the context', which we developed (in Chapters 3 and 4) by reviewing:

- Policy and legislation on participation of civil society in the water sector.
- The role of civil society as it has developed over time.
- The history of the SAWC's engagement in the water sector.

A series of questions also emerged and became more refined. In assessing the extent to which we achieved the project aims, our insights presented in this chapter are clustered around the following three themes and associated questions.

The role and form of civil society in deepening participatory democracy in the water sector

- What is the role of civil society including SAWC in the water sector? Is it to build a participatory democracy?
- How can we better understand the spaces in which civil society works? What are the dynamics at local and national level? How do they relate?
- What does the relationship between government (DWS) and civil society (SAWC) look like? How is it changing? Where is it working and where not, why? What determines this relationship?
- How do we strengthen civil society as a partner in the water sector and in NWRS2 implementation, and make space for different worldviews?
- What is the institutional nature of SAWC, its organising logic and how does it relate to its role in civil society?
- What are the deeper, fundamental components of SAWC's vision and approach such as human connectedness and connection to nature? What is the influence of this framing?

Learning in practice through a considered approach

- Is social learning a good approach to building capacity in civil society?
- What happens during social learning? What happened to activists and their views and capacity during social learning? What new perspectives etc. were opened to activists?
- Can social learning be used as a participatory research methodology? Can this methodology result in cognitive justice for all the knowledge carriers and knowledge creators involved in it? Can it lead to deeper and more equal participation in the water sector?

Monitoring the NWRS2 implementation through case studies

- How are issues that emerge from case studies framed and articulated?
- What role can case studies that emerge from people's lived experiences play in monitoring national policy? How does monitoring implementation feed back into the policy cycle?
- What is special about 'water' as a sector within which civil society engages?

All these questions relate closely to the view of the SAWC as a system in which knowledge is created, circulated and shared. The focus of the questions is how this process takes place, what conditions and approaches enable it, and how, or whether it can be strengthened through a social learning approach.

The chapter is divided into four interrelated parts. The first deals with civil society, in particular the SAWC, and its role in deepening participatory democracy in South Africa's water sector. It looks at the complex spaces in which SAWC members work, and the complex relationship between the SAWC and the DWS. The second part of the chapter looks at the contribution of learning that takes place 'in practice'; that is during the processes in which people are actively participating in monitoring water policy. The third part focuses on the NWRS2 and what this project can teach us about monitoring public

interest aspects of water policy at multiple scales. Finally, we reflect on how working in this way within a social movement allows for deeper transformation of individuals, institutions and society by building solidarity and a common humanity.

7.1 The Role and Form of Civil Society in Deepening Participatory Democracy in the Water Sector

Evidence from this project shows that the SAWC, as an important civil society network, *is* building participatory democracy. It does this by a conscious process of integration, reconnection and transformation at personal, interpersonal, institutional, political and human-ecological scales and spaces. The SAWC draws from the historical momentum for a people's democracy where most South Africans are treated with dignity and have enough water for their needs. It draws too from movements worldwide to build more equal and just relationships among people, and to recover the balance between people and nature. Its work is to connect local experience and policy through shared analysis, through communication in the public sphere, and through direct contact with DWS officials and other stakeholders.

7.1.1 The SAWC's operational structure and how it plays its role

Social movement, network and living organism

As Chapter 4 describes in detail, the SAWC situates itself firmly within the environmental and social justice movements, sharing many deep values and principles. This provides a certain orientation and momentum to how it works both internally and externally. The SAWC can also be described as a type of social organism. It connects direct grass-roots experiences, observation, agendas and analysis to interfaces with local, provincial and national government for policy influence.

The SAWC can be seen as a network consisting of different nodes engaging with inputs from the outside (like experiences in the case study sites) and connected to other nodes that could have comparable experiences or problems, but also could be relating it to more generalised issues like policy debates (e.g. about water for livelihoods, or climate change resilience strategies). The network as a whole is what Capra (1997) calls cognitively responsive, so that in some way, its internal knowledge flows come to mirror what is outside it. While it is an open system, it also has closed loops, which are characteristic of systems that sustain and indeed make and remake themselves. When they do respond to the outside, they can both exist as themselves and allow influxes across the boundary.

Identity and self-framing

A crucial strength in social movements results from self-identification and ideological framing. As has been shown in earlier parts of this report, identification with the SAWC as an organisation and its values is a strong part of the existence of the caucus as a network of diverse partners. The SAWC has created a strong but flexible self-identification that has responded to its environments and currents in it, as much as to the lived experiences of its members, which include their observations and understanding of communities as well as water sector activities around them.

In its early days, the SAWC accepted a set of principles, which were underlain by social justice and ecological values that was explicitly anti-neoliberal. It was defined in opposition to government policies of privatisation, of demand management in the form of cut-offs and flow-limiting devices, but also other threats to the water commons, such as industrial and mining pollution. It has developed an international analysis (through exposures to the International Anti-Dam Movement, The international Fresh Water Caucus and various climate change processes – and broad civil society responses to them) and a knowledge of international civil society knowledge debates.

Although the SAWC is composed of agents with multiple perspectives, these principles have enabled the SAWC to work with a strong transformative agenda – for example, expressing impatience with slow progress on the reallocation of water for productive and livelihood uses.

The SAWC has engaged at local level with local government over cut-offs and flow restrictions, but also through research and at the policy level. The Water Dialogues as a project, but also a process of ongoing interaction with a range of local governments, built a strong understanding of local government water dynamics. The SAWC has used that understanding to defend communities who are vulnerable to cut-offs and other water restrictions.

This self-identification with resistance, which is common with a global movement against neoliberal policies, has led to ongoing debates – as in the rest of the environmental justice sector – about engaging with government versus confronting it. Generally, an uneasy balance between both has been adopted, but the SAWC has been strongly involved (like the TAC in health) in the details of water policy. However, the SAWC has not followed an approach of developing a mass base and a strong public profile approach in the mass media, generally restricting its activities to the water sector, with the important exception of the strongly related climate change issues. To adopt a stronger public profile, it would need institutional changes, because it would have to then rely on stronger central organisation. However, this would be in tension with its current and time-honoured decentralised model.

A mature network with a long history of engagement

The SAWC has existed since 2001; a period of nearly 15 years. During this time, it has engaged in almost all the critical debates and policy processes in the water sector. The SAWC's longevity is an achievement in itself, as other prominent organisations such as the EJNF have all but disappeared, and others such as the APF have waned in strength. An important aspect of the SAWC's longevity is its approach of a decentralised leadership and funding and resourcing model.

SAWC members, who had for example been involved in the EJNF, have specifically avoided a centralised model both to avoid struggles to 'capture the centre' and to allow free flow of thinking, knowledge formation and sharing. This has also allowed members to continue with autonomous organising and campaigning. A second key to the survival of any CSO or social movement is its ability to bring and keep resources together, including knowledge, networks, funding, meeting venues, transport, leadership, members and participants. The SAWC relies on the marshalling the resources of members in all these fields.

In the SAWC, the load of vital functions such as organisation, documentation, communication and fundraising are spread over many strong organisations. The ideal has been to have one such organisation in each province to function as national or provincial secretariats. This solution also leads to tensions as some members work in professionalised NGOs, some are on the ground working for low salaries or as volunteers, and some are often unemployed or semi-unemployed in their own communities. Unequal distribution of resources extends to differences of language, challenges in dealing with technical issues from engineering to economics in national debates. The SAWC has worked hard to find practical means to meet these challenges, and has built up considerable experience (for example, The Water Dialogues, Dams Affected People and other campaigns, and through this social learning project). The result has been that the SAWC can field powerful and articulate delegations from very different backgrounds. One approach that the SAWC uses and that could be followed by others working with civil society in the water sector is holding preparatory meetings the day before a multi-stakeholder meeting to sharpen agendas and lobby points – not imposed, but based on people's own experiences and agendas. Such work must happen in a spirit of respect and solidarity to work.

Specific skills and types of knowledge are brought in by members, for example, the ability of the VEJA and Earthlife Africa to support growth of PWCs in the Free State and North West Province, and the ability of the CER to do legal work. Historically, trade union presence in the form of the SAMWU has been a strong advantage as it enabled working, in some cases, within municipal processes – at least to understand these better but sometimes act on them. The SAMWU has also contributed practical skills, for example, leak fixing, and has provided contacts in the City of Cape Town.

Combined resources enable the SAWC to mobilise a broader voice of civil society, trade unions and CBOs on the one hand, and academics and sympathetic consultants and their expertise (e.g. on water issues related to mining, water quality testing and fracking) on the other.

Cognitive justice in practice

The SAWC exists as a space of dialogue and interpretation between CBOs, NGOs, individual activists, academics, activists from other countries and political frameworks. Through this project, the non-hierarchical structure of the SAWC was expanded. Members developed an explicit and experiential understanding of the unequal power of different kinds of knowledge, and how these are used to silence people. Just seeing this was enough to shift practices within the caucus to allow a diversity of voices and experiences to emerge. This insight has also been used to build confidence and to challenge situations in the water sector more broadly where some forms of knowledge are given precedence over other forms.

Moreover, the SAWC is starting to be seen by others as a vehicle through which affected communities can bring their concerns and voice into policy spaces. A DWS official made this observation during a multi-stakeholder meeting where results from this project were presented and discussed (Mahasha, *pers. comm.* 2016). The example given was of a community in the Eastern Cape who had struggled to participate in the Kat River CMF, but through meeting with the Eastern Cape Water Caucus, was able to discuss and articulate their issue. This gave them confidence to participate as part of a broader civil society grouping. The caucus provided both solidarity and a safe space to share their experiential knowledge.

The importance of acknowledging and working with gender inequality

As the project unfolded, and with attention to power dynamics inherent in its design, issues of gender became known. Men and women had different experiences when conducting research in their communities, with one woman even being harassed while attempting to interview an informant. While initial efforts were made to understand gender dynamics in water activism through this project and mechanisms put in place to improve the safety of women in the field, this has also been included in recommendations for future research. As a responsive institution, the SAWC also took up the challenge of gender concerns. In October 2016, it began an internal dialogue to understand women and men's experiences and the deeper underlying causes of gender violence, silencing certain voices and exclusion better.

Unless we deal directly with gender in a sensitive and skilled way, we will not be able to strengthen *all* of civil society to fulfil its role, for example, in monitoring the NWRS2. Women's ability to be change agents in the world will be limited by the very fact that they are continually under threat and in danger simply because they are women.

Reframing humans' relationship with water

The SAWC's vision and approach are based on the importance of people, nature, water, and the deep ecology approach of seeing complexity, connectedness and aliveness of ecosystems, which include humans. Through this project, this vision brought the importance and value of an indigenous and spiritual view of water and nature into focus, which emerged because of the work with SWUs. Such a focus on values gives the SAWC its integrity, special approach and a strength that goes beyond policy and politics to an environmentalism of environmental justice. The initiation of a dialogue with SWUs during this project has already reframed the SAWC's understanding of how we, as humans, view and relate to water. There is a deeper recognition of water and rivers as being alive.

Projects as a way of strengthening SAWC and its members

This citizen-monitoring project situated the case studies within organisations who are members of the SAWC and active within their province. Although there was dialogue within the caucus, organisations could determine the focus and direction of the work, as well as decide how best to use the financial resources available. This strengthened capacity of 'nodes' within the network could be seen in their ability to self-organise (e.g. get to a meeting without relying on outside logistical support or funds) and in the confidence with which individuals participated in CMFs meetings and dialogues with DWS.

7.1.2 Spaces for civil society are complex and contradictory

A strong determinant of social movement success is the political space that is available for civil society actors to organise and express themselves in. The basic contours of this space have been laid by a series of constitutional, legal and policy decisions, which have created a public space within which participation, access to information and the right to organise have been available (see Chapter 3 for details). However, in practice, participation, especially in invited spaces, has been subject to the whim and abilities of individual officials and politicians. More disturbingly, protests around water and related issues have been met with increasingly violent responses.

The SAWC's base is in poor urban and rural communities who struggle with harsh water conditions on the ground, much as these may have been improved since the dawn of democracy in 1994. These communities become stronger as democratic experience grows, ANC hegemony changes to a multiparty logic and politics in public space diversifies.

These tensions in the Constitution of a political space for civil society come to the fore when government officials, for example, argue that poor communities should be directly represented, thus excluding the SAWC. This is seen by the SAWC as an attempt to divide it internally and deny these communities an informed and effective voice bolstered by SAWC solidarity.

The case studies strengthened awareness (through examples and reflection) of the spaces in which the SAWC works. Some of these spaces are characterised by open dialogue as in the SAWC-DWS meetings, while spaces at local level are increasingly characterised by intimidation. In the spaces available for engagement with the DWS, the SAWC has worked hard to understand and empathise with the constraints imposed on officials by both policy and bureaucracy. The SAWC has learnt that there are many rules for officials, and they have a specific culture of working. The SAWC has furthermore learnt to communicate its own positions, including how these issues directly affect people on the ground. As a rule, SAWC members attending discussions with the DWS included people on the ground who are directly affected by these issues, as well as members who have an intellectual understanding of policy and economics.

At local level, some politicians see civil society as a threat. This is either because they believe a popular community member will stand against them in the next election or because they believe that civil society attention will expose their failings or even criminal activities, such as corruption or nepotism. It is also true that some civil society actors within communities harbour political and sometimes commercial ambitions.

There are forms of political power that seem to overwhelm official institutional structures. For example, the National Minister of Water and Sanitation recently established water and sanitation forums to address service delivery hotspots, while CMFs do not get the support they deserve. In another example, the carefully prepared exit strategy to strategically clear gum trees from Moholoholo in Mpumalanga was overturned by a cabinet decision to replant certain areas. Neither communities nor government officials were aware of the reasons and process for this decision.

The SAWC, with its networked structure engaging locally, nationally and internationally, is in a strong position to mediate between these sometimes contradictory spaces and encourage dialogue in spite of emerging obstacles.

7.1.3 Civil society and government relations in the South African water sector

The SAWC has participated in the WSLG, which is the apex organisation for the sector. Yet as a multi-stakeholder space, the water sector contains very strong forces or other players in it, for example, the big water users (Eskom, Sasol, and others in the Global Water Partnership, South Africa) who, in the view of the SAWC, have privileged access to policymaking (as witnessed in the NWRS2 process) and exert a strong neoliberal policy influence, for example, in arguing for exemptions from environmental legislation and offsets for damage caused, as well as stalling on discharge charges.

Government, despite constitutional requirements for participation, remains deeply ambivalent about the role of civil society since the ruling ANC is reluctant to cede civil society space to new social movements. They prefer to keep that space occupied by its alliance partners, as explicitly stated during the WSSD (Munnik and Wilson, 2003). This means that SAWC often has to both establish its right to participate (and make that actual in often difficult practical circumstances through lack of support or reluctant support from government) and also face strong opponents in policy battles.

CMFs

CMFs, in which SAWC participates regularly, are an expression of the principle of stakeholder participation, and an important space for engaging civil society. The SAWC's strongest participation is in the Upper Vaal, where it demonstrates as a national exception what informed civil society based in historically disadvantaged communities can achieve in such forums. This includes access to information and extracting accountability from industrial polluters.

The SAWC is active in efforts to influence policy for how CMFs work, for example, how participation is supported in terms of budgets for transport, familiarisation of participants with scientific background to monitoring, the use of accessible language in forums, and the integration of water services and water resources. The Vaal case study, in particular, identified groups currently marginalised from CMFs. This study also provided recommendations about how to include them.

DWS-SAWC dialogue

During this project, but with roots stretching further back into history, the SAWC and DWS have succeeded in creating a zone of sustained interaction, based on:

- Government officials recognising the SAWC's legitimacy and role within the water sector, and that SAWC 'knows its stuff'. There was an impressive response from DWS in bringing together responsible staff from various units and provinces to a dialogue on citizen monitoring of the NWRS2. This suggests a willingness to be accountable, combined with a willingness to explain. Officials also allowed SAWC members to understand how government works, in other words, what the action spaces for government officials are like.
- Deep listening and respectful responses by the DWS to concerns raised by the SAWC.
- The SAWC's efforts to understand the systems and process, and where to navigate their issues.
- Identification of some areas of work to move forward with together, for example, water for multiple use, response to climate change, and recognition of SWUs.
- Emergence of a 'new guard' of competent and experienced government officials who are not only technicist, but have a deeper understanding of social issues and the importance of transformation.
- All, or most SAWC members, are confident to speak, as opposed to a few years ago when there were only one or two spokespeople, or when activists had to shout to make their frustration felt.
- Solidarity and support for all participants from government and civil society, who are seeking a way to make things better in the public interest.

In the light of this, it can be argued that this mutually respectful relationship represents an experience of civil society and the state shaping each other through their interaction, and their approach to this interaction. It underlines a central tenet of the SAWC: politics is personal, and depends on personal integrity. However, this does raise the question that in many instances the quality of government official relationships with civil society depends on the orientation of the individual official. Should that official be replaced, there is no systemic approach from government to civil society engagement. As a result, policy engagement between the SAWC and the DWS waxes and wanes over time.

7.1.4   Conclusions on the SAWC building a participatory democracy

There is a definite and dynamically developing role for civil society in the water sector. It is anchored in our country's liberation history, which had identified a participatory democracy as an ideal in a free South Africa. It is written into the Constitution, the NEMA and associated legislation, including the National Water Act. For example, the first environmental management principle in NEMA is that (RSA, 1998a):

> "… the participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured."

Civil society's role is also practically founded in IWRM principles, which have been adopted at the founding of democracy into the Water Act and the way the South African water sector is organised on stakeholder participation principles.

Big vision, small steps

A key finding of this project is that the SAWC's activities can best be understood as building a participatory democracy in South Africa within the political spaces that have emerged, or been created, since 1994. This is a complex multi-sided undertaking. It consists of big visions and small steps. This research has shown how the SAWC endeavours to achieve this in its interactions with government officials, based on the way it develops and shares its own knowledge. It combines local realities, shared policy agendas tracing their roots to the liberation struggle, and the unfolding vision of an ecologically just society to present an alternative to an instrumental, representative democracy in which leadership positions are bitterly fought over and then used against the public interest.

The SAWC plays an active watchdog and lobbying role. It gives voice to a broad spectrum of experiences and analysis from civil society in policy spaces, including parliament and official DWS policy processes. It remains consistently active in the water sector public sphere through a SAWC email group of near instant exchanges of experiences, comment on those, linkages to international water (and climate, energy and related fields). The SAWC email group often spills over into the multi-stakeholder based Bubbles email group.

The SAWC works to bring marginalised groups into governance processes in the water sector, first SWUs, but also water users whose claims to livelihood supporting water access are not supported in water sector policy and practice. In this way, it defends resilience on the ground against a climate change policy implementation that shifts the burden of adaptation to the poor majority of South Africans. It opposes and works actively to replace water demand management, which practically results in injustices and human rights violations on the ground, with a system that is more people friendly. Yet, it also supports officials in pursuing agendas of transformation in the public interest – in the reallocation of productive water, the protection of water resources against polluters, and the provision of water.

It uses its position as civil society to raise issues and ask questions that government officials, bound in a hierarchy, are not able to. It insists on seeing our relationship as humans with nature as something more than a collection of resources, but as consisting of ecosystems, of life, and of spirit.

7.2 Learning in Practice Through a Considered Approach

7.2.1 Participatory and action research and interdisciplinarity

The SAWC's work to build a participatory democracy is as complex as it is ambitious. Which knowledges and which ways of learning are able to deal with this complexity and support this ambition? Complexity demands the ability to use different knowledges anchored in different lifeworlds together. Being able to use the knowledge demands that activists themselves find the appropriate knowledge and apply it.

Social learning is driven by the need to deal with contradictions in unfree societies. It resonates, on the basis of its inherent value system but also its practical application, with the approach of the SAWC. Therefore, social learning is a tool that is able to strengthen civil society.

The researchers have found that social learning is a good approach to building capacity in civil society. The case study activities, combined with regular team reflections and deep ongoing discussions, were successful in blending existing knowledge with new knowledge in a process of cross-over and sharing between people carrying different knowledges. This has already been an existing way of working in the SAWC. Social learning made this approach to knowledge generation more explicit. By naming it 'cognitive justice', it will be stronger as an explicit goal in future. Social learning also created awareness of the values of different knowledges, and brought them together in dialogue.

The relevant knowledges were:

1. *Framing knowledges,* expressing the values of deep ecology and ubuntu, social justice, growing democracy, and knowledge of traditional healers and African environmental worldview, the goal – and the history – of building a participatory democracy, deep ecology, social justice, cognitive justice, respect for local knowledge, respect for people, connectedness between people and nature, gender-focused approaches and sharing knowledges in a dialogue, SWUs' knowledge.

2. *Analytical knowledges,* which often took existing knowledge and organised it into categories that were named, for example, social movement theory that distinguishes framing work, from coalition forming and resource mobilising, from recognising opportunities and threats in spaces that civil society can enter, and questions of repertoire: what means or methods the SAWC uses.

3. *Practical knowledges and skills,* such as social learning, action research, building evidence, building knowledge networks, as well as working within the spaces of the policy cycle and the spaces created by the adoption of IWRM approach in the South African water sector.

4. *Emancipatory knowledge,* which is knowledge of how learning can be transformative, the politics of knowledge, cognitive justice, and knowledge of structural inequities.

Social learning processes are thus compatible with the way in which social movements operate and how members learn from each other. However, there is still a lot we need to learn about how researchers and academics interact with, and respect different knowledge systems and ways of expressing knowledge. The university and other formal knowledge institutions are not as compatible to social learning processes as social movement structures are because of the commodification and ownership of knowledge production that characterises the modern university and in fact modern society (Kincholoe, 2008).

We need to create spaces that are open to knowledge sharing in a way that does not exclude or alienate people who have not been inducted into an academic system. Critical action research as social learning can become a space where cognitive justice processes can be authentically explored with researchers and academics who are open to building relationships and alliances with social and environmental movements.

7.2.2 Knowledge generated at time (and in the form) it is needed

The SAWC has a practical and political approach to building knowledge. Knowledge is not generated for theoretical or conceptual reasons, but to engage directly in processes that could improve people's lives. For example, the SAWC drew from the Dunoon case study, as well as its history of engagement in water services, a technical understanding of tariffs and economics to develop key arguments to present during the national consultation process on norms and standards for water and sanitation. Social learning, as an approach and as a practice, strengthened skills to generate and find knowledge as needed, for example, through learning how to develop a knowledge network. It put the groundwork in place for further learning.

7.2.3 Developing a dialogue of knowledges through cognitive justice

The experience of the case studies has built a stronger policy voice in interaction with DWS, although it does follow on a tradition of interaction with DWS, including with the Minister and the regulation group. The policy voice is not new, but renewed. These relationships could be deepened and developed through a further cycle of action research as action learning in partnership with DWS.

In the first place, the SAWC has reasonably succeeded in creating a working and knowledge culture based on solidarity, which can engage in this task. One of the authors (Wilson) explains:

> *"I had a sense of real solidarity within SAWC when we met with DWS last week [May 2016]. Elements of this included strong trust in each other; respect for the diversity of voices and experience/knowledge that we bring; deep belief that this diverse knowledge is stronger when presented 'undiluted' but collectively; shared values that are for the 'public good' and protection of rivers and wetlands; integrity; a political analysis that recognises and understands power (and confronts it in ways that promote equity and justice); honesty and courage; strong 'bullshit-detection'. I think these are all characteristics that we've also built and nurtured through the Changing Practice course and citizen-monitoring project."*

7.2.4 Validation of knowledge

The impacts on activists, their views and capacity during this project were far-reaching. New perspectives were opened for activists. The academic rigour of an accredited course built confidence and endurance. Participants developed a different view of their own knowledge and the knowledge of experts. The idea of cognitive justice as a respectful dialogue between different knowledges has existed in practice in the SAWC. During the project, however, the philosophical underpinnings and political values behind it were spelled out. The project awakened an appetite for learning in caucus members.

In academic circles, there is interest in and take-up of the work of this project in the form of 'internal academics' working on the project from perspectives of social movement theory, social learning and applied critical realism. From students' interest in developing their academic material in interaction with this project, it is clear that worthwhile experiences and insights are generated within the SAWC's work. In the processes of interaction, non-academic participants are becoming familiar with academic and research work. Two good examples of this were the Vaal case study participants drawing on anthropological work (Bernard, 2003) to validate and learning more about the knowledge of SWUs' knowledge, and a participant from the Western Cape participating in two academic conferences in collaboration with one of the researchers. One of these conferences has led to a chapter in a book where the researcher and participant share how the course helped build solidarity at a local and national level in the SAWC (Burt and Lusithi, 2016).

Experiences in this project have persuaded participants that social learning is a participatory research methodology, which can approach the ideal of cognitive justice for all the knowledge carriers and knowledge creators involved in it more closely. Its wider application can lead to deeper and more equal participation in the water sector.

7.3 Monitoring the NWRS2 Implementation

The three case studies served to 'formalise' or make the existing SAWC method of working from local knowledge to policy debates and back more conscious. The social learning approach – to articulate context, to draw on local knowledge, to consider from multiple perspectives, among other things – allowed for a much deeper, more nuanced and more grounded description of the issues than what has been achieved before. This has given the activists involved more confidence and authority to raise these issues with government officials in any forums available. DWS officials have been impressed with the depth and detail with which the activists have presented their cases and welcomed this as a critical monitoring role (DWS comments during DWS-SAWC Dialogue, Nov. 2016). This has spurred officials to make renewed commitments to addressing the issues themselves and to ongoing engagement with the SAWC (whether they can deliver on those commitments remains to be seen).

The actual monitoring of the NWRS2 has been, at times, an abstract and difficult idea. Making the links between the case studies and national policy was a challenge for learners, and it often took the whole research team, in conversation and reflection, to identify and articulate these links. A large part of the challenge has been that the NWRS2 is not really a living strategy in the water sector. It remains at the level of a guiding framework, but is not yet close to realities on the ground.

The case studies served as windows onto the NWRS2. In the social learning process, the exploration of content, the discovery of other actors on the same issues, the discussion of what policy really is (or which version of it holds), all added up to making the issues very real. The researchers learnt about the structure of power, and how decisions are made. They gained new understanding about issues that had been long running in the caucus.

However, even if civil society can get a clear grasp on what it means to monitor policy, and develops compelling evidence about where the policy is inadequate or failing, this will only translate into improved implementation if there is somewhere for this evidence to go – if there is sufficient and appropriate capacity in the broader water sector, the DWS in particular, to receive this evidence and work with it. This requires openness, partnership, learning together, and meeting each other on common ground. It also requires adaptive institutions. We have great hope that this is possible.

The case studies also revealed power structures that seem to be, at the moment, beyond the SAWC's policy influence. This was the painful experience of participants in the Mariepskop (Moholoholo) case study, where it became clear that (1) an overall approach of "growth and jobs first" prevented the fulfilment of the original Kader Asmal's (then Minister of Water and Forestry) promise for the return of plantation land to natural vegetation which would regenerate populations of medicinal plants and improve water flow in the river, and (2) local complexities, such as the different local groups competing around land reform against the background of a divisive local history, make it difficult for the original case study agenda to win through.

Just as there is permanent learning, there is a permanent policy cycle, which can provide space for exercises in participatory democracy in practice – from setting policy agendas, to legislation, to setting up institutions, budgeting for and implementing projects. The SAWC has participated in all phases of the policy cycle. An important part of the SAWC's work is dealing with unfulfilled promises in the water sector (as well as requirements for participation). The SAWC actively debates policy agendas, existing government policy positions, law in Constitution, water sector specific legislation, involvement in the building of institutions (such as the CMFs), implementing policy and projects, monitoring and evaluating and setting new policy agendas. SAWC also runs a constant check on policy agendas, whether old or emerging, against its own set of values and arguments in the public interest.

From the case studies, some specific insights and next steps emerged, which SAWC will continue to track. These are:

Water demand management and climate change

The Dunoon case study opened the door to discussions with the DWS (in the Western Cape and nationally) about practical policies and implementation to use water to support people's livelihoods, as well as to prevent other policies such as water demand management aimed at dealing with climate change, which end up undermining people's livelihoods by restricting their access to water. This is now a policy and regulation discussion.

Inclusion of traditional/spiritual knowledge and people

The Vaal and Moholoholo case studies showed the need to support the inclusion of traditional healers into CMFs and other bodies for water governance. This can be implemented within the foreseeable future as part of the rollout of additional CMAs and CMFs.

Land claims and land use decisions

In Moholoholo, we saw the intricacies of competing land claims and the pressure that timber plantations put on water resources and other land uses, including the gathering of traditional medicines. Researchers were shocked that Kader Asmal's ministerial decision (to allow the plantation areas to return to natural vegetation to free up water for people) could be overridden with such ease and such lack of accountability. The privileging of timber plantations is likely to remain a political issue for the SAWC.

7.4 Building Solidarity and a Common Humanity

7.4.1 Reclaiming parts of ourselves that connect with water

The environmental justice movement takes us out of a purely intellectual/material analysis of society and into the realm of ecology and well-being. Many South Africans carry the wounds of a scarring political history. Many South Africans require healing. It is well-known that nature heals. Human relations with nature are not one of master and servant, but comprise an intricate and complex interdependency – or, as Thich Nhat Hanh teaches – interbeing[2]. This perspective allows for empathy to develop in researchers, which it did. Driving on the steep concrete road up Mariepskop through the invasive aliens to the more pristine summit, some of the researchers could 'feel' the pain of the mountain under alien invasive plants, which Ndhlovu described, "like ticks on a dog's back".

Likewise, in the Vaal, where VEJA researchers began merely wanting to include SWUs into CMFs because they are baptising people in contaminated water, the researchers themselves were transformed through their investigations into a 'felt' sense of connection between human and river, and a curiosity and appreciation of their cultural heritage and the wealth of knowledge that is embedded in African spiritual practices. In our country with its cruel history of oppression and denigration of Africanness, this is an important source of pride and builds self-worth and confidence. It is an important part of healing in our highly traumatised and violent society. Through his new appreciation of the role of SWUs, one of the researchers has decided to be baptised.

Mdluli, who is from the Mpumalanga research team, shared how she communicates with her ancestors by going under the waterfalls at sacred places in the river. She also shared her pain, and the pain of other traditional healers, at the loss of sacred pools and medicinal plants:

> *"We are crying. I am crying. Now, there is nowhere for us to communicate with our ancestors, so they cannot tell us what to do."*

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2 In the mid-1960s, Buddhist teacher Thich Nhat Hanh established the Order of Interbeing (en.wikipedia.org/wiki/Order_of_Interbeing). Interbeing has been defined as a state of connectedness and interdependence of all phenomena (en.wiktionary.org/wiki/interbeing).

Water, and the special places where water falls or pools, is a means of connection, communication and healing; most especially for people residing in the landscape through which a particular river flows. Mdluli and other healers felt that the loss of sacred pools and plants was a punishment from their ancestors; they had done something wrong to deserve this. The process of research and learning undertaken for this change project has given Mdluli evidence that plantations are the cause of the rivers drying up. She now has greater confidence and energy to rally other traditional healers to fight for the clearing of the plantations together.

Burt, as the course coordinator and environmental learning researcher, found home for her work in the SAWC, where she recognised a deep respect for all knowledge as well as a vibrant political space where transformative environmental learning work could be upscaled in the social movement. She also found that she was able to allow her own spiritual connection to nature and society, as a Buddhist practitioner, to have a legitimate voice in the learning process. She was able to draw on ideas like 'interbeing' and the concepts of compassion, which are mirrored in the more academic Critical Realist and Marxist movements, and that are core to Buddhist practice.

It also became apparent to the broader research team that this practice of river immersion is happening extensively, but is somehow not visible in the 'modern' side of South African culture; it is largely unrecognised in water law and policy. For example, during a field visit to the Vaal, the social learners and project team stopped for lunch at a chain restaurant. While preparing the bill, one of the waitresses asked about this diverse group of people all enjoying lunch together. She too had her story. In her American-style uniform and with striking eyes, this young woman started to explain about her own experiences 'in the water'. "Terrifying and extraordinary", she said. As she was about to describe what she saw when submerged, her supervisor appeared, and she rapidly finished the bill and handed it over. This experience was not part of her modern work persona, yet it clearly affected her deeply.

In Dunoon, another 'invisible' practice of care came to light. When the car washers had a standpipe that they could use for their business, they would water the struggling saplings in the neighbouring children's park. When the City learnt that this standpipe was being used for 'business' – and by implication the water was being 'stolen' – they closed the tap. The car washers then had to walk some distance to fill their 20 ℓ buckets and there was no water to spare for the trees. The trees are now parched and dying. The children's park is less appealing; there is less care.

7.4.2   Humanness

One of the things that the SAWC does, is remind people of their humanness. This was acutely evident during a meeting between the SAWC and DWS when an activist from Mariepskop, Mpumalanga, heard for the first time that a high-level decision had been taken to replant eucalyptus trees in part of the area that had been designated for plantation clearing through a DWS exit strategy. The pain he experienced on hearing this news was visible to everyone in the room, although initially he did not say a thing. Since learning that gum trees suck up water from the Earth at a rate of 25 ℓ per tree per day, he has been campaigning for the trees to be cleared from Mariepskop. This is an important catchment area for the Sand and Sabie rivers. Through his group's change project, he has learnt more about the impact of plantations – how they have caused the sacred pools in the rivers to disappear and made a diverse range of medicinal plants hard to find; how you cannot ask a tree to drink less just because there is a drought; and how the presence of the plantations is a legacy of forced removals and thus a forced severing from belonging. The recognition that these impacts would get worse caused him – and others in the room – pain; the process of decision-making made him angry. For years, he has been trying to obtain more information on the unimplemented exit strategy. He worked through official channels and forums designed for information sharing and consultation. On a number of occasions, he has been told not to be like a stuck record by raising these questions at every meeting. Everyone (in CMFs, DWS, etc.) knew he was deeply concerned about the plantations and rivers and yet no one thought to inform him of this replanting decision. It is possible that they too did not know. The DWS official who informed him had only heard the previous week about this 2013 cabinet decision. In the meeting, the heartfelt pain and justifiable anger of the Mariepskop activist led to a number of officials trying to find ways to

'make it right'. He won their hearts and appealed to their wisdom to think of these issues not just as abstract policies, but as strategies with real consequences for people who lived there. This connection of humanness between people with different experiences and roles is critical if we are to counter a political and economic system that seems to be waging war on poor people and ecosystems. This is a form of resistance.

Another example of resistance comes from Cape Town. After trying every official route to fix malfunctioning or problematic WMDs and experiencing invisibility, people are bypassing their devices to get water, which is a constitutional right. The system is blind to people's daily lived realities and people are resisting that annihilation and making plans. It comes with a price though. Bypassing a meter is illegal. People are being made to choose between their rights being violated by having no water and being criminalised.

8   RECOMMENDATIONS

This project has started to articulate what needs to be done to allow true participatory democracy to flourish in the water sector in South Africa. Some guidelines for practical application are provided in the CER's Legal Note and the Guidelines for Citizen Monitoring and (Appendices 1 and 2).

A preliminary set of recommendations arising from this project was presented towards the end of the project (October 2016) to a multi-stakeholder group comprising civil society activists, government officials and academics. These were discussed and augmented to produce the following recommendations:

1. Develop a participatory action research project in the SAWC to support the entry of SWUs into CMFs. The action research would record the experiences and obstacles that this important water user group experiences, and the changes that result in CMFs from their presence, agendas and participation. CMFs will need to be changed quite radically to truly allow for cognitive justice and a dialogue of knowledges. Such research may produce important insights about the functioning and broad representativeness of CMFs and water governance in our country, as well as new ways of 'seeing' water. This will lead to greater protection of rivers, wetlands and groundwater.

2. This project concluded that social learning is a good approach to building capacity within civil society. There are already plans to take this forward with a new Changing Practice course in the Olifants catchment for members of the Limpopo Water Caucus and the MPWC, in partnership with the AWARD. There is also commitment and interest from others in the SAWC to carry out Changing Practice type projects. It is recommended that a 'research and learning' project be run alongside these initiatives to gain greater insight into how social learning can be taken up within the SAWC, and within civil society more broadly.

3. Explore the availability of productive water, or water for livelihoods, in rural and in urban settings. What are the dynamics? What are the implications for climate change policy? Do current water sector policy positions and the way they are implemented support and strengthen people's access to water for livelihoods? This could be linked to the DWS initiative to expand the definition of 'productive water' to include livelihood activities beyond just food-growing.

4. Explore social learning as a pathway for water activists to careers and employment in which their passion and commitment, as well as skills set, are acknowledged. There is currently a project looking at green-skilling being run by the ELRC at Rhodes, which could be connected to this research.

5. How does democratic culture in government and civil society respectively influence the development of a participatory democracy approach in the South African water sector? How could the approach of action learning as social learning (through the Changing Practice course) also involve government officials and academics working with activists to develop change projects collaboratively?

6. Gender dynamics emerged as a key concern in this research – both in terms of the different ways in which women and men experience water challenges and are able to engage in water governance *and* in how activist researchers within civil society networks are able to do their work, including issues of safety. It is recommended that an action research project explores how to integrate gender into social learning, including mechanisms to help women navigate the pressures of their own lives in relation to participating in a Changing Practice course. As part of this, participants would learn how to improve their methods for gender analysis, sensitivity and advocating for the role of women in water policy and research. Embedding such a process within the SAWC, or a similar value-based social movement, would ensure that the reach goes beyond individual participants, and into civil society more broadly.

7. This research project may be the entry point to further explore how to develop meaningful change-oriented partnerships between intellectuals and activists. Academic institutions can learn from some of the principles of social learning to begin to engage more meaningfully and effectively with civil society by, for example, integrating the lived experience of all participants (including academics) into processes of learning. This includes creating spaces that are open to knowledge sharing in a way that do not exclude or alienate people who have not been inducted into an academic system, and that give people the freedom to be themselves with their own struggles and challenges, their own painful experiences and wounds and to acknowledge their own joys, strengths and achievements.

8. Research is required into how to open spaces for the integration and valuing of citizen science within the WRC more broadly. This could link with Recommendation 7.

9. Explore the potential of an online platform and smartphone apps to strengthen citizen monitoring and record stories.

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APPENDIX 1: RIGHTS AND OBLIGATIONS OF GOVERNMENT TO CIVIL SOCIETY IN THE WATER SECTOR

RIGHTS AND OBLIGATIONS OF GOVERNMENT TO CIVIL SOCIETY IN THE WATER SECTOR: CITIZEN MONITORING

Prepared by the Centre for Environmental Rights

July 2016

Introduction

Constitution of the Republic of South Africa

Section 24 of the Constitution of the Republic of South Africa (the Constitution) provides that everyone has the right to an environment that is not harmful to their health or well-being and to have the environment protected, for the benefit of present and future generations. This protection is to be achieved through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Section 27(1)(b) of the Constitution provides that everyone has the right to have access to sufficient water. Although this is not an immediately realisable right, the government must take legislative and other measures to progressively realise this right.

National legislation

The National Environmental Management Act, 1998 (NEMA) gives effect to section 24 of the Constitution and provides the framework for integrated environmental management, requiring that other specific environmental management Acts (SEMAs) such as the National Water Act, 1998 (NWA) also comply with the requirements of the NEMA. It also sets out environmental management principles in section 2 which apply to actions of state organs that may significantly affect the environment, including those in the water sector. Importantly, the environmental management principles shall:

- apply alongside all other appropriate and relevant considerations, including the State's responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;[3]
- serve as a guideline by reference to which any organ of state must exercise any function when taking any decision in terms of the NEMA or any statutory provision concerning the protection of the environment[4] (therefore including the NWA); and
- guide the interpretation, administration and implementation of the NEMA and any other law concerned with the protection and management of the environment[5] (e.g. the NWA).

The Preamble to NEMA provides that the law should establish procedures and institutions to facilitate and promote public participation in environmental governance. Furthermore, the first environmental management principle in NEMA is that "the participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured."[6] The NWA provides a framework for water resource management (WRM). Its purpose is to ensure that South Africa's water resources are protected, used, developed, conserved, managed and controlled in ways that account for various factors such as meeting basic human needs of present and future generations, promoting

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[3] Section 2(1)(a).
[4] Section 2(1)(c).
[5] Section 2(1)(e).
[6] Section 2(4)(f).

equitable access to water, redressing past racial and gender discrimination and promoting the efficient, sustainable and beneficial use of water in the public interest, to name a few.

The Water Services Act, 1997 (WSA) gives effect to section 27(1)(b) of the Constitution by providing for the rights of access to basic water supply specifically and the promotion of effective WRM and conservation generally. This is achieved through giving our municipalities the responsibility to ensure access to water supply and sanitation services, through water service providers.

Together, these Acts form key legislation in water governance and the public participation process has been spelled out throughout these pieces of legislation in order to implement WRM.

<u>Policy statements and guidelines</u>

In 2001, the then Department of Water and Forestry published a document entitled "Generic Guidelines to Public Participation",[7] intended to provide "a critique and understanding of the value of public participation in the decision-making process", and "to assist the Department… in the implementation of public participation in its activities". The Guidelines recognises the three objectives of public participation as being:

- To improve decision-making, 'by making the process adopted by an initiative transparent, inclusive and fair'. In this way, trust is developed and a shared vision is created through the sharing of ideas, needs, suggestions or information by stakeholders.
- To bring about sustainable development, as decision-makers become aware of the views, opinions and perspectives of those affected. In this way, decision-makers are enabled to understand 'stakeholders' views and concerns about trade-offs between the three dimensions of sustainability for a particular project.'
- To normalise the attitudes of stakeholders, by including previously segregated sectors in the decision-making process.[8]

The Guidelines also identify the 16 principles which underlie public participation, which are: inclusive involvement of stakeholders, integration, mutual respect among role-players, continuity in participation, consideration of multiple options, flexibility, transparency, rights and roles, accountability and commitment, access of information, awareness-creation, capacity-building and empowerment, efficiency, suitability of scale of involvement, feedback and monitoring and evaluation.[9] Each principle is further discussed in the Guidelines.

These Guidelines are again referred to in the External[10] and Internal Guidelines[11] on "Generic Water Use Authorisation Application Process", published by the Department of Water and Forestry in 2007.[12]

In 2009, the then Department of Water and Environmental Affairs developed the "Toolkit for Evaluating Public Participation in the Establishment of Water Management Institutions",[13] which is aimed at providing "a set of validated methodological tools to enable public participation practitioners (i.e. public

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[7] https://www.dwa.gov.za/Documents/Other/GPPG/guide.pdf.
[8] Generic Guidelines on Public Participation:6-7.
[9] Generic Guidelines on Public Participation:15.
[10] Intended for use by water users.
[11] Intended for use by department officials.
[12] External Guideline accessible on https://www.environment.gov.za/sites/default/files/reports/externalguideline_genericwateruseauthorisation_applicationprocess.pdf. Internal guideline accessible on http://www.fse.org.za/Downloads/WATER%20USE%20LICENCE%20APPLICATION.pdf.
[13] Accessible on https://www.dwa.gov.za/io/Docs/CMA/Public%20Participation%20Process/Toolkit%20for%20evaluating%20public%20participation%20proces.pdf.

officials, private officials, Catchment Management Agencies (CMAs), the then Department of Water and Environmental Affairs and other institutions) to evaluate the effectiveness of various public participation processes applied during the establishment of Water Management Institutions." This toolkit therefore has a very narrow focus (as it considers only the public participation processes followed in setting up CMAs and Water Use Associations) but it can be referred to for practical steps and guidelines on how to go about setting up effective public participation processes.

Purpose of this document

This document summarises citizens' rights and government's obligations for the public participation in water governance, having regard specifically to:

1. Policy-making (including guidelines, policy statements, Green Papers and White Papers);
2. Drafting of legislation (primary legislation: the drafting process of bills which then become enacted as Acts of Parliament and the drafting of by-laws; and secondary legislation: namely Regulations prescribed in terms of legislation);
3. Implementation of legislation, including publication of strategies like the National Water Resource Strategy 2 (NWRS2) and other decisions required and made under statute (e.g. determination of the Reserve, or resource quality objectives under the NWA);
4. Licensing (having regard to specific requirements under the NWA, as well as recent court judgments about the discretionary nature of public participation in the licensing process);
5. Compliance monitoring and enforcement (having regard to general rights and obligations under NEMA, and specific rights and obligations under the NWA, and the Criminal Procedure Act);
6. Appeals (having regard to objectors' rights before the Water Tribunal) and petitions to lift automatic suspensions triggered by appeals; and
7. Access to information.

Where appropriate, the document also highlights actions and practices that should be taken by government in order to promote the overall principle of public participation in water governance, even when not expressly required by statute.

1. Policy-making

Section 195(1)(e) of the Constitution provides that 'public administration must be governed by the democratic values and principles enshrined in the Constitution', including the principle that 'people's needs must be responded to, and the public must be encouraged to participate in policy-making.' This principle applies to administration in all levels of government[14] and national legislation must ensure the promotion of this principle.[15]

The process of making a law usually begins with a discussion document (a Green Paper). This is drafted in the Ministry or department dealing with the particular issue and published for comments, suggestions and ideas.[16] Therefore public participation is invited from the onset of the policy-making process. A more refined discussion document (a White Paper) follows a Green Paper and it usually contains a broad statement of government policy. This is drafted by the relevant department or a task team designated by the Minister of that department. Comment may again be invited from interested parties, resulting in further public participation. The relevant parliamentary Committees may propose

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[14] Section 195(2) of the Constitution.
[15] Section 195(3) of the Constitution.
[16] Accessed at https://pmg.org.za/page/legislative-process on 6 June 2016.

amendments or other proposals and then send the policy paper back to the Ministry for further discussion and final decisions.[17]

Although not formally regulated, public participation should be included in the policy-making process through calls for comments to be submitted to the relevant Ministry within the specified time-frame in the relevant gazetted notice. In this way, the relevant Ministry is keeping in line with its constitutional mandate to ensure the promotion of the public participation principle in public administration.

Example: National Water Policy Review, 2013

In August 2013, the Minister of Water and Environmental Affairs published the National Water Policy Review in the Government Gazette, asking for comments within 30 days from the date of publication of the notice. The Review consisted of "updated policy positions to overcome the water challenges of our developmental state to provide for improved access to water, equity and sustainability."

Even where this is not required by law, it is good practice to publish comments and responses to the proposed policy or policy amendment, not only to ensure the public that their comments have been considered, but also to share authorities' reasoning and approach to a particular policy or policy change.

2. Drafting of legislation
Primary legislation

Section 59(1)(a) of the Constitution obliges the National Assembly to facilitate public involvement in the legislative and other processes of the Assembly and its committee. The same goes for the National Council of Provinces[18] (NCOP) and the provincial legislature[19] which must facilitate public involvement in the legislative and other processes of the Council/legislature and its committees respectively. In that vein, 'draft national or provincial legislation that affects the status, institutions, powers or functions of local government must be published for public comment before it is introduced in Parliament or a provincial legislature, in a manner that allows organised local government, municipalities and other interested persons an opportunity to make representations with regard to the draft legislation.' [20] Importantly, municipal by-laws may also not be passed by a Municipal Council unless the proposed by-law has been published for public comment.[21] The Constitution therefore requires a public participation process to be followed when drafting legislation in all levels of government and provides a schedule describing the functional area in which each level of government may make legislation – be it separately or jointly.[22]

The Constitution provides for 3 kinds of bills (draft legislation), namely: Constitution amendment bills, ordinary bills (further classified as those affecting the provinces and those that do not), and money bills. For purpose of this document, only ordinary bills – the most common – will be referred to. However it is also important to note that for ordinary bills specifically affecting the provinces, there are two participation procedures involved: one at a national level through the National Assembly, and one at the provincial level through the NCOP. Although water legislation does not generally fall within the

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[17] Accessed at https://pmg.org.za/page/legislative-process on 6 June 2016.
[18] Section 72(1)(a) of the Constitution.
[19] Section 118(1)(a) of the Constitution.
[20] Section 154(2) of the Constitution.
[21] Section 160(4)(b) of the Constitution.
[22] Schedules 4 and 5 of the Constitution.

provincial legislature's functional area of competence, there may be instances where water legislation intrudes on the provincial legislature's functional area of competence.

Rule 241(1) of the National Assembly Rules provides for the notification and publication procedure for draft legislation of ordinary bills[23] as follows: 'A bill may be introduced in the Assembly only if:

- a copy of the draft legislation has been submitted to the Speaker in terms of Rule 233, if it is a bill initiated by the national executive and that Rule is applicable;
- prior notice of its introduction has been given in the Gazette; and
- an explanatory summary of the bill, or the draft bill as it is to be introduced, has been published in the Gazette.'

For purposes of the last requirement, if the bill is published 'as it is to be introduced', the notice must contain an invitation to interested parties to submit written representations on the draft legislation to the Secretary within a specified period.[24] However, in instances where only an 'explanatory summary' of the bill is published, there is no specified requirement that that notice must also contain an invitation for public comment – the National Assembly Rules are silent on this matter. In that event – where only an explanatory summary has been published – the public may find itself in a situation where it is restricted from participating through commenting/making representations on a bill that has been published merely by means of an explanatory summary (due to the lack of an invitation to make comment). However, the Constitution still requires that public participation be facilitated by National Assembly and the NCOP in the legislation-making process; therefore these provisions can still be relied upon. Furthermore, the rules do not specify the cases in which a bill must be published 'as it is to be introduced' or merely by way of an 'explanatory summary'. This may be problematic where a bill affecting the water sector is published by way of an explanatory note. The public will not be invited to comment in such circumstances, just as is the case with bills that have been certified as 'urgent' by the person in charge of the bill, in consultation with the Speaker.[25]

> Example: NWA Amendment Bill, 2014 was published without inviting the public to make comments on it. Instead, the drafting of the Bill depended on public comments made "during the consultation process relating to amendments … being effected to the National Environmental Management Act, 1998." As a result, this Bill had unclear provisions which created confusion and led to misunderstanding of the appeals process, which is discussed under Appeals.

The Joint Rules of Parliament provide for the public to participate in the joint business of the Houses by responding to public or specific invitations to comment in writing on bills, or to give evidence or to make representations before joint committees on such bills, either in person or through a representative.[26] If the bill has been published for public comment, the joint committee to which the bill is referred may arrange its business in such a manner that interested persons and institutions have an opportunity to comment on the bill.[27] However, even if a bill has not been published for public comment, if the joint committee considers public comment necessary, it may, by way of invitations, press statements, advertisements or in any other manner, invite the public to comment on the bill.[28] Citizens and civil society organisations therefore have an opportunity to comment on legislation drafted by the NCOP in this way.

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[23] Rule 241(4) specifically provides that Rule 241 does not apply to Constitution amendment and money bills.
[24] Rule 241(2).
[25] Rule 241(5).
[26] Rule 6(1)(b).
[27] Rule 167(1).
[28] Rule 167(2).

Secondary or subordinate legislation refers to regulations promulgated by the Minister or other official as authorised by primary legislation, in other words authorised in terms of a statute like the NWA.

> **Example: Regulations On Use Of Water For Mining and Related Activities aimed at the Protection of Water Resources** published under section 26(1)(b), (g) and (i) of the National Water Act, published 4 June 1999 in the Government Gazette No. 704. These regulations are colloquially known as "GN704"

The NWA provides that the Minister responsible for water and sanitation may make regulations pertaining to various matters under NWA and in so doing, must follow the procedure set out in section 69. This provision requires the Minister to publish a notice in the Gazette setting out the draft regulations and inviting written comments to be submitted on the proposed regulations, specifying an address to which and a date before which the comments must be submitted.[29] The Minister must also consider any further appropriate steps that may be necessary to bring the notice to the attention of interested persons, and take those steps if necessary. Once the Minister has received the comments, they must be considered. The National Assembly, NCOP or a committee of either the National Assembly or NCOP may request a report from the Minister on the extent to which a specific comment has been taken into account, or if not, provide the reason why it was not taken into account.[30]

It is not customary in South Africa for government departments to release the "comments and response" tables compiled based on public comments received, and reasons for why those comments have been accepted or rejected. However, it is good practice to release such records as a matter of course, particularly since such disclosure should encourage public participation. It is possible to submit a request for such records under the Promotion of Access to Information Act, 2000, provided that the requester can pass the hurdle set by section 44(1) of PAIA relating to possible refusal of records relating to the operations of public bodies.

In terms of section 71 of the WSA, the Minister must, before making Regulations under that Act:

- publish draft regulations in the Government Gazette for public comment within a specified time;
- send copies of the draft regulations and invite comment from the Minister for Provincial Affairs and Constitutional Development, any relevant Province, any relevant organisation representing municipalities, and any relevant water board;
- consider all comments received within the specified time and
- if so requested, report on the extent to which specific comments have been taken into account, and if they have not been taken into account, provide reasons therefor (a provision similar to section 69(1)(d) of the NWA).

> Example: Draft Revision of the Norms and Standards for Setting Water Services Tariffs
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> In November 2015, the Minister of Water and Sanitation published the Draft Revision of the Norms and Standards for Setting Water Services Tariffs in the Government Gazette, asking for comments within 90 days from the date of publication of the notice. This was done in terms of section 10 of WSA.
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> The comment period was extended to 31 March 2016 by a further notice in the Government Gazette.

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[29] This date may not be earlier than 60 days after publication of the notice.
[30] Section 69(1)(d) of the NWA.

NEMA provides that the Minister responsible for environmental affairs or MEC may make any regulations pertaining to any matter under NEMA and in so doing, must follow the procedure set out in section 47. This requires the Minister/MEC to publish a notice in the relevant Gazette setting out the draft regulations and inviting written comments to be submitted on the proposed regulations within a specified period. Once the comments have been received, the Minister/MEC must consider all comments when finalising the draft regulations.[31] It is important to note that where the Minister/MEC is required to consult with any person in terms of NEMA or any SEMAs, the consultation requirement will be said to have been met if a formal written notification of intention to act was made to that person and no response was received within a reasonable time.[32] Citizens/civil society organisations should thus ensure that a timeous response to a consultation is provided, if the citizen/civil society organisation intends participating in that regard.

3. Implementation of legislation
<u>The NWA</u>

The NWA provides statutory tools to implement the protection and use of water, namely resource-directed measures (RDMs) and source-directed controls (SDCs). RDMs focus on the quality and quantity of the water resource, including tools such as: classification of water resources, establishing resource quality objectives (RQOs), and setting the Reserve (both the ecological reserve and the basic human needs reserve).[33] SDCs aim to regulate water use so that impacts are at acceptable levels. SDCs include water use authorisations and compulsory licensing mechanisms.[34]

The NWA also sets out the public participation requirements pertaining to each tool:

Water classification and establishing RQOs

Section 13(4) provides that before the Minister can determine the water class or establish the RQO of a particular water resource, the Minister must: publish a notice in the Gazette setting various details pertaining to the class or RQO, invite written comments to be submitted on the proposed class or RQO before a certain date,[35] consider any further steps to be taken in order to bring this notice to the attention of interested parties (if such further steps are necessary), and consider all comments received.

Setting the Reserve

Section 16(3) provides that before the Minister can determine the Reserve, the Minister must publish a notice in the Gazette setting out the proposed Reserve, invite written comments to be submitted on the proposed class or RQO before a certain date,[36] consider any further steps to be taken in order to bring this notice to the attention of interested parties (if such further steps are necessary), and consider all comments received.

> Example: Proposed classes of water resources and resource quality objectives with the accompanying reserve for the catchments of the Mvoti to Umzimkulu

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[31] Section 47(1) of NEMA.
[32] Section 47B of NEMA.
[33] Chapter 3, Part 1 – 3 of the NWA. *Stop Treading Water: what civil society can do to get water governance in South Africa back on track,* Centre for Environmental Rights: 6.
[34] Section 22 of the NWA. *Stop Treading Water: what civil society can do to get water governance in South Africa back on track,* Centre for Environmental Rights: 6.
[35] This date may not be earlier than 60 days after publication of the notice.
[36] This date may not be earlier than 60 days after publication of the notice.

On 17 June 2016, the Minister of Water and Sanitation published the proposed classes of water resources and resource quality objectives with the accompanying reserve for the catchments of the Mvoti to Umzimkulu. The period for comments was 60 days.

The NWRS

The Minister is required to establish a National Water Resource Strategy (NWRS) setting out the strategies, objectives, plans, guidelines and procedures relating to the protection, use, development, conservation, management and control of water resources. In so doing, the Minister is required to publish the draft NWRS in the Gazette and invite written comments on it - to be submitted at least 90 days after the publication thereof.[37] If necessary, the Minister should consider any further, appropriate steps that may be required to bring the published draft NWRS to the attention of interested persons and take such steps.[38] Once comments have been received by the Minister, they should be considered before finalising the NWRS.[39] The first NWRS was finalised in 2004 (NWRS1), with a revised version published in 2013 (NWRS2).

Chapter 5 of the NWRS2 provides for principles that should be followed in water resource protection. Principle 2 provides that water resource protection should be based on a participatory approach, involving users, planners and policymakers at all levels. This means that resource protection should involve raising awareness of the importance and value of water among policymakers and the general public. Decisions should therefore be taken at the lowest appropriate level, with full public consultation and involvement of users in the management of our water resources.[40] Due to the NWA requiring that the Minister, Director-General, any state organ and Water Management Institutions (WMIs) must give effect to the NWRS when exercising any power or performing a duty in terms of NWA,[41] citizens/civil society organisations can thus hold these persons/institutions accountable for their involvement in water resource protection decision-making processes. In this way, public participation is guaranteed nationally for the implementation of RDMs.

CMAs and CMFs

Catchment Management Agencies (CMAs) are also required to establish catchment management strategies (CMSs) setting out similar strategies for water resource protection in the relevant water management area. The CMS must enable the public to participate in managing the water resources within its water management area.[42] The Minister and relevant CMA must give effect to any CMS when exercising any power or performing any duty in terms of NWA.[43] Citizens/civil society organisations can thus hold these persons/institutions accountable for their involvement in water resource protection decision-making processes. In this way, public participation is guaranteed locally for the implementation of RDMs. With regards to SDCs, see **Licensing** below, which sets out the public participation requirements in more detail. To avoid repetition throughout the document, it is noted at this juncture that for those water management areas that do not yet have fully functioning CMAs, the Minister performs that CMA's function in its absence.[44]

Catchment Management Forums (CMFs) are non-statutory voluntary bodies which address local water management issues. Although CMFs are not specifically mentioned in NWA, they are provided for in the NWRS2 where the Department of Water and Sanitation (DWS) commits therein to "support the

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[37] Section 5(5)(a) of the NWA.
[38] Section 5(5)(b) of the NWA.
[39] Section 5(5)(c) of the NWA.
[40] NWRS2: 43.
[41] Section 7 of the NWA.
[42] Section 9(g) of the NWA.
[43] Section 11 of the NWA.
[44] Section 72 of the NWA.

establishment and functioning of CMFs until CMAs are established."[45] CMAs also have the power to establish committees, including an executive committee and consultative bodies, to perform any of its functions in a particular area, or generally to advise it, and CMAs must determine how these committees must function.[46] The Minister may also make regulations requiring the establishment of consultative forums and determining their composition and functions.[47] The NWRS2 also recognises that CMFs may be established as statutory bodies, either by way of CMA committees or advisory committees.[48] Therefore, in terms of these provisions, both the Minister and CMAs can and should be setting up CMFs in catchment management areas. However, to date, neither of those provisions has been utilised by the Minister nor functioning CMAs to set up CMFs in catchment management areas. Nonetheless, various informal CMFs have been set up in certain water management areas, which have functioned without the necessary support to date.

WSA

In terms of the WSA, public participation is also required for the development of water services development plans by water services providers,[49] as well as for setting the conditions of the provision of water services by water boards[50] and water services committees.[51]

4. Licensing

The NWA provides that water use licences (WULs) are required for all water uses in terms of section 21, except where:

- the water use has been listed in Schedule 1 of the NWA;
- the Minister has authorised the water use in terms of a general authorisation; or
- the water use is a continuation of an existing lawful water use.

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[45] NWRS2: 66.
[46] Section 82(5) of the NWA.
[47] Section 90(1)(b) of the NWA.
[48] NWRS2: 66.
[49] Section 14(1)(a) of the WSA.
[50] Section 33(3) of the WSA.
[51] Section 54(2) of the WSA.

In obtaining a WUL, an application needs to be made to the DWS.[52] In bringing this application, a pre-consultation phase and information-gathering phase precede the application itself. A public participation process needs to be followed in the information gathering phase, which must be done in terms of the "Generic Guidelines on Public Participation" referred to in the **Introduction**.[53] Department officials will then need the following as proof of the applicant having carried out the public participation requirement:

- 'Proof that immediate neighbours have been informed of the intention to apply for a licence. Comments received in response to this part of the application process are to be conveyed to the Department; and
- Physical proof that the neighbours have been identified and informed through individual letters to each, with copies of acknowledgement of receipt.'[54]

It is also important to note, at this juncture, that Draft Regulations regarding the Procedural Requirements for Licence Applications in terms of Section 26(1)(k) of NWA were published for comment on 12 February 2015 (Draft Regulations).[55] These Draft Regulations have not yet been finalised. Regulation 38 of the Draft Regulations provides for the same public participation process as prescribed in Regulation 54 of the EIA Regulations, 2010. Once finalised, the Draft Regulations will become legally applicable and enforceable, thereby clarifying the public participation process in the WUL application process.

Critically, however, section 41(4) of NWA currently provides the responsible authority (the Minister/CMA) with discretion to include or exclude the public from participating in the licence application procedure. This is evidenced by the use of the word 'may' in relation to inviting written comments from any organ of state or person who has an interest in the licence application.[56] Furthermore, the responsible authority 'may' require the applicant to:

- give suitable notice in newspapers or other media, describing the licence applied for, stating that objections may be lodged before a specified date at the given address;

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[52] To the extent that listed water use activities are also listed in or overlap with the activities listed under NEMA's Chapter 5, most WULs will only be granted after an environmental authorisation has been issued. When applying for environmental authorisation, section 24(4)(a) of NEMA specifically requires that the investigation, assessment and communication of potential environmental impacts must ensure public information and participation procedures that provide interested and affected parties a reasonable opportunity to participate in those information and participation procedures. The public participation process in regulation 41 of the 2014 EIA Regulations requires that 'the person conducting a public participation process must … give notice to all potential interested and affected parties of the application which is subjected to public participation by: fixing a notice board at a place conspicuous to the public at the boundary or on the fence of the site where the activity to which the application relates is or is to be undertaken; and any alternative site mentioned in the application; giving written notice to various affected people such as the owner or person in control of that land, the occupiers of the site where the activity is or is to be undertaken, and any organisation of ratepayers that represent the community in the area; placing an advertisement in one local newspaper, or any official Gazette that is published specifically for the purpose of providing public notice of applications made in terms of the EIA Regulations; placing an advertisement in at least one provincial or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or local municipality in which it is or will be undertaken; and using reasonable alternative methods, as agreed to by the competent authority, in those instances where a person is desiring of but unable to participate in the process due to illiteracy, disability or any other disadvantage.'
[53] See External Guidelines on Generic Water Use Authorisation Application Process: 14.
[54] See Internal Guidelines on Generic Water Use Authorisation Application Process: 8.
[55] Government Notice 126 of Government Gazette 38465.
[56] Section 41(2)(c).

- take other steps as may be required to bring the licence application to the attention of relevant state organs, interested persons and the public in general; and
- satisfy the responsible authority that the interests of any other person having an interest in the land will not be affected.

In terms of South African administrative law,[57] everyone whose rights are potentially affected by administrative decisions, such as the granting of WULs,[58] has the right to make representations to the decision-maker before such decisions are taken. If it can be shown that the granting of a WUL affects the rights (including the environmental right and the right of access to water) of anyone, a fair public participation process *must* be conducted,[59] despite the discretionary nature of the public participation process under the NWA. This situation, namely that the public participation process for WULs is couched in discretionary terms in the NWA, has changed since the Constitutional Court's finding in *Zondi v MEC for Traditional Affairs and Local Government,*[60] which was recently applied in *Escarpment Environmental Protection Group v Department of Water Affairs.*[61] Both these cases are further discussed under **Appeals**.

It is unfortunate that public participation in WUL applications has not yet been made obligatory. This has resulted in the Water Tribunal making findings which are not consistent with the object of the public participation procedure as set out in section 4 of the Promotion of Administrative Justice Act, 2000 (PAJA). This will be dealt with in more detail under **Appeals**.

Finally, section 42 of the NWA provides that, once a decision has been made by the responsible authority (the Minister/CMA) on a licence application, it must promptly notify the applicant and any person who has objected to the application, and give written reason for its decisions to the applicant and/or any person who has objected to the application, upon request. This gives citizens/civil society organisations the right to be informed of the reasons for granting or refusing a WUL application, if such information is requested.

Furthermore, since granting of WULs is an administrative action, section 5 of PAJA also applies. This provides that "any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may … request that the administrator concerned furnish written reasons for the action."[62] Within 90 days of receiving such request, the administrator must provide written reasons for the administrative action. Where it is reasonable and justifiable to do so, the administrator may decide not to provide reasons upon request.[63] Failure by the administrator to give reasons (upon request) or to furnish proof of a reasonable and justifiable departure

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[57] Section 33 of the Constitution read with sections 3 and 4 of the Promotion of Administrative Justice Act, 2000 (PAJA)

[58] *Makhanya NO and another v Goede Wellington Boerdery (Pty) Ltd* (230/12) [2012] ZASCA 205 (30 November 2012) at para 27

[59] Section 33 of the Constitution and sections 3 and 4 of PAJA

[60] 2005 (3) SA 589 CC).

[61] 2013 ZAGPPHC 505 (GNP).

[62] The request must be made within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action,

[63] The administrator must take into account all relevant factors, including –
(i) the objects of the empowering provision;
(ii) the nature, purpose and likely effect of the administrative action concerned;
(iii) the nature and the extent of the departure;
(iv) the relation between the departure and its purpose;
(v) the importance of the purpose of the departure; and
(vi) the need to promote an efficient administration and good governance.

from the requirement to give reasons, will result in a presumption that the administrative action was taken without good reason in a judicial review.

5. Compliance monitoring and enforcement

Compliance monitoring

<u>NWA</u>

Section 137 provides that the Minister must establish a national monitoring system which provides a collection of data necessary to assess various matters such as the quantity of water in various water resources, the quality of water resources, the use of water resources and the compliance with RQOs. However, there is no express right for citizens to be included by means of a public participation process in setting up this national monitoring system. Also, with access to land being granted only to authorised persons who can then investigate whether the NWA or any condition attached to a water use authorisation is being contravened[64], coupled with the limited rights granted to citizens for access to information (discussed in further detail under **Access to information**), it becomes difficult for citizens/civil society organisations to monitor compliance. However, section 138 requires the Minister to consult with relevant state organs, WMIs and existing or potential water users when establishing mechanisms and procedures that will be used to coordinate the monitoring of water resources.

<u>WSA</u>

Section 62 requires the Minister and any relevant province to monitor the performance of every water services institution to ensure compliance with national standards, all norms and standards, and with every applicable development plan, policy statement or business plan adopted in terms of the WSA. The information required to monitor such performance must be submitted to the Minister, meaning that the public has limited rights to monitor this compliance. However, section 67 provides that the Minister must establish a national information system which is discussed in further detail under **Access to information**. Although the WSA does not provide for a national monitoring system similar to that in the NWA, the purpose of the national information system is to "provide information to water services institutions, consumers and the public to enable them to monitor the performance of water services institutions,"[65] amongst other things. Therefore the public has the right to monitor the performance of water services institutions through the national information system.

Enforcement

<u>NEMA</u>

The Preamble to NEMA provides that the law should be enforced by the State and that the law should facilitate the enforcement of environmental laws by civil society.

Example: *Company Secretary of Arcelormittal South Africa and Another v Vaal Environmental Justice Alliance* 2015 (1) SA 515 (SCA)

Vaal Environmental Justice Alliance (VEJA), a coalition of community-based organisations, requested access to Arcelormittal South Africa's (AMSA) Environmental Master Plan in December 2011, and access to records relating to the closing and rehabilitation of AMSA's Vaal Disposal Site in February 2012, in terms of the Promotion of Access to Information Act, 2000. AMSA refused VEJA's request, and VEJA launched High Court litigation to seek a copy of the Environmental Master Plan. The Environmental Master Plan is a comprehensive strategy document that contains the results

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[64] Section 125 of NWA gives the powers and duties to conduct these investigations to authorised persons who are duly appointed as such in terms of section 124 of NWA.
[65] Section 68(b) of WSA.

of numerous specialist environmental tests for pollution levels at Vanderbijlpark, as well as its plans to address this pollution and rehabilitate its sites over a 20-year period. The South Gauteng High Court found order in favour of VEJA on 10 September 2013, stating that

"a community based, civil society organisation such as [VEJA], is entitled to monitor, protect and exercise the rights of the public at least by seeking the information to enable it to assess the impacts of various activities on the environment and like-minded individuals must be encouraged to exercise a watch-dog role in the preservation and rehabilitation of our national resources."[66]

Displeased with the outcome, AMSA approached the Supreme Court of Appeal on appeal. The Supreme Court of Appeal confirmed the High Court's finding and further noted that in *Biowatch*, the Constitutional Court said:

"Interventions by public-interest groups have led to important decisions concerning the rights of the homeless, refugees, prisoners on death row… cases concerned with upholding the constitutional rights of gay men and lesbian women, and in relation to freedom of expression. Similarly, the protection of environmental rights will not only depend on the diligence of public officials, but also on the existence of a lively society willing to litigate in the public interest."

In order to enforce environmental laws,[67] enforcement officers are provided for by NEMA as follows:

- an environmental management inspector (EMI) may be designated by the Minister/MEC from any member of staff of the department nationally/provincially;[68]
- an EMI may also be designated by the Minister responsible for water affairs from a member of staff;[69]
- an environmental mineral resources inspector (EMRI) may be designated by the Minister responsible for mineral resources for compliance monitoring and enforcement (CME) of NEMA or any SEMAs;[70] and
- a member of the South African Police Services (SAPS) has all the powers of an EMI, except those in section 31K-O of NEMA which are: to conduct routine inspections, issue compliance orders and to enforce compliance notices.

In relation to enforcement, citizens have relatively limited rights in terms of consulting with EMIs, EMRIs or the SAPS in the fulfilment of their obligations. Although citizens/civil society organisations are encouraged to report any environmental rights violations to these officers, they do not have the right to participate in the actual CME functions which are to be carried out by the officers. Nonetheless, citizens/civil society organisations do have a right to bring a complaint against the fulfilment of CME functions (or lack thereof). In the case of violations relating to prospecting, mining, exploration and production, where a complainant alleges that a specific CME function relating to these activities has not been implemented or adequately dealt with, the complainant may submit their allegations to the Minister responsible for mineral resources.[71] If the complainant is not satisfied with the Minister's response,

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[66] Unreported judgment, case number 39646/12, at par 16.
[67] The extent of an EMI's functions are set out in section 31G of NEMA and general powers, in section 31H of NEMA.
[68] Section 31B and 31C of NEMA.
[69] Section 31BA of NEMA.
[70] Section 31D(2A) of NEMA.
[71] Section 31D(5) of NEMA.

they can submit their complaint to the Minister responsible for environmental affairs, detailing their engagement with the Minister responsible for mineral resources.[72] The Minister responsible for environmental affairs may then consult with the Minister responsible for mineral resources[73] to assist the latter in fulfilling their CME requirements or directing an EMI to undertake the specific CME function.[74] The complainant must then be informed by the Environmental Affairs Minister of the steps taken to deal with this issue.[75]

Administrative enforcement

NWA

Section 19 provides for the prevention and remedying of the effects of pollution. Where a person who either owns, is in control of, occupies or uses land on which any activity is performed which has caused, causes or is likely to cause pollution, that person must take measures to:

- cease/modify/control any act causing pollution;
- comply with any prescribed waste standard/management practice;
- contain/prevent the movement of pollutants;
- eliminate any source of pollution;
- remedy the effects of pollution; and
- remedy the effects of any disturbance to the bed and banks of a watercourse.

Where the person responsible for the pollution fails to take such action, the CMA (or the Minister, where no CMA has been established) may issue a directive for that person to commence taking specific measures before a certain date, diligently continuing with those measures and completing them before a specific date. Should the responsible person fail to take the measures required in the directive, the CMA may do so of its own accord and recover all costs incurred from:

- the person responsible for the pollution, be it directly or indirectly;
- the landowner or their successor in title;
- the person in control of the land at the time of the occurrence of the polluting activity; or
- any person who failed to prevent the polluting activity from occurring.

Section 20 regulates the control of emergency 'incidents'.[76] Where such an incident has occurred, the responsible person, a person involved in the incident or a person with knowledge of the incident must report it to the DWS, the SAPS/relevant fire department, or the relevant CMA. The responsible person must also take all reasonable measures to contain and minimise the effects of the incident, undertake a cleanup procedure, remedy the effects of the incident and take those measures which may be issued by the CMA in a directive. Again, should the responsible person fail to take the measures in the directive, the CMA may do so of its own accord and recover all costs incurred from every responsible person. Again, civil society is involved in the administrative enforcement of the NWA by their involvement in the respective CMA structures, where they are established and fully functioning.

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[72] Section 31D(6) of NEMA.
[73] Section 31D(7) of NEMA.
[74] Section 31D(8) of NEMA.
[75] Section 31D(9) of NEMA.
[76] Section 20(1)(a) of the NWA defines 'incident' as any incident or accident in which a substance pollutes or has the potential to pollute a water resource; or has or is likely to have a detrimental effect on a water resource.

These provisions do not explicitly require any public participation or consultation from parties other than the recipient of the directive, though citizens/civil society organisations represented on the CMAs may be able to give input.

Section 53 allows a responsible authority to issue a directive to any person who contravenes: the NWA, any requirement in terms of a directive, or a condition of a water use authorisation. The directive prescribes action to be taken in rectifying the contravention, within the time period specified in the directive. Where such action is not taken, the responsible authority may carry out the rectification or apply to a competent court for appropriate relief. Again, this enforcement does not involve a public participation process, although citizens/civil society organisations are encouraged to report any environmental law violations to the responsible authority.

WSA

This Act does not provide for the enforcement of its provisions except through a water board, which has the power to "set and enforce general conditions, including tariffs, for the provision of water services."[77] The Act does not further prescribe the steps that the water board may take in enforcing such general conditions, nor does it prescribe whether citizens/civil society organisations are to be involved in such enforcement and the manner of such involvement. The Minister also has a list of powers tabled in section 73(1) which can be exercised through Regulations. However, it seems that the few regulations passed under the WSA do not provide further direction on enforcement. For example, the Regulations relating to Compulsory National Standards and Measures to Conserve Water[78] simply provide that "a water services institution must have a consumer service to which non-compliance with these regulations can be reported."[79] No further steps are prescribed for correcting non-compliance, etc. Citizens/civil society's rights to participate in the enforcement of WSA provisions are therefore very limited.

NEMA

Section 28 of NEMA provides for a duty of care that must be taken towards the environment as follows:

> "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."[80]

This section also regulates the remediation of environmental damage. The DG of the Department of Environmental Affairs, the DG of the Department of Mineral Resources or a provincial head of a department may direct any person who causes, has caused or may cause significant pollution or degradation to the environment, to:

- cease the polluting activity/operation/undertaking;
- investigate, evaluate and assess the impact of such activities and report thereon;
- start taking specific measures before a certain date;
- diligently continue with those prescribed measures; and
- complete those measures before a specific date.

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[77] Section 31(2)(b) of the WSA.
[78] Gazette Notice 1662 in Gazette Number 18522, dated 19 December 1997.
[79] Regulation 16.
[80] Section 28(1) of NEMA.

Before issuing the directive, the relevant DG/provincial head must have given affected persons adequate opportunity to inform them of their relevant interests (affected persons are generally regarded as the part to whom the directive is being issued, rather than person actually affected by a particular violation).

In cases of urgent action necessary for the protection of the environment, however, the DG/provincial head may issue the directive first and consult thereafter. [81] Should a person fail to comply with the directive, the DG/provincial head may take reasonable measures to remedy the situation or apply to a court for relief.[82] In the event that the DG/provincial head has taken steps to remedy the situation, they are entitled to recover costs for reasonable remediation measures to be undertaken from:

- the person responsible for the pollution, be it directly or indirectly;
- the landowner or their successor in title;
- the person in control of the land at the time of the occurrence of the polluting activity; or
- any person who failed to prevent the polluting activity from occurring.[83]

Section 28(12) provides for a court application, on 30 days' notice, for an order directing the relevant DG/provincial head to take any of the steps set out above, if the DG/provincial head fails to inform the applicant in writing that they have ordered the responsible person to take any of those steps.

In terms of section 30, where an 'incident'[84] has occurred, the responsible person must report the nature of the incident after gaining knowledge thereof, and also report on any steps that should be taken in order to minimise the effects of the incident on public health and the environment, to various persons including "all persons whose health may be affected by the incident."[85] Furthermore, where the relevant authority has issued a directive to the responsible person or has taken measures itself to contain the incident, undertake clean-up procedures, or remedy the effects of the incident, then the relevant authority must prepare comprehensive reports on the incident, which should be made available to the public and all persons who may be affected by the incident, amongst other persons.[86]

Any person or group of persons have legal standing to seek appropriate relief of any threatened or actual breach of any environmental laws in NEMA, any SEMA or other statutes concerned with protection of the environment.[87] This allows a person/civil society organisation to approach a court for appropriate relief and even if the person/civil society organisation does not secure the relief sought, the court may decide not to grant a costs order against such person/civil society organisation if the court is of the opinion that they acted reasonably out of concern for a public interest or in the interest of protecting the environment.[88]

Criminal enforcement

Members of the public also have the right to alert authorities to incidences which may constitute crimes, including contraventions under environmental laws, such as NWA and NEMA. The person who alerts authorities to suspected crimes is known as a complainant. In terms of the Criminal Procedure Act,

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[81] Section 28(4) of NEMA.
[82] Section 28(7) of NEMA.
[83] Section 28(8) of NEMA.
[84] An 'incident' is defined in section 30(1)(a) of NEMA as 'an unexpected, sudden and uncontrolled release of a hazardous substance, including from a major emission, fire or explosion, that causes, has caused or may cause significant harm to the environment, human life or property.'
[85] Section 30(3)(d)(iv) of NEMA.
[86] Section 30(10)(a) and (e) of NEMA.
[87] Section 32(1) of NEMA.
[88] Section 32(2) of NEMA.

1977 (CPA), a complainant has the right to be consulted by a prosecutor before the prosecutor enters into a plea and sentence agreement with an accused.[89] A plea and sentence agreement is an agreement entered into between the state and an accused before a trial commences in terms of which the accused pleads guilty to alleged offences and agrees to accept a specified sentence.[90] If such an agreement is entered into, the trial proceedings will not be instituted or continued with, in other words, the trial proceeding falls away. Before entering into such an agreement, the prosecutor must afford the complainant or their representative an opportunity to make representations to the prosecutor regarding the contents of the envisaged plea and sentence agreement.[91] Enforcement of a civil claim can also be undertaken subsequent to a criminal conviction in terms of section 34 of NEMA, in a criminal court, but be deemed to have been instituted in a civil court. Where a person is convicted of an offence in Schedule 3 of NEMA[92] and it appears that the offence caused loss/damage to any state organ/other person, then the court may summarily inquire into the amount of the loss/damage at the request of the Minister/state organ/other person. Upon proof of the amount, the court may hand down a judgment in that regard against the convicted person, which will be considered as having been given in a civil action duly instituted before a competent court (i.e. a civil court). The same applies where the convicted person is said to have derived an advantage/benefit from the offence – the court may summarily enquire into and assess the monetary value of the advantage/benefit and order the award of damages/compensation equal to the monetary value of the advantage/benefit. The criminal courts can therefore hear this civil element of the trial and hand down civil judgments which will be treated as such. This saves time and costs, especially for citizens/civil society organisations who instituted such criminal action. The convicted person may also be required to pay the costs of the State prosecutor.[93]

Another advantage of the section 34 mechanism is the built-in rewards mechanism which encourages public participation in criminal proceedings. Section 34B of NEMA provides that a person who assists a court in bringing the offender to justice or whose evidence led to the conviction of the offender may be awarded up to a ¼ of the fine imposed by the court in terms of the NEMA or a SEMA (including the NWA). This benefit specifically excludes persons in service of a state organ or who are engaged in the implementation of the NEMA or any SEMA.

6. Appeals
NWA

Section 41(6) allows an applicant for a WUL to appeal to the Minister of Water and Sanitation, where the WUL was applied for in terms of the integration process (that regulates the time frames of applications for environmental authorisations in terms of NEMA and licences, permits, and rights for prospecting, exploration, mining and production in terms of the MPRDA) and the applicant was aggrieved by the responsible authority's decision. This appeals procedure does not apply to the public; however, it is made subject to section 148 of NWA which deals with appeals brought to the Water Tribunal. Section 148(1)(f) NWA provides that an appeal against a decision made on a section 41 licence may be brought to the Water Tribunal either by the applicant of the licence or any other person who timeously lodged a written objection against the application. This section conflicts with section 41(6) which makes no mention of "any other person" therefore it is unclear whether the public has a right to appeal a decision made on a WUL application to the Minister.

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[89] Section 105A(1)(b)(iii) of the CPA.
[90] See Section 105A of the CPA generally.
[91] Section 105A(1)(b)(iii) of the CPA.
[92] Which includes offences in the NWA, namely:
Section 151(i): unlawfully and intentionally/negligently committing any act/omission which pollutes or is likely to pollute a water resource; and
Section 151(j): unlawfully and intentionally/negligently committing any act/omission which detrimentally affects or is likely to affect a water resource.
[93] Section 34(4) of NEMA.

Section 146 of NWA provides for the establishment of the Water Tribunal, which may hear numerous appeals[94] against decisions made by a responsible authority, CMA or a WMI. Where a party wishes to appeal the decision of the Water Tribunal, they may do so, based on a question of law, to the High Court.[95] In so doing, the appeal is dealt with as if coming to the High Court from a Magistrates Court.[96] However, citizens/civil society organisations need to be aware that bringing an appeal takes time and there are costs to bear. It is also important to note that the Minister may, on his/her own initiative, or at the request of a person involved, direct that a matter be settled through mediation or negotiation.[97]

When bringing an appeal to the Water Tribunal, the relationship between the Constitution, PAJA and NWA needs to be understood. Section 33 of the Constitution provides for the right to administrative action which is lawful, reasonable and procedurally fair. In giving effect to this right, PAJA was enacted - it provides the public participation process that must be followed in administrative actions affecting the public.[98] 'Administrative action', as defined in PAJA[99], includes decisions taken by a responsible authority, CMA or WMI, and therefore applies to the appeals process to the Water Tribunal as set out in NWA.

Since 2005, the Constitutional Court clarified that "all decision-makers who are entrusted with the authority to make administrative decisions by any statute are therefore required to do so in a manner that is consistent with PAJA. The effect of this is that statutes that authorise administrative action must now be read together with PAJA unless, upon a proper construction, the provisions of the statutes in question are inconsistent with PAJA."[100] . However, in practice, decision-makers (especially in the Water Tribunal), continued to rely solely on the enabling legislation to fulfil (or effectively ignore) the PAJA public participation requirement, hence the suite of case law that incorrectly followed *Gideon Anderson T/A Zonnebloem Boerdery v Department of Water and Environmental Affairs and Vuna Enterprises (Pty) Ltd.*[101] In this case, the Water Tribunal took the view that one cannot object to a WUL application unless that person had been 'invited' to object by the responsible authority who had published the notice in terms of section 41(4)(a) of NWA.[102] Therefore, because the applicant had not been invited to object, the Water Tribunal found that he subsequently had no right to appeal its decision relating to the WUL application in question.

Finally, the 2013 *Escarpment Environmental Protection Group v Department of Water Affairs*[103] case corrected this position. In this case, the public, as in the *Anderson* case, had not been invited to object to the WUL applications, but the applicants in question had made written objections to the DWS

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[94] Section 148 of the NWA lists the specific appeals which may be heard by the Water Tribunal.
[95] Section 149(1) of the NWA.
[96] Section 149(4) of the NWA.
[97] Section 150 of the NWA.
[98] Section 4 of the PAJA.
[99] Section 1: 'Administrative action' is any decision taken (or failure to take a decision) by an organ of State exercising a public power under the Constitution or in terms of any legislation which adversely affects the rights of any person.
[100] *Zondi v MEC for Traditional Affairs and Local Government* 2005 3 SA 589 (CC) par 101.
[101] (WT) unreported case number 24/02/2010. The approach in the *Anderson* case was also applied in: *Carolyn Nicola Shear v The Regional Head: Gauteng Region – Department of Water and Environmental Affairs, the Department of Water and Environmental Affairs and Eye of Africa Development (Pty) Ltd* (WT 19/02/2009); *Escarpment Environmental Protection Group & Wonderfontein Environmental Committee v Department of Water Affairs and Xstrata South Africa (Pty) Ltd* (WT 24/11/2009); *Escarpment Environmental Protection Group v Department of Water Affairs and Exxaro Coal (Pty) Ltd* (WT 03/06/2010); *Escarpment Environmental Protection Group and Langkloof Environment Committee v Department of Water Affairs and Werm Mining (Pty) Ltd* (WT 25/11/2009); *The Federation for Sustainable Environment v Department of Water Affairs* (WT 08/03/2011). See King and Reddell 2015 *PER/PELJ* 957.
[102] King and Reddell 2015 *PER/PELJ* 956-957.
[103] 2013 ZAGPPHC 505 (GNP).

nonetheless. Their standing in the Water Tribunal was denied as they had not been invited to object. On appeal, the High Court held that:

> 'participation is an essential tool to ensure that decisions that may significantly affect the environment are scrutinised and made from an informed point of view. This decision making process both advances the constitutional values of openness and is advanced by providing platforms for those affected to air their views.'

On this basis, the High Court found the Water Tribunal's reasoning to be irrational and arbitrary, therefore setting aside its finding. This coincides with the Constitutional Court's stance it took in 2005 in *Zondi v MEC for Traditional Affairs and Local Government*.[104] It is therefore abundantly clear that the NWA, as the enabling legislation, does not provide for procedural fairness (as it gives the decision-maker discretion to decide on whether or not to apply the public participation process) and the PAJA should therefore "supplement enabling legislation and fill in the gaps where provisions are insufficiently detailed."[105]

Therefore, in the event that an environmental decision-maker does not apply the PAJA public participation requirement and opts to rely on the deficient NWA in making their decision, citizens/civil society organisations can appeal the decision to the Water Tribunal and then to the high courts, if unsatisfactory relief has been granted. Unfortunately, appeals and high court litigation take time and cost money, resources which are limited for many civil society organisations.

Furthermore, it is important to note that in the *Escarpment Environmental Protection Group* case, a public participation process was never conducted. However if a public participation process is conducted and an interested party makes comments after the comment period has lapsed, it might be difficult to then object to an appeal on that WUL application at a later stage. Although this aspect was not dealt with in the *Escarpment Environmental Protection Group* case, citizens/civil society organisations should be cautious in their approach when provided with an opportunity to comment in a public participation process and do so timeously. This is also especially so because section 148(1)(f) of NWA allows "any other party" to bring an appeal to the Water Tribunal if they had *timeously lodged a written objection against the application* (own emphasis).

Lastly, the Water Tribunal is also regulated by the Water Tribunal Rules[106] which deal with, amongst other things: lodging of appeals and applications, time limit for appeal and condonation, hearing of appeals and applications, right to representation, decisions of the Water Tribunal and contempt of the Water Tribunal. With regards to decisions of the Water Tribunal in particular, these must be made in writing and any person who requests the reasons for the Water Tribunal's decision must be provided written reasons within a reasonable time.[107] However, the effectiveness of the Water Tribunal depends squarely on its operational status. n 2012, the then Minister of Water Affairs failed to comply with her duties under the NWA to reconstitute the Water Tribunal in the case of *Exxaro Coal (Mpumalanga) (Pty) Ltd & Another v Minister of Water Affairs and Another*[108] (the *Exxaro* judgment). Although the Water Tribunal had not been operating optimally for a long period of time prior to this case, the Minister further protracted the already bad situation in the *Exxaro* judgment. The Mpumalanga office of the Department of Water Affairs had issued directives to Exxaro on the basis of the contravention of section 22 of NWA (dealing with permissible water uses). Exxaro brought an appeal against the directives issued to the Water Tribunal. Unfortunately, the Chairperson's contract was on the verge of expiring around the same time. On this basis, and on the basis that the NWA was in any event under legislative review, the

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[104] 2005 (3) SA 589 CC. See footnote 97.
[105] King and Reddell 2015 *PER/PELJ* 946: See Hoexter *Administrative Law* 367-368 and 409.
[106] GN 926 in GG 28060, dated 23 September 2005.
[107] Rule 15 of the Water Tribunal Rules.
[108] Unreported judgment, Case No. 63939/2012, North Gauteng High Court, 7 December 2012.

Minister decided to suspend the Water Tribunal's functions. On further appeal, the North Gauteng High Court found that the Minister's decision to suspend the Water Tribunal pending the amendment of the NWA was invalid, *ultra vires* (i.e. outside the scope of her powers) and unconstitutional. Unfortunately, that judgment fell short of ordering the Minister to reconstitute the Water Tribunal. Instead, the court suspended the operation of the directives issued against Exxaro, pending the final determination of Exxaro's appeal to the Water Tribunal. In effect this meant: firstly, that the Water Tribunal had to be reconstituted through publication in the Government Gazette and a recruitment process to be followed by the Judicial Services Commission and the Water Research Commission; and secondly, once reconstituted, the Water Tribunal would then have to finally determine Exxaro's appeal. Until such a time, Exxaro could continue with the very activities which warranted their receipt of a directive from the Department of Water Affairs – therefore resulting in a counter-productive process.

WSA

The WSA makes provision for two appeals processes where a person is dissatisfied with their water service authority's finding in relation to applying for:

- access to water services from a source other than that of the nominated water services provider,[109] and
- industrial use of water from a source other than that approved by the nominated water service provider.[110]

A person may appeal to the Minister in both circumstances either on the basis of the decision taken by the water service authority,[111] or on the basis of the water service authority's failure to make a decision within reasonable time, on a particular issue.[112] During the appeals process, the water and sanitation MEC responsible for local government in the relevant Province may intervene as a party.[113] On appeal, the Minister may decide to confirm, vary or overturn the decision of the water service authority.[114] The procedure for conducting the appeal may be prescribed by the Minister,[115] which would usually be dealt with in Regulations.

NEMA

Any person may appeal to the Minister/MEC responsible for environmental affairs against a decision made by a person acting under a power delegated to that person in terms of NEMA or any SEMA.[116] Furthermore, any person may appeal to the Minister responsible for environmental affairs against a decision made by the Minister responsible for mineral resources, where that decision pertains to an environmental management programme or an environmental authorisation.[117] The Minister/MEC will then consider and decide on the appeal according to the National Appeal Regulations, 2014.[118]

7. Access to information
PAIA

Section 32 of the Constitution provides that 'everyone has the right of access to any information held by the state and any information that is held by another person and that is required for the exercise or

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[109] Regulated by section 6 of the WSA.
[110] Regulated by section 7 of the WSA.
[111] Section 8(4) of the WSA.
[112] Section 8(7) of the WSA.
[113] Section 8(8) of the WSA.
[114] Section 8(9) of the WSA.
[115] Section 8(1o) of the WSA.
[116] Section 43(1) and (2) of NEMA.
[117] Section 43(1A) of NEMA.
[118] Government Notice R993 in Government Gazette 38303, dated 8 December 2014.

protection of any rights.' In order to give effect to this right, the Promotion of Access to Information Act, 2000 (PAIA) was enacted. Section 14 of PAIA requires a public body (the DWS in this case) to publish a PAIA Manual in terms of which the functions of that body are described and an index of records available from that public body are indexed.

In its 2015 PAIA Manual, the DWS listed, in terms of section 15 of PAIA, WULs and WUL applications (amongst other information) as being automatically available both for inspection and copying without the need to formally request these. However, access to WULs is subject to 3rd party notification, meaning that the DWS must inform the 3rd party to whom the WUL relates to, of the request for access. The third party can choose to consent to the access being granted or, if not, must make representations as to why the request for access should be refused.[119] The DWS must then decide, taking into account the 3rd party's consent or reasons for refusal thereof,[120] whether or not access is granted to the WUL concerned.[121] Where access has been granted, the third party still has the right to appeal the decision of the DWS internally or through a court application, during which period access will not be granted.[122] The section 15 PAIA request process can be used either as a first port of call or after a licence holder was requested by citizens/civil society organisations to provide access to the WUL/WUL applications directly and the licence holder refused.

Unfortunately, citizens/civil society organisations found themselves in a predicament when the section 15 request to access WULs was refused. The 3rd party notification requirement should actually only form part of the formal PAIA request process and not part of the automatic disclosure process. By requiring 3rd party notification for documents which are 'automatically available', the entire purpose of the automatic disclosure process was defeated. Where a 3rd party has refused access to a WUL in the automatic disclosure process, the same would be the case when a subsequent formal PAIA application was made for access to that WUL. The process was therefore repeated, to no avail, usually on the basis that WULs were 'confidential'. Even if legitimate reasons existed for the whole WUL not to be made available, section 28(1) of PAIA still requires the disclosure of those parts of the WUL which do not contain information which may/ must be refused and which can be reasonably severed from the rest of the WUL.

Thankfully, in its 2016 PAIA Manual, the DWS lists WULs and WUL applications (amongst other information) as being as being automatically available both for inspection and copying without the need to formally request these and without the 3rd party notification process. Contrary to the 2015 PAIA Manual, this means where WULs/WUL applications are requested from the DWS, the department is now required to furnish the requester with the WULs/WUL applications automatically without the need to seek consent from the 3rd party to whom the WUL/WUL application relates.

Finally, section 29(5) of PAIA also caters for persons disabled from receiving the information in the form held by the body, as follows:

> "If a requester with a disability is prevented by that disability from reading, viewing or listening to the record concerned in the form in which it is held by the public body concerned, the information officer of the body must, if that requester so requests, take reasonable steps to make the record available in a form in which it is capable of being read, viewed or heard by the requester."

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[119] Section 47 - 49 of the PAIA. The third party has 21 days to respond to the request.
[120] Section 49(1)(a) of the PAIA.
[121] The decision must be made 30 days after the 3rd party has been informed of the request for access.
[122] Section 49(4) of the PAIA.

This means that, where necessary, government should take reasonable steps to ensure that documents are, for instance translated to the other official South African languages, or available in a format accessible to visually-impaired requesters.

> Example: The Ekurhuleni Metropolitan Municipality made its PAIA Manual, published on http://www.ekurhuleni.gov.za/thecouncil/access-to-information/paia-manuals, available in 5 official languages namely English, Afrikaans, Sepedi, Sesotho and Zulu.

NWA

Section 139 of NWA requires that the Minister establishes a national information system regarding water resources, which may include: a hydrological information system, a water resource quality information system, a groundwater information system, and a register of water use authorisations. The National Integrated Water Information System is available on the DWS website at http://niwis.dws.gov.za/niwis2/. The Minister may require any person to provide any department with information, data, samples or materials reasonably required for the purpose of any national monitoring network or national information system.[123] Any information made available on the national information system must be made available by the Minister subject to any limitations imposed by law (such as the procedural requirements explained in PAIA, discussed above) and also subject to the payment of a reasonable charge determined by the Minister.[124] The Minister may make regulations prescribing the nature, time period and format of data to be submitted in this regard. [125] Unfortunately, these regulations have not yet been drafted. However, when drafted, the public will be invited to comment on the draft regulations in terms of the section 69 NWA procedures discussed above in the **Drafting of legislation** section. With regard to information on floods, floodlines and droughts, a WMI is required to make certain information available to the public at its own expense.[126]

WSA

Specific instruments created in terms of the WSA must also be accessible to the public, i.e. without the need to submit a request in terms of PAIA. Those instruments are:

- Conditions for the provision of water services by water services providers;[127]
- General conditions for the provision of water services by water boards;[128]
- The policy statements of water boards;[129]
- Financial year-end reports by water boards;[130] and
- Information contained in the national information system.[131]

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[123] Section 141 of the NWA.
[124] Section 142 of the NWA.
[125] Section 143(b) of the NWA.
[126] Section 145 of the NWA. The water management institution must make information available in respect of "(a) a flood which has occurred or which is likely to occur;
(b) a drought which has occurred or which is likely to occur;
(c) a waterwork which might fail or has failed, if the failure might endanger life or property;
(d) any risk posed by any dam;
(e) levels likely to be reached by floodwaters from time to time;
(f) any risk posed by the quality of any water to life, health or property; and
(g) any matter connected with water or water resources, which the public needs to know."
[127] Section 4(2)(a) of the WSA.
[128] Section 33(4) of the WSA.
[129] Section 39(5)(b) of the WSA.
[130] Section 44(2)(c) of the WSA.
[131] Section 67(3) of the WSA.

Section 67 of the WSA provides that the Minister must establish a national information system which entitles the public to reasonable access to the information contained in it. The Minister must also take reasonable steps to ensure that the information is in an accessible format. The purpose of the national information system is to, amongst other things, "provide information to water services institutions, consumers and the public to enable them to monitor the performance of water services institutions."[132]

NWRS2

Finally, Chapter 13 of the NWRS2 also provides strategic actions which shall be undertaken to implement one of the objectives of monitoring and information management, which is to 'develop and implement a national monitoring and information management plan to compile and maintain easily accessible and accurate data to support decision-making.' This will be achieved through developing and implementing an integrated national information management plan for the entire water sector that is easily accessible to government institutions and to other users. Once developed, this plan will allow citizens/civil society organisations access to this information, which will assist in the monitoring of the water resource generally.

Conclusion

As set out in detail above, South African law expressly requires public participation in water governance. However, achieving effective public participation requires acknowledgement of the value that such public input can bring to effective environmental governance, and commitment through a range of practical measures – measures that must be taken into account when doing strategic planning, and measures that must be costed for the purpose of including in departmental budgets.

Without attempting to provide an exhaustive list, in order to better promote public participation in water governance to fulfil their legal obligations towards the public, the Minister of Water and Sanitation and the DWS must:

For policy-making:

- Engage a broad range of stakeholders in the development of policies or policy amendments, allowing a time period for such engagement proportionate to the nature and scope of the particular policy or policy amendment. At the very least, all proposed policies or policy amendments must be published for public comment. Even where this is not required by law, it is good practice to publish comments and responses to the proposed policy or policy amendment, not only to ensure the public that their comments have been considered, but also to share authorities' reasoning and approach to a particular policy or policy change.

For drafting legislation:

- Ensure adequate time and opportunity for public participation in the development of all draft legislation (bills) or amendments of legislation. Even where this is not required by law, it is good practice to publish comments and responses to the proposed bill or amendment bill, not only to ensure the public that their comments have been considered, but also to share authorities' reasoning and approach to a particular legislative change.

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[132] Section 68(b) of the WSA.

For implementing legislation:

- Afford CMFs legal status as stakeholders either through an amendment of the NWA or by creating such forums in terms of the existing clauses in NWA (such as Advisory Committees or CMA Committees), to facilitate their effective participation within the CMA structures.
- Support public participation in CMFs through providing financial and human resources.
- Quantify and include the cost of securing the attendance of interested and affected parties at key stakeholder meetings in the water sector generally in departmental budgets.

For licensing:

- Amend section 41(4) of the NWA to replace the word 'may' with 'must', so that the relevant provision reads:

> "A responsible authority *must* require the applicant–
>> (a) to give suitable notice in newspapers and other media—
>>> (i) describing the licence applied for;
>>> (ii) stating that written objections may be lodged against the application before a specified date, which must be not less than 60 days after the last publication of the notice;
>>> (iii) giving an address where written objections must be lodged; and
>>> (iv) containing such other particulars as the responsible authority may require;
>> (b) to take such other steps as it may direct to bring the application to the attention of relevant organs of state, interested persons and the general public; and
>> (c) to satisfy the responsible authority that the interests of any other person having an interest in the land will not be adversely affected."

This will make the public participation requirement obligatory in the licence application procedure, and will align the NWA with the principles of just administrative action as set out in PAJA.

For compliance monitoring and enforcement:

- Given the Supreme Court of Appeal's acknowledgment of the important role the public - particularly affected communities - plays in monitoring and enforcing compliance with environmental laws, ensure that:
    - affected people and public interest organisations are consulted when deciding on priorities for compliance monitoring and enforcement;
    - information about the occurrence and results of compliance inspections is shared with affected people and groups;
    - easy channels for reporting of violations by members of the public, affected people and groups are established;
    - public complaints about violations are responded to and investigated timeously, and the outcome of such investigations is shared with the complainant, with affected people and groups;
    - information about enforcement action taken is shared with affected people and groups; and
    - support is provided to complainants in criminal processes, including promoting their status in the conclusion of plea and sentence agreements.

For appeals:

- Given the importance of the Water Tribunal in providing a cheap and speedy remedy for the public, communities and civil society organisations, ensure the effective functioning of the Water Tribunal. This includes ensuring that the contracts of Water Tribunal members (from Chairperson to additional members) are maintained, that all positions on the Tribunal are filled with members with adequate expertise, and that adequate administrative support is provided to the Tribunal to ensure its effective processing of appeals.

For access to information:

- Ensure that the DWS's PAIA Manuals always require WULs and WUL applications to be made automatically available upon request without the 3rd party notification process being attached to it. Even where this is not expressly required by law, it would greatly facilitate public participation in water governance if all WULs are made available in a publicly accessible, online register; and
- Require WULs and compliance reports to be made available on the website of the holder of the WUL, similar to the 2014 EIA Regulations requirements for NEMA environmental authorisations which are required to be publicised as follows:

  "An environmental authorisation must specify a requirement that the environmental authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, where applicable, audit reports including the environmental audit report … and all compliance monitoring reports be made available for inspection and copying -

    (i) at the site of the authorised activity;

    (ii) to anyone on request; and

    (iii) *where the holder of the environmental authorisation has a website, on such publicly accessible website*" (our own emphasis).

- Provide enough staff, adequately trained, to process all requests for access to information, inside or outside the provisions of PAIA.

APPENDIX 2: CITIZEN MONITORING GUIDELINES: WHAT DO LOCAL ACTIVISTS NEED AND HOW CAN THEY SUPPORT AND BE SUPPORTED BY DWS TO MONITOR THE IMPLEMENTATION OF THE NWRS2 AND OTHER WATER POLICIES

Citizen Monitoring Guidelines:

What do local activists need and how can they support and be supported by DWS to monitor the implementation of NWRS2 and other water policies

PART 1: INTRODUCTION

Preface: who should read this guide

This guide is specifically aimed at the monitoring of South Africa's Second National Water Resources Strategy (NWRS2), but also relies on principles and approaches that go beyond the NWRS2 and may be useful more broadly. The reason it focuses on NWRS2 is (1) because such a focus is practical in terms of scope and issues and (2) the NWRS2 provides a basis for immediate engagement with issues that are current. Examples will be drawn from NWRS2 and engagements with it. However, other issues important to the South African Water Caucus (SAWC), a civil society network, and its allies in the water sector will also be drawn on from time to time.

This guide is in the first place addressed to individuals activists, and groups of activists engaged in water issues, for example members of SAWC, water user associations, catchment management forums, other citizen bodies, participants in municipal Integrated Development Planning (IDP), and Catchment Management Forum (CMF) members and working groups.

It will also be of interest to government officials who work with activists and the public, in the Department of Water and Sanitation (DWS), COGTA, the emerging Catchment Management Agencies (CMA), Local Governments, and participation units at different levels of government.

Structure of this guide

Part 1 provides a strong context to the monitoring of the NWRS2 by civil society, mainly based on the experiences of the SA Water Caucus. By monitoring we mean observing and intervening in the full policy cycle, which includes agenda setting, institutions and implementation (see Fig 1). The NWRS2 provides an entry point for civil society monitoring in the water sector. There are three components to civil society monitoring:

Firstly, activists' perspectives, world view and role (functions) are different to government and other sector players. That means that we monitor the water sector against key principles, including ecological integrity, the polluter pays principle, human rights and equity. We check policy against these, which are all contained in South African policy and law. Activists identify contradictions within policy that might negatively impact on one or more of these principles, either by intention or as a negative side effect of meeting another priority. Thus, for example, the approach to development is critical to SAWC.

Secondly, civil society monitors implementation against promises. For example, the ecological reserve is enshrined in law but has not been implemented effectively. Activists draw attention to this.

Finally, for the purposes of these guidelines, we look at the four key *issues* that SAWC is monitoring for this project. This gives us an opportunity to look holistically at activist practice, from the on-the-ground challenges to the policy, research and media initiatives to solve them. The four case studies

are prioritised from the list of 10 issues that SAWC raised during the NWRS2 consultation process. The four cases are:

1. **Water conservation and demand management in the context of climate change**
    This case study looks at water conservation within the context of climate change and the urban issue of unequal access to water. It asks the question of 'how to build governance around real water scarcity in ways that are fair and just'. It focuses on the area of Dunoon in Cape Town and addresses water management devices, water leaks and wastage, and access to water for micro-enterprises.

2. **Plantations, ecosystems and water**
    This case study looks the treatment of water producing areas where plantations and mines compromise the ability of people to effectively and justly use water. It focuses on the area of Mariepskop and works with communities and traditional healers who are dependent on river water whose flow is determined by upstream activities in the catchment.

3. **Access to productive water for poor communities and small farmers**
    This case study looks at the difficulties in accessing productive water for rural people. It focuses on the areas of Quzini and Piltoni and addresses food security, homestead gardens and agricultural micro-enterprise.

4. **Inclusion of traditional healers in water quality governance**
    The case study looks at the participation of civil society in the monitoring of water quality in the Vaal area. It investigates why traditional healers and spiritual practitioners, who are important direct water-users, are currently under-represented in policy and catchment forums. Their everyday practices are impacted by poor water quality and they could potentially act as monitors of water quality in the Vaal.

Part 2 includes a short history of SAWC's engagement with NWRS2. It concludes that activists need to situate themselves in this broader context and to recognise the opportunities provided for participation in the water sector – through both invited and invented spaces.

Part 3 looks at how an individual confronted with a water problem can organise and be supported by – and support – a broader movement for water and environmental justice. It is a "how-to" section (supported by a list of resources and contacts contained in Part 5). It takes the reader through a progression from problem identification through solidarity building, organisation building, evidence gathering, building an argument and identifying actions, including advocacy and engagement with others in the sector. This part draws on existing practices and skills learnt from the four case studies, as well as from the 14 year history of SAWC. Part 3 concludes that, for civil society to play its necessary role in water governance, it must focus on solidarity and movement building (and includes how-to-do-this).

Part 4 focuses on the relationship between civil society and the regulator (DWS). It provides practical suggestions for how to build the relationship so that water governance is strengthened. It includes what both sides need to do to work together for social justice and ecosystem integrity. Information for this is drawn from SAWC experiences and interviews with government officials.

Part 5 presents a list of resources including websites, materials and organisations that activists (and others) can access to strengthen their activism.

PART 2: SETTING A STRONG CONTEXT: WHAT AND WHY DO WE MONITOR

Monitoring the NWRS2 through the whole policy cycle

The participation of civil society is crucial to the functioning of the water sector; it is a fundamental part of the Integrated Water Resources Management (IWRM) approach, and it is part of building and maintaining a participatory democracy.

A good window onto how civil society is, and has been, participating in the South African water sector, is to look at its role in the NWRS2, although it has also been involved in many other policy initiatives. It is important in general, but in particular for this project, that "policy" should be understood as the full policy cycle. It is an iterative cycle of six moments – that is, it could start at any point and is constantly being repeated – but for clarity sake we will assume that it starts with the setting of a policy agenda, as indeed it did in the early 1990s after the unbanning of the liberation movements in 1990. Agenda setting (1) usually takes place both in the public sphere (the media and civic organization contexts), as well as in specialised or expert policy and identified, active stakeholder circles. In South Africa this took the form of a large number of sectoral forums in the early 1990s, which produced, for example the South African Water Policy Principles, and the 1994 White Paper on Water policy (2). This is the second step in the policy cycle: translating agendas into clear tasks and objectives. These went through democratic discussion processes in parliament to be legislated into law (3), which is in turn used as the basis for building institutions (4), which are the basis for implementation (5) of the law and subsequent regulations and decisions under it. The whole society is implicated in the monitoring and evaluation (6) of implementation, which may identify gaps and points of tension which, together with dynamic changes in the situation, lead actors in the policy space to set new agendas, thus renewing the policy cycle. See figure 1, below. While some of these phases have very specialised components, in general policy and particularly its effects, are widely visible and attract broad comment from citizens, although sometimes in forms that do not lead to the desired policy changes.


Figure 1: The full policy cycle.

The NWRS2 is an example of such a process. It is also an example of a repeating or iterative policy cycle, as it is legally required to be rewritten every 5 years. It however comes out of earlier process, since the basic approach to water resource management had been set in the early 1990s, in the Standing Committee on Water Supply and Sanitation SCOWSAS process, strongly influenced by the then, as now, internationally dominant framework of Integrated Water Resources Management. The first NWRS was published in 2004. The 2004 iteration dealt with a wide range of topics. It set out the framework for the NWRS in law and policy, gave an overview of the water situation, described the strategies needed for water resource management and the need for co-operation with other departments and water users.

However, it is sobering to note opinions that the NWRS1 was neither widely known or widely used as a guiding document (Fred van Zyl, DWA, personal communication in DWA workshop December 2012), thus limiting its influence on national thinking, planning and practice. In the light of its importance, it can be argued that it is important for the NWRS2 to be widely known and used – throughout all the phases of the policy cycle. There is little room for error in the management of our national water resources, and all stakeholders involved in the development of the NWRS2 agreed that water resources should now move to the centre of national decision making. A growth in public awareness of our water resources and public participation in its careful management are crucial components of this strategic change.

History of SAWC2 engagement in NWRS2 (a brief summary)

The NWRS2 provides an entry point for civil society monitoring in the water sector. For nearly two years, the SA Water Caucus followed the process closely, deliberated internally about it, and formulated clear responses to the proposed policy. Details of this are captured in chapter 4 of the final report of this WRC project (K5/2313) and a timeline is presented in the box below.

Box 1: Timeline of SAWC engagement with NWRS2

March 2012   Background discussion document prepared for SAWC internally

June-Dec 2012 Ongoing liaison with DWA, especially on Catchment Management Forums

June 2012   Task team established by SAWC to convene national meeting

Aug 2012   Draft summary of NWRS2 published (doesn't include key technical strategies, e.g. on climate change and desalination)

16-17 Aug 2012 SAWC national meeting to brief ourselves and prepare preliminary responses; DWA officials attended (task team mandated to continue coordinating SAWC input and process)

Aug 2012   Draft NWRS2 published in full, including technical strategies, and put on DWA official website

Aug-Dec 2012   Provincial caucus consultations (both internal to SAWC and with regional DWA offices)

16-17 Oct 2012 SAWC presentation to Water Sector Leadership Group

24 Oct 2012   SAWC submission and presentation to Parliament; some SAWC members also made their own organisational submissions

3 Dec 2012   DWA national consultative meeting for civil society; key SAWC participants absent due to poor organising by DWA's civil society support programme

28 Jan 2013   Final SAWC submission to DWA and Parliament (34 pages long)

Feb 2013   SAWC internal reflection on what we learnt

Mar 2013   DWA acknowledges receipt of our comments

 April   Consultants redrafting NWRS2 phone to get our input

June 2013   NWRS2 published and signed off by Minister of Water Affairs

Sept 2013   Parliamentary portfolio committee invites SAWC to briefing on NWRS2 (meeting cancelled)

SAWC engaged with the NWRS2 when the policy was only in its formative stages. SAWC sent in comments, noting that the NWRS2 is an important and potentially powerful document. It sets out the strategic direction for water resources management in the country over the next 20 years, with a particular focus on priorities and objectives for the period 2013 – 2017. It provides the framework for the protection, use, development, conservation, management and control of water resources for South Africa, as well as the framework within which water must be managed at catchment level, in defined water management areas. It is binding on all authorities and institutions exercising powers or performing duties under the National Water Act, 1998.

The NWRS2 is underpinned by the vision of, amongst other things, 'a committed and dedicated water sector, actively co-operating and contributing towards sustainable water management' (Draft NWRS2, pg. vi, 2012). Civil society is one of the key role-players in this sector, and the effective and appropriate implementation of the NWRS2 requires a strong civil society.

SAWC and its allies in the water sector participated fully in the development of the NWRS2 through conducting its own research, identifying 10 key themes, and pursuing these in encounters with DWA, the portfolio committee on water and producing a publication in which the process and outcomes of this process are recorded (EMG, 2014). One of the 10 themes on which the SAWC lobbied hard - the need to revitalise catchment forums, to "give them teeth" and enable balanced and representative

participation both in terms of historically disadvantaged groups and their issue agendas - has been taken up by DWA, and is being supported in another WRC research project.

Monitoring water from activists' perspectives on the political economy

Activists' perspectives, world view and role (functions) in society are different to government and other sector players. That means that we monitor the water sector against key principles – including ecological integrity, the polluter pays principle, human rights and equity, including checking policy against these, which are all contained in South African policy and law. Activists identify contradictions within policy that might negatively impact on one or more of these principles, either by intention or as a negative side effect of meeting another priority. Thus, for example, the approach to development is critical to SAWC.

The emphasis in the NWRS2 on a democratic developmental state, and the progressive thinking behind it, was welcomed by SAWC in its comments during NWRS2 development. The water sector in particular needs citizens' participation. Legally and politically, South Africa's water resources belong to its people, and are only held in custodianship by the state. Active citizens shape a democratic developmental state, as much as such a state shapes its citizens. SAWC argued that these sentiments should find practical expression in the process of consultation towards the finalisation of the NWRS2. However, this was not evident as many of the suggestions made by SAWC, including funds to attend parliamentary hearings and translation (at least of summaries) into other languages were not taken up. Instead, the voice of privileged major water users was given precedence.

Another clear difference in perspective is a view of the relationship between economy and ecology. SAWC argued that the NWRS2 wrongly assumes that there is a "balance" between economy and ecology. Currently, the economy takes precedence over ecology. This needs to change so that the economy operates within the limits of the earth's natural laws. Any economic "benefits" derived from ecological destruction are short-term, and will be paid for by near-by communities or future generations. One example is the acid mine drainage problems on the Witwatersrand gold belt, that will soon come to public notice as a reality on the Mpumalanga and other coalfields as well. We expect that fracking in the Karoo will have a similar impact – the public will have to pick up the bill of the damage done.

SAWC welcomed the argument in the draft NWRS2 that economic growth had to take into account sector specific water use footprints. A logical way to put this into practice is for the NWRS2 to include a clear commitment to specify "no go areas" for development, e.g. wetlands and places significant to biodiversity and cultural history, such as Mapungubwe, and the Freshwater Ecosystems Priority Areas (FEPAs).

Use of off-sets and market based instruments as water management tools.

At the 2012 parliamentary hearings on the NWRS2, SAWC heard a number of industry and business inputs arguing for various market mechanisms to sort out problems of water supply and contamination. Their basic argument was that it is more efficient to continue polluting some rivers and to then pay for protecting water quality elsewhere. The same is true for water supply: a business will invest in water savings (e.g. a pressure reduction system for municipal supply) in order to be guaranteed their own supply. In essence, these projects offset the problem, elsewhere. Offsets were not included in this way in the draft NWRS2. However, the final version contains a whole section on water offsetting that is cause for concern for civil society activists as it prioritises business 'efficiency' over other important water management priorities.

> "However, at some stage, a point of 'diminishing returns' is reached, with industry facing a situation of having to make substantial investments to obtain relatively small water savings or meet effluent quality specifications." (NWRS2 June 2012)

This implies that if the cost of meeting effluent quality specifications is too high, then industry should have the option of not meeting those standards, but instead be allowed to put money towards benefiting water users elsewhere. This is the kind of thing that citizen activists need to monitor closely and raise questions around. Failing to meet water effluent quality standards is not currently a legal option (although enforcement of the standards is so weak and penalties for non-compliance are so small that polluters seem to have a free rein), so this policy statement that got slipped into the revised version of the NWRS2 would need to be enshrined in law to have any standing.

Monitoring government promises

Promises in the water sector date from the 1994 Reconstruction and Development Programme, are enshrined in the constitution, and continue to be made and promulgated in laws, policies and regulations, including the NWRS2. Civil society plays an important role in monitoring whether or not these promises are kept, and drawing attention to shortfalls. Important promises are water security for all, "sanitation is dignity", reallocation of water resources to address historical imbalances, participation in water governance.

The ecological reserve is a critical part of protecting our water resources and has been enshrined in law but has not been implemented effectively. The ecological reserve gives priority to human and environmental needs, before any other water uses may be considered. However, in practice the reserve has not been implemented, and scientific work to understand how it could be implemented, has been slow.

Monitoring from the ground up

The issues being tracked by SAWC in this project emerge from the principles that all SAWC members have agreed to. The issues have manifested as campaigns and sites of struggle during SAWC history; and most recently have informed SAWC's engagement with the NWRS2. These campaigns or issues have been articulated in different ways throughout the 14 years that SAWC has been functioning due to contextual changes, but it is clear that their roots are both value based and arise from broader struggles for social and environmental justice.

In these guidelines, we look at the four key issues that SAWC is monitoring for this project. These are prioritised from the list of 10 issues that SAWC raised during the NWRS2 consultation process. The following section outlines the history and rationale of the four issues that find expression through the case studies. The case studies are viewed from the ground up; they start with issues identified by residents, community members and organisations as being important and are taken up by activists engaged in these communities, through for example Provincial Caucuses. They serve as illustrations for how such issues can be taken up. We also pay attention to the skills and means needed to tackle these, which are addressed in part 3.

A brief description of the history and genesis of the four content and one cross-cutting issue follows:

Water conservation and demand management in the context of climate change

This case study looks at water conservation within the context of climate change and the urban issue of unequal access to water. It asks the question of 'how to build governance around real water scarcity in ways that are fair and just'. It focuses on the area of Dunoon in Cape Town and addresses problems linked to water management devices, water leaks and wastage, and access to water for micro-enterprises. It aims to envisage a new, people-centred form of local water management.

This comes out of a long history of engagement with water services issues, including resistance to privatisation, pre-paid water meters, billing problems, training of bare-foot plumbers to address water leaks in a number of municipalities and overall push for equitable services provision so as not to

entrench class and race divisions. Against this background, municipal plans for water demand management cannot be seen as neutral.

Climate change impacts on the availability of freshwater and accentuates the need to carefully allocate and use water. Water should not be wasted in the light of uncertainties about future water availability. However, it is imperative that we design demand-side management in an inclusive way that addresses both water scarcity and social justice.

The Dunoon case study highlights the local and complex dynamics of how the impact of water management devices is playing out on households and small businesses and the importance of finding a more positive way to manage water resources in a poor urban area.

Actors in the case study include a member of the local advice office, Dunoon residents, Western Cape water caucus members and owners of small businesses that need water, in particular hair salons and car washes. They have informal agreements with neighbours to use water and are anxious about the rumours that devices will be installed everywhere. One of the car washes has proposed that the City install a public tap that they can use for their business and in return they will ensure that plants in the small neighbouring park are watered and cared for. None of the local people interviewed uses water wastefully and all are concerned about the pooling of water due to inadequate drainage. Many are keen to be part of a project that secures and protects the water they need.

Plantations, ecosystems and water

This case study looks at what happens to water producing areas where plantations and mines compromise the ability of people to effectively and justly use water. It focuses on the area of Mariepskop and works with communities and traditional healers who are dependent on river water whose flow is determined by upstream activities in the catchment.

The origin of this case study lies in a promise made by the late Minister of Water Affairs, Kader Asmal that the Mariepskop plantations would be returned to natural bush. This would dramatically improve the water flow in the Klaserie River downstream, on which communities are dependent. Traditional healers have also expressed the desire to replant the area with medicinal plants traditionally found there, in order to re-establish the supply of medicines, support traditional knowledge and harvest in a sustainable manner. However, it seems that provincial level decisions are now overriding the original promise. In addition, land claims on this land have led to the development of rival factions in the community. The case study, as an example of action research, is trying to find a way through these dynamics and establish a good outcome.

The study shows the importance of decision making about land use for the protection of areas that serve as "water factories", and the importance of local participation in that decision making. It engages practically with the question of plantations as a land use that uses very high amounts of water, and investigates the possibilities of returning land from plantations to other uses.

Access to productive water for poor communities and small farmers

This case study looks at the difficulties in accessing productive water for rural people. Action researchers are working in the areas of Quzini and Piltoni near King Williamstown in the Eastern Cape and focussing on food security, homestead gardens and agricultural micro-enterprise.

Access to water for productive use was raised as an issue by members of SAWC during the NWRS2 consultation process. Of particular concern to farmers in the Western Cape Winelands was the transfer of land rights without the transfer of water rights. People had received some land back, but no water for their crops or animals. In Limpopo, communities live near large dams or pipelines but the piped water runs straight past their homes to large scale water users. They have no access to it. This situation was first raised at The World Commission on Dams by civil society activists, including those affected by dams – an alliance that was one of the strands leading to the formation of SAWC. In urban areas, residents engaged in livelihood activities such as food gardens or small car-wash businesses are charged exorbitant tariffs for municipal water, rendering their livelihood activity

unaffordable. Not all urban users are currently paying for this water, but there is a strong fear that their water will be cut off through smart meters if they don't pay the high monthly bills.

Although the case study is focussed on rural water users in the Eastern Cape, many of the issues raised by other members of SAWC are relevant, including the price of water. In addition, this case study looks at revitalisation of rural water infrastructure and how to access resources promised through government policies and strategies, including rainwater harvesting tanks, support to producer cooperatives and so on.

Inclusion of traditional healers in water quality governance

The case study looks at the participation of civil society in the monitoring of water quality in the Vaal area. It investigates why traditional healers and spiritual practitioners, who are important direct water users, are currently under-represented in policy and catchment forums. Their everyday practices are impacted by poor water quality. Moreover, because of their regular contact with and observation of the state of our rivers, they could potentially act as monitors of water quality in the Vaal.

However, the current system of governance through catchment management forums (CMFs) has not included them. This could be because of an exclusive technical approach, or a view of stakeholders that does not see this important constituency. The action research aspect of this case study consists of a dialogue between VEJA activists, traditional healers, religious users of water and their organisations. The dialogue includes introducing the traditional healers and religious users to the dangers of current low water quality to themselves and their patients or initiates. It also introduces them to current governance and water knowledge – for example by organising a tour to Rand Water at their request, in order to understand how the water system works. So far, the healers are keen to participate in governance of a substance that is central in their spiritual and commercial practices. They have also raised the concern that it is getting harder and harder to access the Vaal River due to privatisation of land along the edge of the river. The inclusion of traditional healers and spiritual practitioners may mean that the CMFs will need to change how they function in order to accommodate this "new" constituency. There may well be other, similar community based constituencies that have not yet been recognised, such as people who fish in the Vaal, or use the river water directly for other purposes.

In addition, the knowledge of traditional healers may reconnect South Africans to the roots of centuries-old, indigenous ways of thinking about water sources, and relating to them with spiritual and ecological sensitivity. This could provide an important opening to a renaissance of African environmental understanding.

The right to participate in water policy and decision making

This cuts across all of the case studies and also has broad implications for water activism. It has been an ongoing focus point for the SAWC and its allies in civil society. This topic is discussed more extensively in Part 4, below.

Conclusion: monitoring has a broad meaning

Monitoring means testing against a value based approach from our own world view and perspective. It means monitoring against the promises made in policy documents and constitution and pronouncements of politicians (including Councillors). It also means noticing and protesting against things that are wrong and building alternatives for social justice and ecological integrity. Activists need to situate themselves in this broader context and to recognise the opportunities provided for participation in the water sector. In order to take up these opportunities, we need to have the skills (know-how) and this is the subject of part 3. The case studies are arenas to learn to develop and integrate these skills for application to other issues in other places. Part 4 includes the right to be included in water policy and decision making.

PART 3: HOW DO WE MONITOR THE NWRS2: A GUIDE FOR WATER ACTIVISTS

Introduction and approach

These guidelines proceed from the basis that the best way to do citizen monitoring is to be part of a broad social movement like the SAWC. However, joining 'a movement' might feel abstract or overwhelming until you have a better grasp of the issue you are facing and have organised yourselves locally. How to deal with on-the-ground issues as they arise forms the first part of this section. Dealing with your immediate issues is likely to grow the local strength of activism, and provide the motivation to reach out to others.

Because we live in a complex interconnected world, it is likely that your 'local issue' is affected by policy and governance decisions that are happening outside of your area. You also might be interested to monitor and influence issues that are cross-cutting, such as public participation, the right to water or environmental justice. This is tackled in the second part of this section, which addresses monitoring the implementation of policy or changing policy or where it doesn't work. These relate very closely – local monitoring can result in changes at policy level and undertakings (promises) at policy level need to become real – and monitored to be real – on a grass roots level. They work together and activists integrate them in their practice.

Through this process, a natural interest arises to contribute to a water and environmental justice movement that builds solidarity and takes forward the common interest to develop an alternative ecological economy that is equitable, provides meaningful work and operates within the parameters set by the world's ecological systems. The last part of this section provides some practical suggestions on how to build this movement and some pitfalls to look out for.

Identify your issue, organise locally and build a case

If you are concerned about water where you live, it is likely to be for one (or more) of three reasons. It could be because you aren't getting enough clean water to meet your needs. For example you could have a smart meter that cuts off your water, or the water coming out of your communal tap is contaminated. Or it is because you are concerned about the water in the nearby rivers or wetlands. Perhaps your river no longer flows like it used to, or it is being used as a dumping ground. Thirdly it could be because you see an environmental injustice. You might be angry because other people in your city receive better services than you do, and the rivers in their areas are kept clean and safe. In each of these cases, there is something you want to do to ensure an immediate improvement in the area where you live.

Ultimately what you want to do is to inspire people to work with you to resolve or transform the problem you are facing. To change your situation with respect to water, here are 5 steps that you can take, together with allies you gather around you. These steps form a cycle, so after step 5, you will go back again to step 1.

1. Describe what is happening – what are the conditions in which people live, what are they doing in relation to water? This develops the *context*.
2. Identify the issues and challenges facing your community; prioritise which one/s you will tackle first. You do this with your community by describing the context back to them and pointing out things you notice. One way of thinking about this is you are holding up a mirror to people so that they can see their situation clearly and so identify issues and challenges together.
3. Identify new possibilities – how and at what level can we bring about change? This is also done collaboratively with the communities we live in or work with.

4. Implement the change – how do we work with others to bring about change?
5. Reflect, review and consolidate what you have done and learnt – and go back to step 1.

At each stage you will be talking to people and seeing how you can work together. Initially these will probably be people who live near you and experience the same problems, but it will then grow to include a broader network of potential allies. If you are open, one of the key things you will learn is how to see the problem from another person's perspective. Another person could be anyone who is also involved in the issues, such as a fellow community member, an official or your local Councillor. Thus your understanding of the issue will grow and you will develop empathy. This will be very helpful when you are trying to implement change. It will give you insight into what approaches might or might not work, as well as provide the basis for building solidarity. Sometimes we don't want to hear a point of view that differs from ours – we feel strongly that we are 'right' and they are 'wrong' and so there is no need listen. In fact the opposite is true. If we truly want someone to understand our problem, we also have to be willing to understand what motivates their actions. Through this understanding we might learn that 'right' and 'wrong' are not so clearly separated, and that the person we blame for our difficulties might have no power to change the situation, and that a more sophisticated strategy is needed. You will have more influence if you understand the limitations within which others work. This is why we also actively seek out to understand the stories of people that we may not agree with.

Appendix 2 contains exercises that will help you with each of these steps[133] listed above. They are drawn from the assignments and exercises that water caucus activists did in the "Changing Practice" short course developed for this project. The term 'water practice' is used in these materials. This refers to things we do as part of our water activism. They could include replacing a washer on a leaking tap, or phoning the municipal hot-line to get a leak fixed, or holding a placard outside parliament to protest money going to weapons instead of water services.

Organising and working with others (locally)

As a water activist, you won't want to work alone. Belonging to a group that has similar concerns, shared values and collective aims will strengthen your activism considerably. Your first option is to see if an organisation already exists that shares your concerns, and which you can join to advance water struggles. For example, you can see if there is an active branch of the SA Water Caucus in your area. Alternatively, if there are no appropriate groups, you can start your own one. Once you have identified the water issue you want to take up and worked with some of the exercises in Appendix 2, which include finding out how other people are experiencing it, you can start a group of 'concerned residents'. How you organise will very much depend on your issue and context. For example, in Makhaza in Khayelitsha, a group of people (mostly women) have started an organisation called Makhaza Food Growers and Wetlands through which they learn more about soil, permaculture (an organic way of growing food that incorporates design and attention to resource flows) and rainwater harvesting and support each other to sustain productive gardens. They are interested in selling their produce and in keeping the local wetland clean. They have a fixed number of members, which will only increase once they feel strong enough to grow, and they have a constitution. Because they know who they are and what they want to do, they are able to structure their meetings appropriately and ask for support from NGOs and government in advancing their goals. They connect to broader water struggles by being members of the Western Cape Water Caucus.

Starting an organisation is not easy. It takes skill and patience to learn to listen to each other, and to trust each other. It is important to give people specific roles and responsibilities. Many organisations have found the following roles important:

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[133] This deliverable covers the first 2 steps only. Exercises for the next steps will be drawn from future modules of the Changing Practice short course – these modules are still to be written and tested.

- **Chairperson** who calls and chairs meetings
- **Secretary** who keeps minutes of meetings and other documentation like decisions and correspondence
- **Treasurer** who makes sure that the use of all monies is documented and can be explained
- **Research coordinator** who makes sure all members are well informed through gathering, keeping and sharing information
- **Campaigns coordinator** who supports mobilisation and engagement
- **Media officer** who builds and keep contact with community radio and the press, and can turn the issues into stories that the media will carry (See box 4: on media tips)
- **Government liaison officer** who builds relations with specific people in government to get and give information, and to strengthen civil society–government alliances
- **Task team coordinators** who lead on a specific issue within the organisation

An organisation might choose to work in **task teams** that focus on specific issues. VEJA, a network comprised of CBO affiliates, has chosen to do this. They have identified water, energy which includes climate change and coal mining, air quality and health, and waste. Your organisation may want to identify specific areas of work and find members who are interested and want to specialise in this. The advantage of a task team is that people can specialise in issues, learn organisational skills and engage with confidence.

Your voice will be stronger if one or two people are consistent members at ongoing processes, such as CMFs, rather than changing representatives every time there is a meeting. The same is true for a media representative. This allows for capacity to be built in the person representing your organisation. Trust will also grow through personal connections that will strengthen your organisation as a whole. As a regular member of 'forum' you have a better chance to have a say and keep watch over promises and decisions.

Everybody in the organisation should have a place and a role. It is important to spread responsibilities in terms of gender, age and where people live. For example, your organisation might choose to have women or youth coordinators. It is important to have alternates or deputies for all positions who are informed and can stand in for the main office bearer. When electing people to positions or nominating yourself, you need to motivate and explain why this person's skills, strengths and attitude will be useful in that position. This process may be uncomfortable but is also a good way of appreciating people and the contributions they make. Each person in the organisation will have something she or he can contribute – it is important for fellow activists to recognise it in each other.

For the health of the organisation, it is important to have regular meetings, make minutes of decisions and discussions available to all members, and find mechanisms to keep people accountable and to address problems as soon as they arise. This should be done in a spirit of helpfulness, mutual learning and solidarity.

Taking on a role might require learning new skills, for example how to keep accounts. This could happen by learning from people in fellow organisations in the movement.

Often difficulties arise when people are assigned roles, such as 'chairperson' or when money becomes available to the group. For example, a chairperson might start to feel important and decide he or she can make decisions on finances without consulting anyone else. Through discussion, each organisation needs to decide the level of decisions office-bearers can take alone, and which need to be brought back to the group. People remain equal members of the organisation, whatever their role is, and are accountable to the organisation for actions or decisions they take.

There are a number of organisations and resource materials available that can help you navigate these difficulties and support skills development (see the Resources section in these guidelines). It can be very helpful to talk to another organisation that is a bit older, to find out how they survived

these painful processes, which could include gossiping, withholding information, appropriating resources, or gate-keeping.

Identify opportunities to participate in water governance, e.g. CMF, IDP or ward committees, SAWC branch, farmers association or other forums where water issues are discussed.

Box 2: Summary of steps to organise around your issue locally

1. What is your issue that relates to water?
2. To what activity in your daily practice does this water issue relate?
3. Who else in your area engages in a similar practice and that might share a similar water issue?
4. Contact these people, organisations or groups. Get together and get organised.
5. Collectively gather, decide and describe the details of this water issue (i.e. define the issue together).
6. Find out your rights, who is responsible for enforcement or providing the service, or regulating the issue.
7. Talk to the people you have identified as role players and try to find out their perspectives. (They may not be aware of the problems you are experiencing or they may be constrained by things you are not aware of).
8. Go back to your group and discuss your issue in light of the information gathered from other role-players and your understanding of your rights, etc.
9. Organise yourselves into task teams, roles and responsibilities, and remember to report back.
10. In practice, join the Environmental Justice movement or provincial water caucus and learn from working with them.
11. Connect to others that are sharing the same concern, or can help you voice this issue. An option for this could be sharing your issue through social media or community radio.

Monitoring policy and governance: examples and practical suggestions

Many issues that water activists are confronted with do not go away overnight and are affected by policy and governance decisions that happen outside of your area. So your issues may need to be taken to these policy spaces as well. For example, you will want to look for places where you can follow up on issues to check progress, as well as see which new issues emerge and to learn more about how the governance system operates. Doing this, is part of being an active citizen and building a participatory democracy.

This section addresses monitoring the implementation of policy, or changing policy where it doesn't work. Local monitoring can show that some promises made in policy and law may not be a reality at grass roots level. Local monitoring can also identify the need for changes at policy level. These two processes work together and activists integrate them in their practice.

If you want to work at a policy level, there are four main things you need to learn about:

1. **You need to know what policy is and what is says**. The main sources of water policy are the Constitution, National Water Act and the NWRS2 (you can access them through the internet – see the Resources section below). A number of organisations have also written commentaries or guidelines on these key policy documents, see for example citizen's voice, EMG NWRS2 guide, etc. (details under Resources below). The best way to learn about policy is to read, discuss and attend meetings of organisations who work with policy. After a while, you will become familiar with the policy knowledge that you need.
2. **Policy is not only contained in policy documents and legislation.** It includes policy decisions, laws and regulations, and also the institutions that are mandated to implement policy, the implementation process, monitoring of the implementation, as well as debates when the need to change policy emerges [see fig 1]

3. **You need to understand what policy changes you want**. Decide what changes in the policy cycle – for example in the laws, implementation, regulation or relationships – will improve the situation you are facing. You will need to work with others in the movement to turn your local case study into an argument that speaks to policy. You may need to call on policy, scientific and legal expertise. You could start by talking with the organisations and support organisations identified in Resources section below. The SA Water Caucus regularly works in policy issues – of which this guideline is an example.

4. **You need to identify the space to engage and participate.** These could be 'invited' or 'invented' spaces. Seek out where you are *invited*, e.g. CMFs, parliamentary hearings, IDP consultation processes. Or create (invent) your own spaces to develop and share your voice. There are many different ways to participate and your choice will depend on your issue, your strengths, the attitude of government, etc. These ways could include marching, dialogues, seminars, tribunals, participation in government forums, using media, etc. Public opinion, for example the discussions on community radio and national newspapers, is an important policy space to influence.

As civil society activists, we are particularly concerned that policy reflects the perspectives and interests of the majority of people living in SA not just wealthy people, and that government is accountable and responsive. We often need to gather evidence and develop arguments to take forward our case in forums, public debates and even in courts of law (see box 5: components to build a case study for policy monitoring).

What follows are some illustrations of how the four steps above have been integrated into civil society activism and what you can learn from them to strengthen your engagement in policy. They draw from SAWC's history of engagement with the NWRS2 and from the case studies of this project.

Water conservation and demand management in the context of climate change

Step 1: Many members of SAWC have been engaged in climate change policy discussions – and action on the ground, for example the Environmental Monitoring Group. EMG has followed international climate change discussions since its inception, and wrote a book[134] explaining the issue and guiding activists through it. Climate change is a huge issue, consisting of mitigation – how to reduce the release of greenhouse gases that are the cause of the problem; and resilience: how to adapt to climate change that is already happening, and will happen in future (both because of past greenhouse gas releases, and because international negotiations have so far failed to achieve the necessary reductions). But a second set of policies are also at work here. At municipal level, local governments are struggling to recover costs for water they pay for and distribute. Water that is not paid for includes water that is not metered or billed for, billed water that is not paid and real physical water losses due, for example, to leaking pipes. In practice, it may be difficult for a municipality to tell the difference between the different kinds of losses. Because of the complexity of the problem, there are a range of solutions available to municipalities. SAWC's interest in this issue comes from a third source – the use of various smart devices, prepaid meters, trickling devices and cut-offs that threaten communities, and especially poor households' right to water. This complex policy set-up is known, through experience, to many caucus members, but is new to many people dealing with the results on the ground.

Step 2: It is in the struggles on the ground, and the details on bills people receive, and how municipal officials interact with them, that we have learnt what these policies actually mean. Members of the Western Cape Water Caucus have also learnt that the City of Cape Town is not monolithic and that different departments have different roles, responsibilities and understanding of water provision. For

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[134] Wilson, J and S Law, 2007. *A brief guide to global warming,* Robinson, London.

example, one of the finance department's main aims is to recover bad debt. Their function is not to ensure right to water.

Step 3: People in Dunoon, working with EMG and other members of SAWC, are currently exploring what the alternatives are to a demand management policy that would work best for people on the ground. A few years ago, fellow activists in Makhaza, embarked on a campaign against water management devices where specific policy demands were made – scrap the debt, start fresh – and a provision in Cape Town's credit control policy was identified that would allow this to happen.

Step 4: Policy spaces that have been identified include, first, SAWC's internal discussions, participation in the NWRS2, parliamentary portfolio committee meetings and this research. A need has been identified to build public understanding of water provision in Dunoon through a local training workshop on bill-reading and water management devices.

Plantations, ecosystems and water

Step 1: Timber plantations have been a privileged water user since the first industrialisation, and this situation continues more in practice than in expressed policy.

Step 2: policy is not just in documents. Geasphere and its allies have been following the plantations debate in detail since 1999, when Geasphere was established. Geasphere members have seen the encroachment of the timber industry at first hand. December Ndlovu's family was forcibly removed to make space for a plantation to be planted. Others live close to plantations. They observe how much water the plantations use (25 l per tree per day, the same as the basic free water allowance for each South African citizen), yet plantation owners pay minimal amounts for the water they use.

Step 3: what alternatives would be better? For the NWRS2 process, the following recommendations on industrial timber plantations were made:

1. The NWRS-2 should recommend that the DWA implement a moratorium on the issuing of any new water-use licenses for timber plantations. This is critical in the Eastern Cape, where 100 000 ha has been earmarked for new timber plantation establishment.

2. All existing water use licences must be reviewed and either withdrawn where appropriate or steps taken to enforce the conditions of water licences that are not withdrawn. This should apply to both stream flow reduction licences and effluent discharge licences.

3. Meaningful water use tariffs/ licence fees need to be introduced in order to ensure that the true cost of water used by timber plantations is paid so that adequate funds will be available to cover the costs of providing alternative supplies where communities have been deprived of access to water by plantations.

4. The NWRS-2 should recommend that the DWA as water regulator should revise and update water use models to get a clearer understanding of the water use of alien plantation trees. New scientific methods involving testing isotopes for information about impacts on groundwater, which is still little understood, are available.

5. There should be a greater focus on research, and the 'paired catchments experiments' in Jonkershoek in the Western Cape should be continued and funded by the DWA. Valuable data and information has been gathered over almost 80 years, providing world leading opportunities for understanding plantation land use models and their impacts.

6. The Working for Water Project is valuable and should receive greater support for enhanced operations, better oversight and greater efficacy in follow-up exercises.

7. The NWRS-2 should include extensive restoration and rehabilitation of the grassland biome, that is vital to water conservation in southern Africa, and wherever possible, existing unviable plantations should be removed. Such an opportunity exists with state owned plantations in the Mariepskop area. In the 1990's the then Minister of the Department of Water Affairs and Forestry proclaimed that these plantations should be removed to free up water for residents of Bushbuck Ridge. Contrary to this decision, a government report has been produced which recommends that 4500ha should now be re-planted and brought back into production. These plantations should rather be removed as per the ministerial decision, and the land rehabilitated and put to productive use – by providing a range of 'natural' (but managed) services, such as medicinal plant cultivation, cattle / sheep grazing, etc. that will not undermine the water yield of the catchment.

Step 4: where can we take up this issue? The issue of timber plantations is taken up in SAWC, through the international alliance Timberwatch, in forums convened by the plantation and milling industry, e.g. in Mpumalanga.

Inclusion of traditional healers in water quality governance

The story of how VEJA came to be drawing traditional healers into the Rietspruit Forum goes back nearly 2 decades.

In 1996, Steel Valley residents started protesting against the pollution from the then ISCOR steel factory. The pollution had entered their underground water, came via an effluent canal and a polluted river, and also blew onto their smallholdings from a massive slagheap just over the road from the nearest houses. At the same time, Minister Kader Asmal had instituted the first catchment forum – the Blesbok Forum - to deal with the pollution from the Grootvlei mine outside Nigel (which would later become an even bigger problem as Aurora gold mine when pumps were removed and sold that should have been used to pump rising acid mine drainage). As part of the solution to the ISCOR pollution struggle, the Rietspruit Forum was started in which water pollution issues could be discussed. Rand Water, which had responsibilities for catchment management in order to protect the water it purified for distribution to what is now around 12 million people, was building catchment forums to help it do this work. Catchment forums were not part of official policy; according to the first (2004) NWRS, they were simply seen as useful spaces. From another perspective, the catchment forums were supposed to be part of the creation of 19 (now 9) Catchment Management Agencies or CMAs, which would cover the whole country with participation-driven water management. Only now are there renewed plans to create the CMAs –2 currently exist.

VEJA, which was created in 2004 (although its predecessor, the Steel Valley Crisis Committee dated from 2001, while Steel Valley residents were organised through various institutions, including local government and its councillors), regularly took part in forums meetings. It found that the community – especially black communities – were very much underrepresented. One of the groups that caught its attention, were the traditional healers who were using the polluted water of the Vaal for baptising and mixing medicines. VEJA is therefore working on a policy level in trying to change the composition of forums by making them more inclusive and representative. It hopes to bring new allies into these forums, which are currently dominated by large water users, and narrow economic and technical language and arguments.

In this case, VEJA learned from its experience, and interaction with researchers, that there is a place in policy for catchment forums, but that this place is not well defined, and that the practice of catchment forums is not yet what would be expected of them in a participatory democracy (**step 1**). It learnt that policy was not limited to the policy documents only, as its main sources of information came from participation in the catchment forums (**step 2**). SAWC identified the catchment forums as important spaces for water governance, especially dealing with water pollution issues – but identified in addition that they needed to become much more accessible and representative (**step 3**). **Step 4** was participation in the forums themselves, but also in related spaces: the NWRS2 process, where

they could lobby on this issue, a research space (created by this WRC project), and discussions within SAWC about participation in the forums.

The right to participate in water policy and decision making

Accountability and participation are crucial aspects of policy and monitoring. There are rights to participation in governance, including in policy and monitoring. These are articulated in the Constitution, the Promotion of Administrative Justice Act (PAJA) and others. The right to monitor was recently confirmed in an appeal court ruling (see Box 3: ArcelorMittal judgement).

VEJA has been fighting for access to the Master Plan for more than a decade, which the polluter, AMSA has consistently refused to release. The Master Plan is a comprehensive strategy document which contains the results of numerous specialist environmental tests for pollution levels at AMSA's Vanderbijlpark facility, as well as its plans to address this pollution and rehabilitate its sites over a 20 year period.

In their judgement , the Supreme Court of Appeal (SCA) highlighted the **"dangers of a culture of secrecy and unresponsiveness"** and berated AMSA's "obstructive and contrived", "disingenuous" approach in which it had "feigned ignorance" of the existence of the Master Plan. The judgement highlights AMSA's history of environmental impacts, pointing out that such impacts are of public interest and importance, and do not only affect persons and communities in the immediate vicinity of its facilities.

The judgement recognises **"the importance of consultation and interaction with the public. After all, environmental degradation affects us all".** As an "advocate of environmental justice", VEJA is entitled to the information sought and "to monitor the operations of [AMSA] and its effects on the environment".

People living in SA have the right to accountability from government officials, the regulator and other organs of state. Water is a public good; DWS is its custodian. We therefore need to ensure that DWS fulfils its role as custodian ensuring that water is managed and protected in a way that benefits society

as a whole including future generations and other species, and not just private interests.

Box 3: ArcelorMittal judgement

In November 2014, the Supreme Court of Appeal in Bloemfontein acknowledged the right of VEJA – a member of the SA Water Caucus and one of the participants in the case studies in this project – to acquire information about polluters and monitor their activities. It used the following words:

"…it is clear that VEJA … is entitled as an advocate for environmental justice to monitor the operations of ArcelorMittal and its effects on the environment"

"It has been clearly established that the participation of public interest groups is vital before the protection of the environment… I am of the view that section 24 envisages, and even encourages, public campaigns of this sort. "

"A community based civil society organisation such as the applicant [VEJA] is entitle to monitor, protect and exercise the rights of the public at least by seeking the information to enable it to assess the impact of various activities on the environment and like-minded individuals must be encouraged to exercise a watch-dog role in the preservation and rehabilitation of our national resources."

Judge Navsa, Supreme Court of Appeal of South Africa, November 2014

(Company Secretary of ArcelorMittal South Africa v Vaal Environmental Justice Alliance (69/2014) [2014] ZASCA 184 (26 November 2014)

The SCA also made a number of critical findings in relation to AMSA's lack of good faith in its engagement with VEJA and the discrepancies between AMSA's shareholder communications and its actual conduct. The SCA also emphasised the importance of corporate transparency in relation to environmental issues, stating that **"Corporations operating within our borders… must be left in no doubt that, in relation to the environment in circumstances such as those under discussion, there is no room for secrecy and that constitutional values will be enforced".**

Engaging with outside expertise

Your case may need you to engage with outside expertise such as scientists or lawyers. Remember that the issue belongs to you; that local knowledge is important and that outside experts are there to support you. As groundWork, an environmental justice NGO says, "ensure that expert advice is on tap and not on top!" Having said that, information and support from a friendly lawyer or scientist is invaluable.

Legal advice is crucial to understand what your rights are in a situation. This information can be shared freely with everyone you work with. Lawyers can set precedents through court cases, that can help everybody affected by the same problem, as precedents become part of law and administration. Lawyers can assist you in various administrative processes, such as accessing information.

Expert views carry power. For example, in pollution issues, social and natural scientists can quantify water quality, draw on precedence of similar situations; name the pollutants and identify the sources and explain likely human health impacts. They can give authority to your local knowledge and make it carry weight in decision making spaces.

Citizen science can give important support to activists. Citizen science is when citizens themselves, including activists, learn to monitor, notice problems and provide evidence of these problems. While you are interacting with expert scientists – as in the paragraph above – use the opportunities to learn. All over the world activists have become citizen scientists and paralegals who are able to handle many situations by themselves. To be a citizen scientist or paralegal, you don't need to learn all of chemistry, just the chemistry in your local streams. As a paralegal, you will learn about specific processes and protocols – for example, how to have a legal march or how to write a letter requesting documentation from an authority.

A word of caution: your credibility can fall very quickly if you use scientific terms incorrectly. Recognise your limitations and take care. People may use it against you – don't make yourself or your case vulnerable by claiming to know more than you do.

Box 4: Media tips

Working with the media is a useful way of articulating your views and reaching government officials, who might ignore phone calls but call you the minute they are mentioned in a front-page newspaper article. It is important that you prepare well before engaging the media. Think about who the best person or people in your group are to present the issues including giving local evidence.

The media are always on the look-out for interesting stories, including people fighting back against environmental injustices. The media are generally responsive to people's first-hand accounts of what is happening in their communities. However, there are a few things to remember:

- Be certain of your facts (see box 5 below, on how to put together a good case study)
- The media generally looks for fresh news, so don't wait long to contact them.
- Media people like specific facts as well as good pictures. Be prepared.
- Target the right media. Often a local publication or a local community radio station will give more airtime than the national media where your story will have to compete with many others for attention.

> **Box 5: Components to build a case for policy monitoring**
>
> The following 5 basic questions to compile a case (an information document) are useful for your own and fellow activists' understanding of a situation, for communicating with possible allies, for putting your case to government officials, lawyers, and for providing information to attract the attention of the media. Use the following five questions to build a good case.
>
>
> 1. **Why this case? (an introduction)**. Tell the reader or person you are interacting with what the story is about, and why it is important. For example, you could say that something is happening that is against policy, or people's rights, and also who – or how many people – it affects, and where it is happening. In this section you are not giving the whole story, but pointing to what the issue is and why it matters. You should also include a summary – just a few lines – of what you will be revealing in the rest of your document or presentation.
> 2. **How do you know?** How did you get to know about this? Maybe it happened to you; maybe you saw it, etc. This helps your audience to believe you, or to make a judgement about how sure they can be about what you are telling them. You may also include your background knowledge – for example, the water problem you are talking about is happening in the village you grew up in, or that you have knowledge of polluted water from attending a number of catchment forums.
> 3. **What is the evidence?** Here we look for facts that can be agreed on – even with people who may not agree with your arguments or recommendations. For example on nuclear power: everyone can agree that there is a problem with energy supply at the moment, that it is expensive and takes a long time to build. You can provide evidence to support these facts. Most of us do this naturally. But if we mix up this section with the next one (the argument) our reader or listener will stop listening – and focus on the argument rather than take in what the basic facts are.
> 4. **What do we argue?** Of course we also want to give our point of view. This is analysis and building our argument. People might disagree with our argument, but it needs to be coherent and build on the evidence. We explain *why* we think this is the case, based on our evidence. You can also quote other people's arguments here. We need to go back to (1) *why* this case. In your analysis, identify the relevant policies or gaps in policy.
> 5. **What do we conclude?** This is a summary of what has been said before, which includes recommendations for action or for policy change or implementation. It is useful to include what you don't know, or what you still need to find out.

Build the water and environmental justice movement

The main way in which the NWRS2 will be monitored for social and ecological justice is through the actions of organised civil society. Civil society acts as a counter point to the interests of business and capital. Without it, government works not for people, but for money. Perlas[135] identifies civil society as one of three key institution shaping globalisation – the other two being the state and the market. He argues that the 'cultural power' of civil society can be used to advance an agenda that benefits poor people, societies and nature. It is thus a powerful and critical player in shaping the world we want to live in. By understanding its identity and role, civil society will be able to mobilise its power and resources more fully (Perlas, 2003). This project contributes to that understanding for South Africans active in the water sector, and encourages all – whether working within civic, state or private

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[135] Shaping Globalisation, 2003

institutions – to reconnect with their core human and humane values and build a world where rivers flow freely and unpolluted, meeting the needs of all who depend on them.

Orientation to water and environmental justice within social movements

Before we can build a social movement, we need to understand what it is – although often social movements grow organically, without necessarily going into much reflection. A social movement consists of people, organisations and networks who share common ideals and are working together to put these into practice.

South Africa is a society in transition that has an ideal of transformation and change. The struggle for liberation from apartheid was through social movements. But our transformation as a society is incomplete. We are still grappling with issues of human rights, gender-based violence, ecological destruction, and so on. We are still building the society we want. Therefore there are a growing number of social movements – many of them related to each other or working together – to achieve this. One of them is a movement for water justice, which is closely related to environmental justice, social justice and other human rights struggles. SAWC is a part of this and brings together many different people, from different places, working together on issues of water. Water and environmental activists are often involved in these broader struggles as well and can make a specific and very necessary contribution to the overall movement.

A defining feature of any social movement is solidarity. Solidarity is the glue that keeps a social movement together. It is a way of being, relating and working together. It is an objective in itself that foreshadows the society we want to live in. It includes volunteerism that gives civil society its independence and strength. It is much more difficult to fire a volunteer than a salaried employee! Solidarity means unity in diversity, and diversity in unity, in the slogan of the World Social Forum, a global meeting of social movements. It means directly supporting each other, building empathy, connecting people through networks, sharing resources, listening to and understanding issues that we haven't explored. It means taking seriously power dynamics that still plague our society such as gender issues, racism and class inequality.

What does a social movement look like and how does it work? A social movement is different to a formal institution which has roles, responsibilities and hierarchies. Instead, it follows a network logic and is more of a 'flat structure' where different components come together to work on specific problems or campaigns. Formal structures are often needed in member organisations, which are autonomous – but the aim is to keep the movement as a whole open and transparent. Alignment is more appropriate than centralised coordination and control, unlike a church or trade union where there is a specific "line of march". In many ways, social media mirrors how a social movement could work. There is a free flow of information, and choice about which issues to support and how. There are all these small (autonomous) units that can work together through communication and trust.

In the end, it is shared values and a shared outlook on the world – informed by social justice and ecology sustainability, democracy and equality – that give people their strength and allow us to work together. By responding to your local issue, YOU are part of a social movement. Lots of people like you constitute the social movement. A useful way of thinking about social movements is to realise that "the full flourishing of each is necessary for the free flourishing of all".

> ***Box 6: What is the coalition that brought success in the Vaal?***
>
> People and organisations come together to achieve specific things. One example is the coalition that led to VEJA's victory over AMSA (see box 3). These included VEJA, itself an organisation of 13 affiliates that respond to pollution and environmental abuse in the Vaal. These affiliates include churches, youth, ex-workers, environmentalists, trade unions, etc. VEJA worked in alliance with environmental justice NGOs groundWork and Friends of the Earth as well as other communities affected by AcellorMittal worldwide; with the Centre for Environmental Rights (CER), a non-profit organisation of environmental lawyers that drove a case through the Gauteng high court and through the appeal court to get important pollution information from the corporation. VEJA itself was built through co-operation between its sometimes very different affiliates, activists from other areas, such as South Durban, academics and scientists, who brought specialist knowledge, and the SA Water Caucus. This coalition and the success of the court case show the different roles played by organisations within a social movement and what can be achieved when they work together.

SAWC contribution to water and environmental justice social movements

We can learn lessons about the functioning of social movements from SAWC's experience. SAWC has existed since 2001 – a period of nearly fourteen years now. This is an achievement in itself, as other prominent organisations like EJNF (Environmental Justice Networking Forum), SANGOCO (South African NGO Coalition) and the APF (Anti-Privatisation Forum) have all but disappeared or have waned in strength.

- **SAWC is an institution in that it has rules,** which include its founding principles. It also functions as a network, a lobby group and a community of practice. It has diverse members, with members playing different roles, including a secretariat and support role by funded NGOs, who also play international and national level information roles, connected to international NGO/civil society movements – and it is a social movement.
- A key to the survival of any civil society organisation or social movement is its **ability to bring and keep together resources,** including knowledge, networks, funding, and resources like meeting venues, transport, leadership, members and participants. SAWC relies on the marshalling the resources of members in all these fields.
- An important aspect of SAWC's longevity is its approach of a **decentralised leadership and funding and resourcing model**. SAWC members, who had for example been involved in EJNF, have specifically avoided a centralised model both to avoid struggles to "capture the centre" and to allow free flow of thinking, knowledge formation and sharing. This has also allowed members to continue with autonomous organising and campaigning. SAWC is both strengthened and constrained by its loose structure – there is no real leadership position at present for people to fight over, but the need for a full time coordinator is often expressed. It has wide membership, including the participation of stable resourced NGO members, and community based activists who mostly engage via the provincial caucuses. It therefore holds multiple world-views, experiences and scales under one umbrella.
- SAWC brings together **different types of knowledge, which it treats as equal, and which it uses to generate the new knowledge necessary for its work**. This includes local knowledge from direct experience, policy analysis and institutional memory. Specific skills and types of knowledge are brought in by members; for example VEJA and Earthlife Africa are able to support the growth of provincial water caucuses in Free State and Northwest because of their experience; CER is able to do legal work. SAMWU's participation as a trade union has

been a strong plus, as it enabled SAWC to work within municipal processes, or at least to understand them better. SAMWU has also contributed practical skills, for example leak fixing, as well as contacts in the City of Cape Town. Combined resources enable SAWC to mobilise a broader voice of civil society, trade unions and CBOs on the one hand, then academics and sympathetic consultants with their expertise (e.g. on water issues related to mining, water quality testing and fracking) on the other.

- **Common values developed through debate and reflection and an understanding of your own identity** is critical to a social movement. In its early days SAWC accepted a set of principles, underlain by social justice and ecological values, that was explicitly opposed to the process of neo-liberalisation: defined in opposition to government policies of privatisation, of demand management in the form of cut-offs and flow limiting devices, but also other threats to the water commons, such as industrial and mining pollution. It has developed an international analysis (through exposures to international anti-dams movement, the international fresh water caucus, The Water Dialogues, various climate change processes – and broad civil society responses to them) and knowledge of international civil society debates.

- **SAWC plays a watchdog and lobbying role**. It remains consistently active in the water sector public sphere through a SAWC listserve and Facebook of near instant exchanges of experiences, comment on those, linkages to international water (and climate, energy and related fields). The SAWC listserve often spills over into the multi-stakeholder Bubbles listserve. SAWC has participated in the Water Sector Leadership Group, the apex organisation for the sector. SAWC's record shows that it has managed to participate in all important policy process in the SA water sector after the past 14 years, including the NWRS2.

How to strengthen your social movement

There are many aspects of a social movement that can be strengthened. It can grow bigger through having more members, have members in more places or countries, or cover a wider range of issues. It can become more effective at achieving specific goals through targeted campaigns or court cases. The faculties or skills within the movement can improve; as can information flow and knowledge generation. The movement can become stronger through healing weak points that could undermine its integrity and make if vulnerable to attack. This could include strengthening skills and transparency around book-keeping; or ensuring systems are in place to learn from and correct action of members that undermine the core values of the movement.

A strong movement is derived from strong members, and it is the members that keep the movement honest and aligned to its core objectives and principles. Thus building the necessary strengths and processes within your own organisation will be invaluable to the movement; and drawing on your own networks, bringing people in to the movement is the way to grow it. (For some tips on how to do this, see 'organising and working with others locally' at the start of Part 4). Movements depend on good communication, frequent contact, and sharing of resources, including knowledge.

What impact does money have on our social movement?

Although resources are often equated to funding, and funding is important, resources are much more than that. And money can spell trouble. There have been two instances in the Western Cape Water Caucus where money from government to do work – e.g. wetland cleaning or water education – has led to extreme tension within an organisation, and in one instance, the organisation did not survive.

But lack of money can also be a problem. For example, without money leadership from different areas can stop them meeting to make decisions together, and thus directly undermine internal democracy, as happened in the case of the Anti-Eviction Campaign in the Western Cape (see Oldfield and Stokke, 2006). In SAWC, a national co-ordinator fulfilled a very useful role – although not without contestation – and the debate about whether to resurrect this, and how to fund it, continues.

Resources from government to enable this or even to enable participation in national policy events and catchment forums are also ongoing. SAWC's experience in this area, and its development of cheaper and practical solutions (such as travelling by bus or taxi and how to account for such expenditures) will be practically useful e.g. in the current DWS initiative to revitalise and extend catchment forums.

Unequal distribution of resources extends to differences of language, challenges in dealing with technical issues from engineering to economics in national debates. SAWC has worked hard to find practical means to meet these challenges, and has built up considerable experience (e.g. in The Water Dialogues, the Dams Affected People and other campaigns), with the result that it can field powerful and articulate delegations, from very different backgrounds. One approach that SAWC uses and that could be followed by others working with civil society in the water sector is to hold preparatory meetings the day before a multi-stakeholder meeting, in which agendas and lobby points can be sharpened (not imposed but based on people's own experiences and agendas). Such work must happen in a spirit of respect and solidarity in order to work.

PART 4: HOW CAN DWS AND CIVIL SOCIETY WORK TOGETHER

The relationship between DWS and civil society

Fundamentally both officials and civil society activists work in the public interest and are natural allies. In a new democracy this relationship is being shaped and needs to develop to be mutually beneficial. For example, citizen's monitoring can extend the reach and depth of water quality monitoring but relies on government to enforce compliance. If government fails in this role, civil society can (and has) enforced compliance through court orders, but it is a long way round and is expensive and uncertain. The outcome of a court case depends on many factors beyond the control of a civic activist, including who the judge is, the availability of admissible evidence and the amount of money the transgressor is willing to put to the case.

Examples where DWS and civil society have worked well together include "Adopt a River" and Catchment Management Forums (CMFs). In these instances, there is alignment between the intentions of government and civil society's role in keeping the environment where they live clean and healthy. However, the relationship between DWS and civil society can be conflictual where government policy undermines issues of equity, justice or ecological integrity. This has been seen in the roll out of 'smart meters' including pre-paid meters, which target poor households, as part of local government policies to meet DWS requirements for water conservation.

What civil society can offer to DWS and water governance

Civil society brings information and perspectives to law makers, politicians and officials that they would otherwise not hear. For example, a member of SAWC brought a 'trickler' to a meeting we had with the Minister of Water Affairs. This was the first time the Minister had seen this round coin-like disk with a pin-prick hole through which water could 'trickle'. The activist explained that only under high water pressure did the 'trickler' release the mandatory 6 kilolitres per month. Even so, you had to wake up very early to collect sufficient drips in your bucket for morning ablutions and drinking needs. If your home was at the end of the pipe, you would get less than the very basic minimum due to insufficient water pressure. The Minister professed ignorance that such methods were being used and requested DWA officials to find out the extent to which municipalities were using them.

A second example of 'news' occurred during the NWRS2 hearings. The parliamentary portfolio committee Chair praised SAWC for bringing from-the-ground and refreshing perspectives to the MPs and encouraged SAWC to continue using parliament as a space to raise concerns with how policy implementation is experienced by people on the ground. These two examples show an appreciation

by government of civil society. This is not always the case. Many DWS officials are fearful and prefer not to hear about practices that show the Department is not fulfilling its role.

SAWC could also help with "aftercare". For example once DWA has installed rainwater tanks, SAWC could help make sure they are used and maintained, and alert government to any problems.

Box 7: SAWC reflection on its engagement with NWRS2

After SAWC's final submission, the NWRS2 task team reflected on what had been learnt, which is that (EMG, 2014: 12):

- "Engaging with the DWA is not easy – for example, there was no initiative from them to involve us; documents and funding for participation weren't readily available; it was difficult to know who the right people to speak to were.

- The DWA programme to support civil society (hosted by CPUT) was not effective and almost undermined initiatives that the SAWC had already undertaken.

- Linking policy analysis (content) with provincial representation (accountability) strengthened our organisation and our submission.

- There are important parts of the NWRS2 that we don't have skills and/or time to engage on, for example we know institutional reform will have wide-ranging impacts, but we don't know what these will be for us.

- It is difficult to see how policy will translate into changes on-the-ground, and how people's grassroots struggles can be reflected effectively in policy.

- We are one of the only organisations bringing public interest and eco-people-centred views to the debate (for example, during the Parliamentary hearings on the NWRS2, we raised unique perspectives that stood in contrast to the interests of big water users such as farmer associations and industry).

- Cooperation with NGOs that have expertise in certain areas strengthens our work. For example the Centre for Environmental Rights' (CER's) work on licensing and compliance, the Environmental Monitoring Group's (EMG's) work on urban water demand management, Timberwatch and Geasphere's work on timber plantations, and World Wildlife Fund's (WWF's) work on grasslands and wetlands. Some of these NGOs are SAWC members.

1. There are possibilities emerging from this process, including building more structured engagement with the DWA on, for example, the catchment management forums."

SAWC engagement with NWRS2 was done in an organised, collective, considered, quality way, which is important (Rudin, *pers. comm.* 2014). Inside DWA, things were more chaotic and it was difficult for outsiders to find out what was going on. Even DWA officials found it stressful. According to a Western Cape official who was drawn in because he has a history of working with public participation (although his official role does not include participation), the NWRS2 was internally complicated and confusing, even for those inside DWA.

SAWC as seen by others: allies, government, industry

A number of government officials recognise the critical role that SAWC plays in water governance:

"I know that it's a voluntary organisation consisting of activist people who are passionate about water issues" (Sigwaza, *pers. comm.* 2014).

"The water caucus always had a lot of credibility; an ability to mobilise people who it has continuing and active links with...areas where voices aren't usually heard from." (Brutus, *pers. comm.* 2014).

Civil society's role in the sector is critical in holding government to account, educating and bringing fresh perspectives to policy discussions. It pricks the consciousness of government to make information available (although often the information can't be found even within government). The importance of SAWC's role in the sector in bringing grass-roots voices to decision makers has been affirmed by parliament, the SA Human Rights Commission and government officials at both local and national levels.

However, participation is not always embraced by authorities. Many DWS officials are engineers and scientists who think they should just be allowed to get on with job. Consultation is seen as time-consuming and of little value. SAWC reminds government that water isn't just a technical issue. Sigwaza argues that consultation is important because DWA needs to understand the views of ordinary people, "...because sometimes if we are in government we think that this is how it is, and yet we do not understand the perspective of other people. So it is important that we listen to the people who are using the service on a daily basis, as to how they experience it; not to think for them" (Sigwaza, *pers. comm.* 2014).

SAWC strengths include shaping policy. "It has been very useful in thinking through things and providing feedback on policy issues. I think I would say around the policy development, policy environment, and also consultation" (Sigwaza, *pers. comm.* 2014).

Tips for activists in relating to DWS

Use existing forums to talk to officials. It is often difficult to set up a meeting with an official, or even to get a response from him or her on the phone or email. A good place to ask the question you need an answer to, or to share information is to introduce yourself to key officials at forums, such as catchment management meetings, and build an ongoing relationship.

Get the Minister on your side. Both SAWC and DWS have noted that consultation seems to be weaker or stronger, depending who the Minister is, and what her or his views are. A Minister who sees it as important will make funds and time available to consult, and require senior members of DWS to report on it. Without this interest, participation can revert to something to tick off on a list, no matter how poorly it is done.

Ally yourself with academics. SAWC has effectively allied itself with academics and universities. Bringing in academic rigour, for example in the development of a survey on Cape Town's water management devices, provides legitimacy to the research findings, as well as another forum in which to raise critical issues.

Remind officials that they are required to include citizens in decision making. It's part of the job description of officials to encourage and support participation. You can help them to do this! Remind them that inclusive participation requires budgets being in place for getting community reps to meetings, translation of key materials, and interpretation during meetings. Insist that government is transparent about what resources it will provide for participation. This will influence the way that civil society approaches participation and not create unrealistic expectations.

Cultivate links with regional officials. Regional officials are often closer to the issues activists are concerned with, can understand these better and may in fact be tasked with both resolving these issues and talking to civil society. While these links take time to build and can be lost due to staff

changes, they can provide very valuable channels of communication and co-operation. This has been the experience of SAWC members in the Western Cape, the Vaal, KZN and Mpumalanga.

What SAWC needs from DWS to participate effectively

Informed participation is a condition for effective participation. In its comments on the NWRS2, SAWC developed clear suggestions on how to improve participation by South African civil society in water policy and implementation processes. An edited version of this follows.

Water Sector Leadership Group

The WSLG is an important platform in which civil society participation must be taken seriously. DWS should provide adequate support to civil society so that it can participate more effectively in water decision making process. Participation should be outcome orientated, so as not to waste time.

DWS must support SAWC participation by providing minutes of previous meetings, agendas and other documents of scheduled meetings in sufficient time so that SAWC can engage internally with these documents in order to make appropriate recommendations and interventions. Logistical support should be given, for example airport transfers if needs be must be provided on both legs.

Meetings with the Minister

SAWC used to meet with the sitting Minister of the Department once or twice a year to share and exchange on matters facing the water sector and the country. This no longer happens. These meetings should be revived and should take place at least twice a year. All issues that were raised at previous meetings need to be discussed, including how these issues were addressed and what still needs to be done.

Such meetings should be supported financially by DWS so that better relations between the Minister and civil society in the water sector are fostered. If done properly, this could help both government and civil society to achieve their goals.

Catchment Management Forums and Agencies

These are structures that will be empowered to make water decisions at catchment levels. It is important that civil society keeps involved and actively participating. However, the size of the nine new catchments management agencies will make participation by civil society a real challenge. Thus there is a need to consider sub-catchments as to enable participation by local people and stakeholders in the water decision making processes at this level.

It is also important that capacities of the local communities are enhanced so that their participation is meaningful. Logistical support should be adequately provided as well as refreshments in meetings, as local people travel long distances sometimes without having eaten anything. Information must be presented in the language understood by the local people and participation should not equal rent a crowd or window dressing.

Provincial and Regional level engagement

Regular meetings between the regional director, provincial government and civil society at provincial levels are necessary to take place to facilitate information sharing on implementation, monitoring and evaluation and to partner on specific areas of common interests where it's possible. Here too, civil society requires adequate information in time and logistical support.

Local Government engagement

This is the most crucial level of government when it comes to water delivery and this is where most of the contestation by local communities tends to be directed. At the same time it is the most difficult and

challenging level of government to work with. Regular meetings need to take place between communities and the local authorities to look at water issues at each local level, say at a ward, sub-council, local, district and metro levels and these should be supported by local government in terms of both information prior to the meetings and logistical support.

Other participating constraints

Travel cost incurred by civil society, in particular community people, must be reimbursed before delegates or participants return home as they are mostly unemployed activists who sometimes have to use their last family money or borrow money to come to meetings.

Sometimes delegates come from deep rural areas where public transport is non-existent and areas where it's dangerous to travel at night. It is even worse when you have women exposed to such conditions.

It is therefore important for the Department to relook at their internal control and procurement process as to accommodate these challenges. It will be a blunder for DWS to employ a one size fits all approach here as these are not the same people as their employees or consultants who have better means of dealing with these conditions.

Terms of Reference

All processes must, at the start, set up terms of reference and these ToRs must specify and address all the expectations from all the role players or stakeholders in a fair and just way. These should be subject to periodic review, which needs to be agreed as part of the ToRs, and be used as the basis for process evaluation at the end of the process. That will help minimise misunderstanding and better manage conflict and disputes.

SAWC concludes: "Nothing about us without us"

PART 5: RESOURCES

Because there is far more to know about activism, environmental issues and the water sector, we suggest that you have a look at the following resources.

The SA Water Caucus has its own facebook page, as well as an active listserve with water information and debates. SAWC members/coordinating committee/PWC contact details, join SAWC list-serve? VEJA can also be found on facebook.

A number of organisations are part of SAWC and provide active support to other members.

www.emg.org.za

The Environmental Monitoring Group (EMG) works with other civil-society organisations to try to understand the pressures that climate change adds to an already challenging development paradigm, and to promote sustainable solutions. Given the stark climate predictions for southern Africa, we have to prepare and adapt to a changing climate.

EMG works with the Association of Fairness in Trade (AFIT) to provide a voice for small farmers and workers within the fair trade system. The international fair trade system is a potentially significant force for a more socially and environmentally sustainable agriculture.

EMG works to understand this complexity and to promote innovative and integrative approaches that release untapped human and environmental potential. The links between poverty and environmental degradation in rural areas is usually easy to see — but the causes are always complex.

EMG works to prepare communities and government for this possibility, by raising awareness of the problems and possible solutions of a water shortage. Climate change will worsen our over-stressed water resource. This is could have a devastating impact on small communities, impoverished households, and our society as a whole.

www.geapshere.org.za

To facilitate campaigns which promote protection, management and restoration of ecosystems to maintain ecological integrity. We aim to develop our regional capacity to ensure wide dissemination of information to all sectors of our society. We aim to help raise capacity amongst individuals and Community Based Organizations so as to help ensure meaningful participation in decision making processes with regard to developments which will impact on the natural and social environment. We aim to advocate alternative eco-sustainable solutions for the Water, Forestry, Agriculture and Conservation sectors.

www.bench-marks.org.za

Bench Marks Foundation is a non-profit, faith-based organisation owned by the churches in South Africa. It is a unique organisation in the area of corporate social responsibility (CSR) and monitors corporate performance against an international measuring instrument, the Principles for Global Corporate Responsibility; Bench Marks for Measuring Business Performance. Also known as the Bench Marks Principles, this document is shared by a number of churches and church agencies across four continents.

Benchmarks also supports a monitoring school, where activist monitor and learn to share what they see and know by blogging. See http://communitymonitors.net/

www.cer.org.za

The Centre was established in October 2009 by eight civil society organisations (CSOs) in South Africa's environmental and environmental justice sector to provide legal and related support to environmental CSOs and communities. We opened our doors in April 2010. The Centre's **vision** is a South Africa where every person's Constitutional right to an environment that is not harmful to health or well-being, and to have the environment protected for future generations, is fully realised.

Our **mission** is to advance the realisation of environmental rights as guaranteed in the South African Constitution by providing support and legal representation to civil society organisations and communities who wish to protect their environmental rights, and by engaging in legal research, advocacy and litigation to achieve strategic change. We believe in environmental governance that:

complies with the Constitution of the Republic of South Africa, the Promotion of Administrative Justice Act, 2000, and the environmental management principles in the National Environmental Management Act, 1998;

is open and transparent;

is accountable to the citizens of South Africa;

promotes compliance with environmental laws and best practice; and

is based on meaningful citizen participation in environmental decision-making.

www.groundwork.org.za

groundWork, at is a non-profit environmental justice service and developmental organization working primarily in Southern Africa in the areas of Climate & Energy Justice, Coal, Environmental Health,

Global Green and Healthy Hospitals, and Waste. It supports environmental justice activism in communities, and publishes newsletters, reports and hosts an Environmental Justice School

www.wrc.org.za

The Water Research Commission has produced a wide array of research reports on all aspects of water issues in South Africa. It operates under its own board, which reports to the Minister of Water and Sanitation. The WRC funds water research.

Citizen's Voice is a DWS project on bringing citizens and local government closer together in water issues. (possibly available from Fadiela 073 913 3660).

Go to http://www.parliament.gov.za to learn more about parliament and its portfolio committees – there are committees on water and sanitation, environment, energy, mineral resources, agriculture etc. They often provide opportunities for public inputs in parliamentary hearings.

Building an organisation is a difficult task, but a number of organisations specialise in this task. Go to

www.footsteps.org.za/Docs/Part%2010.pdf for examples of the resources OLIVE developed for this purpose.

Finally, Wikipedia provides some interesting views on activism, see www.en.wikipedia.org/wiki/Activism