

**WCD Thematic Review V.5
Institutional Processes**

Participation, Negotiation and Conflict Management in Large Dams Projects

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Prepared for the World Commission on Dams (WCD) by:

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This is a working paper of the World Commission on Dams - the report published herein was prepared for the Commission as part of its information gathering activity. The views, conclusions, and recommendations are not intended to represent the views of the Commission. The Commission's views, conclusions, and recommendations will be set forth in the Commission's own report.

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The WCD Knowledge Base

This report is one component of the World Commission on Dams knowledge base from which the WCD drew to finalize its report “Dams and Development-A New Framework for Decision Making”. The knowledge base consists of seven case studies, two country studies, one briefing paper, seventeen thematic reviews of five sectors, a cross check survey of 125 dams, four regional consultations and nearly 1000 topic-related submissions. All the reports listed below, are available on CD-ROM or can be downloaded from www.dams.org

Case Studies (Focal Dams)

- Grand Coulee Dam, Columbia River Basin, USA
- Tarbela Dam, Indus River Basin, Pakistan
- Aslantas Dam, Ceyhan River Basin, Turkey
- Kariba Dam, Zambezi River, Zambia/Zimbabwe
- Tucurui Dam, Tocantins River, Brazil
- Pak Mun Dam, Mun-Mekong River Basin, Thailand
- Glomma and Laagen Basin, Norway
- *Pilot Study of the Gariep and Van der Kloof dams- Orange River South Africa*

Country Studies

- India
- China

Briefing Paper

- Russia and NIS countries

Thematic Reviews

- TR I.1: Social Impact of Large Dams: Equity and Distributional Issues
- TR I.2: Dams, Indigenous People and Vulnerable Ethnic Minorities
- TR I.3: Displacement, Resettlement, Rehabilitation, Reparation and Development
-
- TR II.1: Dams, Ecosystem Functions and Environmental Restoration
- TR II.1: Dams, Ecosystem Functions and Environmental Restoration
- TR II.2: Dams and Global Change
- TR III.1: Economic, Financial and Distributional Analysis
- TR III.2: International Trends in Project Financing
- TR IV.1: Electricity Supply and Demand Management Options
- TR IV.2: Irrigation Options
- TR IV.3: Water Supply Options
- TR IV.4: Flood Control and Management Options
- TR IV.5: Operation, Monitoring and Decommissioning of Dams
-
- TR V.1: Planning Approaches
- TR V.2: Environmental and Social Assessment for Large Dams
- TR V.3: River Basins – Institutional Frameworks and Management Options
- TR V.4: Regulation, Compliance and Implementation
- TR V.5: Participation, Negotiation and Conflict Management: Large Dam Projects
- **Regional Consultations – Hanoi, Colombo, San Paulo and Cairo**
- **Cross-check Survey of 125 dams**

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- ABB
- ADB - Asian Development Bank
- AID - Assistance for India's Development
- Atlas Copco
- Australia - AusAID
- Berne Declaration
- British Dam Society
- Canada - CIDA
- Carnegie Foundation
- Coyne et Bellier
- C.S. Mott Foundation
- Denmark - Ministry of Foreign Affairs
- EDF - Electricité de France
- Engevix
- ENRON International
- Finland - Ministry of Foreign Affairs
- Germany - BMZ: Federal Ministry for Economic Co-operation
- Goldman Environmental Foundation
- GTZ - Deutsche Gesellschaft für Technische Zusammenarbeit
- Halcrow Water
- Harza Engineering
- Hydro Quebec
- Novib
- David and Lucille Packard Foundation
- Paul Rizzo and Associates
- People's Republic of China
- Rockefeller Brothers Foundation
- Skanska
- SNC Lavalin
- South Africa - Ministry of Water Affairs and Forestry
- Statkraft
- Sweden - Sida
- IADB - Inter-American Development Bank
- Ireland - Ministry of Foreign Affairs
- IUCN - The World Conservation Union
- Japan - Ministry of Foreign Affairs
- KfW - Kreditanstalt für Wiederaufbau
- Lahmeyer International
- Lotek Engineering
- Manitoba Hydro
- National Wildlife Federation, USA
- Norplan
- Norway - Ministry of Foreign Affairs
- Switzerland - SDC
- The Netherlands - Ministry of Foreign Affairs
- The World Bank
- Tractebel Engineering
- United Kingdom - DFID
- UNEP - United Nations Environment Programme
- United Nations Foundation
- USA Bureau of Reclamation
- Voith Siemens
- Worley International
- WWF International

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Valuable contributions to the final report were also made by reviewers who commented on the first draft.

Executive Summary

Objectives

This thematic review focuses on the siting, construction and operation of large dam facilities (or their alternatives) as sources of significant conflict, and as opportunities to involve many interested parties and groups in addressing local, regional, and national issues. The review is intended to improve understanding about large dam conflicts, identify essential principles and decision-making approaches for public involvement and conflict resolution, and provide a set of best practices in these areas for large dams or their alternatives.

Methods

This review is the result of international co-operation between experts on public participation and conflict resolution from Southeast Asia, Africa, North and South America, and Eastern Europe. Co-ordinated by RESOLVE, the authors interviewed 17 individuals significantly involved in dams, and conducted a review of the literature on dams, conflict resolution, public participation, and facility siting. As requested by the WCD, the review focuses on general principles and best practices; it is not a comprehensive study of the topic. For both public participation and conflict management, we place 'best practices' in a framework of principles for why best practices should be used, approaches to achieving the principles, and steps for developing high quality processes. The document lists, but does not replicate tools and skills detailed by other practitioners (although several 'tool boxes' are listed).

There is a Need for Greater Adherence to Good Practices

The need for improvement in public involvement and dispute resolution for large dams may be one of the few things on which everyone involved in the building of large dams agrees. For the most part, however, the need is for a greater adherence to known principles and for a much more expanded and better use of existing approaches, processes, and tools. The literature and conversations with those involved in dam processes yield many deficiencies with the current process, including:

- failure to complete (or make timely) public consultation prior to decision;
- not ensuring that the broadest spectrum of sectors of society is involved pro-actively;
- failure to deal with and resolve mistrust between stakeholders and government;
- entrenchment of centralised decision-making;
- lack of access to and dissemination of full and good quality information, and
- lack of involvement by affected people in design and implementation of project monitoring.

The need for much more extensive use of existing approaches to public involvement and resolving conflicts stems primarily from the deficiencies in the process and several significant social trends about dam projects. Emerging international norms concerning public involvement in all types of development and facility siting greatly extend the formal requirements and the expectations of participants. Public scrutiny of large dam projects has grown in part due to increased understanding and interest by non-government organisations (NGOs). Rapid advances in communications technology also allow more stakeholders to interact. These trends and others mean that public participation programs will have to be more timely, greater in scope, better designed, and more diligent in identifying and involving the broadest possible cross-section of society. Most importantly, these improvements will have to produce programs that are more meaningful to all those who participate. If they are not, disputes and conflicts over dams will increase dramatically.

In addition, there are major concerns about the effects of dam development on the poor and indigenous peoples (and the differential impact on women), especially with regard to resettlement and

the distribution of other costs and also benefits. Public participation methods may need to be developed that involve poor and indigenous people in cultural and gender appropriate and financially feasible ways. Both new and existing techniques most certainly need to be consistently implemented, to increase these stakeholders' participation.

Sources of Conflict

Conflicts are defined as interactions of interdependent people who see their goals as incompatible, and who believe the "other" people are interfering with their efforts to satisfy their interests or values. We emphasise that conflicts can be useful as a means of stimulating engagement and creativity. However, if conflict is handled ineffectively, it can become destructive. Conflicts around dams come from a number of sources; especially from the real and perceived distribution of costs and benefits, disparities in social and economic power, the roles of different institutions, and specifics of project location and design. In addition, the cultural and social differences of the participants in the processes, and general distrust of government make such conflicts more difficult to resolve.

Involvement and Conflict Dynamics

A significant issue for public involvement programs is the need to assist groups that have traditionally had little voice in society. With limited voice and experience, such groups may either refrain from participation, or conversely, escalate rapidly the tactics they use to be heard. Both situations are detrimental to meaningful public involvement and to peaceful resolution of conflict. Another difficulty is the (often negative) effect of local communities having ineffective internal leadership. Finally, the dynamics of conflict can be significantly affected by the reactions participants have to their degree of access to resources and information – based on their gender, culture, values, and history. All these factors need to be taken into account when designing a meaningful participation or conflict resolution process.

Decision-Making

We identify nine decision-making stages of the development process for large dams (or for many of their alternatives) for which there are opportunities and techniques for involving the public and for which conflict resolution approaches will be helpful: problem identification, alternatives proposal, site selection, project design, impact mitigation, construction, operations monitoring and evaluation, relicensing and decommissioning. At each stage, more extensive information dissemination and active involvement of essential stakeholders is necessary. For many of the stages, these activities are often not conducted early enough or adequately, especially after construction has begun. All participants need to be aware that disputes and conflicts are inevitable in such large projects, and that systems need to be pro-actively agreed upon and developed to manage these issues as they arise.

Stakeholders

Stakeholders in dam-related processes are numerous and largely self-selected. They include:

- those who stand to benefit by building the dam (developers and some other stakeholders);
- those who are responsible for making, reviewing, or implementing specific decisions concerning dam siting and operations;
- those who will be negatively affected and those who seek to represent the under represented;
- those who can contribute local knowledge, and
- knowledgeable critics of the process.

The reasons why some stakeholders do not become involved are complicated, but often closely related to difficulties with the public involvement process: not knowing they are stakeholders, not being

informed of the opportunity to participate, not having power in the society, or not having access to the process (for any number of reasons).

Problems with representation are not generally major, except with less well-organised stakeholders, such as local populations (and perhaps particularly the women among them). Participants in these processes usually represent clearly defined stakeholder groups, but sometimes dam promoters and governmental officials chafe at the involvement of national or international NGOs (a concern occasionally shared by local groups of stakeholders). For their part, these NGOs see their involvement as helping to address significant power imbalances between local groups and multi-national companies and national governments. It is not always clear who represents unorganised indigenous groups; this is a problem that needs attention to ensure meaningful public participation and conflict resolution.

Trust is low between many of the stakeholders concerned with the dams that we considered. Developers are seen by local groups as having low credibility, national and international NGOs as outsiders (sometimes), and government agencies as ineffective or biased. Two very common themes that cut across many sectors and views are: (i) concerns for effectively involving non-formal, poor, and indigenous groups, and (ii) the importance of transparency in the process.

Institution Building

Both intentional and unintentional capacity improvements for local and regional groups can be beneficial in the context of regional river planning and dam siting and construction. While there are sometimes concerns about the source of the assistance, overall, groups that are better organised with more training are able to participate more effectively in public involvement processes and negotiations. National governments and international organisations have experienced an evolution of international norms concerning public involvement in the last 20 years with many countries and institutions now requiring significant programs. This trend is significant and, if strengthened, could continue to produce approaches and processes that are more widely acceptable and protective of minority or less organized interests. Currently, the approaches and processes for handling conflicts tend to be ad hoc and vary greatly between countries, regions, and levels. A more universally recognised and utilised set of principles, approaches, and process steps for involving stakeholders and handling conflicts would improve decision-making and the quality of the outcomes.

Best Practices

The many approaches, process steps and tools of public participation and conflict resolution are based on a set of principles which should be applied to all processes concerned with building dams or their alternatives. These practices stem from first principles that the public should have meaningful and continuous voice in decisions that affect their lives, and that their participation should have an impact on the decisions. For the resolution of conflicts, decision-makers should take into account that differences and disputes are normal. Although every culture has its own ways of resolving disputes, better decisions emerge when diverse interests, knowledge, and expertise are brought to bear on complex problems such as watershed management and large dams or their alternatives. Public participation and conflict resolution processes should be evaluated regularly. Evaluation allows decision-makers to learn if both processes and outcomes are accomplishing the goals set out for them and to gather information to improve future projects.

These sections of the report discuss the ‘best practices’ of public participation and conflict resolution in a framework of principles for why best practices should be used, approaches to achieving the principles, and steps for developing high-quality processes. The document lists, but does not replicate tools and skills detailed by other practitioners. These sections also list good representative practice elements for the stages of the dam building cycle. However, both public participation and conflict resolution processes must be sufficiently flexible to accommodate local needs, and appropriate to

local circumstances, which are likely to differ from area to area and from project to project. There is no blueprint process. The challenge is to understand the local circumstances and to design a process that will enrich decision-making in each individual situation.

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1. Background

The World Commission on Dams was established to address central issues of controversy with respect to large dams and their effectiveness in sustainable development. The Commission's overarching goals are to:

- review the development effectiveness of dams and assess alternatives for water resources and energy development, and
- develop internationally acceptable standards, guidelines, and criteria for decision-making in the planning, design, construction, monitoring, operation, and decommissioning of dams.

To assist with accomplishing these goals, the WCD asked RESOLVE, a US-based non-profit dispute resolution organisation to work with an international team of senior advisors to write a thematic review of "Participation, Negotiation, and Conflict Management" concerning large dams.

1.1 Objectives

This thematic review has four related objectives:

1. improve the understanding of conflicts around large dam projects, their dynamics, and root causes;
2. identify alternative decision-making procedures on dams that prevent conflicts and/ or minimise their intensity; this requires the identification of critical decisions requiring conflict resolution/negotiation throughout the project cycle;
3. propose essential principles and approaches for negotiating choices within society, preventing conflicts, and settling them if they occur, and
4. preview the potential contribution of, and current practices for, participatory approaches to decision-making on large dams.

We based this thematic review on a review of the literature, and interviews with stakeholders and WCD commission members. The themes are illustrated by specific examples, including those of successful dispute management and public involvement efforts as well as examples of projects that did not give stakeholders opportunities for involvement or which had major conflicts.

1.2 Methods

The thematic review team researched this topic as a co-operative international effort between experts (International Partners) in public participation and dispute resolution from Southeast Asia, Africa, North and South America, and Eastern Europe. RESOLVE served as the co-ordinator for the project and as the primary author of the draft report, with regional input by the International Partners. The International Partners also commented on drafts of the review written by RESOLVE mediators, and contributed examples and content to the drafts from their regions. We had insufficient resources to include partners from South Asia, the Middle East, or other regions. However, we believe the examples from the selected regions help give the review a basic understanding of the geographic and cultural variety of issues concerning participation and conflict for large dams.

To guide the interview process, RESOLVE wrote interview questions (Annex A) for use by the interviewers. Using the protocol as a guide to discussion, the International Partners and RESOLVE staff conducted interviews with a cross-section of participants, policy makers, and researchers from various dam-related sectors. We interviewed two to five experts on dams from each region and six others from international organisations (see Annex B). We had insufficient resources to conduct extensive interviews with more than a handful of those involved in decision-making about large dams.

In total, we interviewed 23 people who could represent the views of the essential stakeholder interests in these conflicts, including some with extensive knowledge of the views and concerns of those directly negatively affected by large dams. The interviewees included hydropower industry officials, environmental advocates, agriculture/irrigation users, indigenous rights activists, donor agencies, and local or regional agencies, government officials, and Basin Authority Officials. We asked interviewees to discuss both general principles (especially those from international organisations), and the specifics of cases with which they have been deeply involved. The cross-section of interviews provides a range of views regarding the roles of public participation and conflict/dispute resolution in processes concerning large dams, and examples of where and how techniques have worked well and where they have not.

The issues and ideas contained in this Thematic Review are drawn not only from the interviewees, but also from the literature review (including materials from the Internet, especially from NGOs), and our professional expertise. We made an effort to find examples in the literature that were from large dam processes dating from the last decade and a half. However, dam development processes can be extremely long, so we describe examples in some cases that happened before the ‘best practices’ described for public participation and conflict resolution (sections 3.7 and 3.8) became commonly known. Nevertheless, as we noted above, many of these practices are still not commonly used, so the examples we cite remain relevant. For both public participation and conflict management, we discuss ‘best practices’ in a framework of principles for why best practices should be used, approaches to achieving the principles, and steps for developing high quality processes. The document lists, but does not replicate tools and skills detailed by other practitioners (although several ‘tool boxes’ are listed).

References for all the literature we consulted are given in Section 4, List of Sources. We found relatively little published information or analysis of the specifics of participation and conflict resolution for large dams, other than descriptions of the conflicts. Therefore most of our examples come from the interviews, descriptions on Internet sites, and (a few) from comments by reviewers of the first draft.

This Thematic Review focuses on general principles and develops general understanding from the materials and interviews. Where possible, it includes specific examples on best practices, successes, and failures from individual dams. We include additional information on principles, practices, and examples from the literature on dams, conflict resolution, public participation, and the siting of large facilities (e.g. transportation, energy, and waste management). The review is a consideration primarily of causes and best practices, not a comprehensive study of the topic.

2. Introduction

2.1 Yacyretá: A Border of Contention.

Any brief consideration of dams, dam siting, and the social and environmental impacts of dams illustrates the high levels of contentiousness and conflict that are part of the development process for large dams, much as silt is carried by a river. Examples of recent highly contentious dams include China's Three Gorges project, the Itá dam in Brazil, the Lesotho Highlands Water Project¹ in Lesotho, The Great Whale dam in Canada, the Aquamilpa and the Zimapan hydroelectric projects of Mexico, and the Sardar Sarovar project in India. The conflicts around these dams range from location siting, to the need for the power and water the dams promise to provide, questions of who benefits, to the highly contentious resettlement issues – especially with respect to indigenous peoples. The Yacyretá project, located on the border between Argentina and Paraguay, illustrates these issues and highlights that the problems are exacerbated by a lack of meaningful public participation.

The Yacyretá hydroelectric project is located on the Rio Parana, joining Rincon de Santa Maria in Argentina and San Cosme in Paraguay. The dam is a joint venture between Argentina and Paraguay. Since its beginning in 1973 the dam project has been criticised by local, regional, and international groups. The sources of conflict and conflict dynamics around Yacyretá are typical of large dam projects around the world. The project has raised concerns of indigenous, environmental, and civil society organisations for human rights, environmental, and anti-corruption concerns, as well as for the perceived lack of meaningful response from World Bank officials. Although the structures and electricity are equally owned, most of the generation (2 700 megawatts at completion) is going to Argentina, whereas Paraguay – which hosts most of the physical plant – is receiving most of the negative impacts. Frequent floods, polluted water, water-borne diseases, and abandoned homes are among the impacts, which by some accounts were not fully analysed. Later attempts at public involvement have been described as being one-way information distribution efforts, and did not include the poor or negatively affected stakeholders.

In 1996, Sobrevivencia, a Paraguayan non-governmental organisation, filed a claim with the World Bank Inspection Panel. The inspection panel process allows directly affected peoples who have been harmed by a failure of the Bank to follow their own policies or procedures to request an independent review of a project. In its claim to the Inspection Panel, Sobrevivencia detailed the complaints, abuses, and policy violations that have occurred in the construction of the Yacyretá dam.

The list of conflicts surrounding Yacyretá is long and troubling to many observers, but future relationships and interactions may be more hopeful. The major features of this conflict are rooted in the design and the start of the dam's construction during dictatorships in both countries. This led to the violent suppression of public participation efforts, and – even after improved governmental conditions – a continued lack of sufficient and timely information or processes required for participation. While this extreme situation has not occurred with many other dam projects, further problems in this case stemmed from the unwillingness of the dam's governing commission to consider outside input, a recurring and common failure, even today. The governing commission rejected input from the public and concerned NGOs, even after recommendations for improved participation mechanisms were made by a World Bank inspection panel and an Inter-American Development Bank investigation. Changes were finally begun after 25 years of protests and a change in the government of Paraguay. Although the dam is incomplete, there are finally signs that the governing commission is taking steps in a new direction by instituting dialogues, setting up participation mechanisms, and attempting to reduce conflicts (Peña. 1999). Although Yacyretá

¹ For example the South African National Water Act (Act 36 of 1998) and National Environmental Management Act (Act 107 of 1998); for laws for every country of Central and Eastern Europe, see Nagy *et al.* 1994 and Stec 1995.

illustrates many of the worst practices, it is by no means the only problem dam and helps document the need for more participation and conflict resolution efforts.

2.2 There is a Need for Greater Adherence to Good Practices for Public Participation.

The need for improvement in public involvement and dispute resolution for large dams may be one of the few things on which everyone involved in the process agrees. For the most part, however, the need is for a greater adherence to known principles and for a much more expanded and better use of existing techniques. The basics of meaningful and effective public involvement are well known; so are the techniques for non-violent, non-coercive dispute and conflict resolution (the techniques are discussed in detail in sections 3.7 and 3.8). The debate is largely about which of these principles and techniques should be utilised, when, and for what purposes.

Although dam building has slowed considerably in North America and Europe, in most parts of the world, the pace of dam proposals and construction is likely to continue for some time to come.² In 1994, the World Bank estimated that about 300 dams would begin construction per year world-wide, displacing about 4 million people per year in the process (WB 1994a). Others (interviewed during this study) indicated that as little as 10% of the dam capacity has been harnessed outside of North America and Europe.

To our knowledge, no effort has been made to document whether large dams are generating more conflict now than they used to; nor is it necessary to do so before concluding that improvements to the process are critical. A simple timeline of the historical evolution of transparency and participation is sufficient to indicate there are more participants now representing more diverse viewpoints than there used to be. Up until the 1970s, only engineers and economists were commonly part of the design process. However, by the late 1970s environmental impact assessments and some public reviews were added. By the late 1980s environmentalists and sociologists began to have significant roles, and by the mid-1990s negatively affected peoples and NGOs began to become significantly involved (Goodland. 1997). Given that there are an increasing number of groups involved, that many societies are becoming more open and democratic, and that the various groups have different interests and are affected differentially, there are likely to be more open disputes and conflicts than there used to be.³

Going beyond these simple trends, the need for much more extensive use of existing approaches to public involvement and resolving disputes stems primarily from several significant social trends about dam projects (Goodland. 1997; Oud & Muir. 1997; Scudder. 1997):

- emerging international norms about public involvement (in all types of development and facility siting) that greatly extend the formal requirements and the expectations of participants;
- increased public scrutiny of large dam projects;
- increased understanding of the complex tradeoffs between the many social, economic, and environmental impacts of large dams;

² The authors of this review would ask the reader to keep in mind that this is a thematic rather than an empirical document. What this means for the entire paper, and for this section particular, is that our method of examining relevant literatures on dams, facility siting, public participation, and conflict resolution combined with selected interviews of concerned and knowledgeable individuals provides a useful overview, but not a detailed analysis. While we strongly believe that this literature supports our contention that conflicts around dams and dam building will continue to grow, we do not have authoritative empirical evidence of this as fact. Regardless, we believe that the 'best practices' outlined in later sections are useful and valuable tools, and should be implemented.

³ As discussed in Section 3.2. Conflicts involve many parties and extend over time, whereas disputes involve specific and bounded issues that parties pursue over shorter periods.

- increased understanding of the negative impacts that occur when the public is not provided adequate participation opportunities;
- increased understanding and interest in such projects due to NGO campaigns;
- rapid advances in communications which allow stakeholders to interact;
- increasing conflict over all aspects of water – supply, rights, distribution, cost, uses, and quality;
- increasing difficulties faced by the poor in paying for water, and
- weakening of customary participatory institutions due to reductions of local control and growing reliance on private land ownership.

These trends (and others) mean that public participation programs will have to be more timely, greater in scope, better designed and more diligent in identifying and involving the broadest possible cross-section of sectors of society. Most importantly, the programs will have to be more meaningful to all those who participate. If they are not, disputes and conflicts over dams will increase dramatically. Disputes and conflicts will almost always occur in the process of watershed planning and power provision, and a much greater use of the ‘best practices’ described below will be needed to manage and resolve them.

In addition to dam-specific trends, there is also global demonstration of peoples’ hopes for democratic decision-making. This hope is reflected in democracy movements in countries where dams are being proposed, increasing numbers of national laws requiring public consultation,⁴ the requests and demands of those negatively affected (e.g. the 1997 "Declaration of Curitiba." by the International Organisation of People Affected by Dams), and the rules of international funding organisations (e.g. World Bank Operational Directive 4.30 (WB. 1990)). To cite one national example, in Thailand the 1997 constitution and several bills in the year 2000 – on public hearings, public information, and environmental protection – have created a strong demand in the country by many groups for the right to be involved in decision making. In addition, people and groups have increased access to information, improved access to other interest groups, awareness of their rights, and the possibility of opportunities to question/challenge those in power. Finally, there is an increased internationalisation of civil society with greater expectations that companies and governments will be better "global citizens", and some companies are actively embracing this responsibility (Schmidheiny. 1992). Taken together, these trends suggest that large dam projects will need to (i) demonstrate social responsibility, (ii) genuinely seek and incorporate public views in decision-making, (iii) encourage and facilitate greater public involvement, and (iv) adhere to emerging international public involvement standards.

One final point is also important: In the literature and our interviews, many expressed deep concern about the effects of development projects – especially resettlement resulting from large dams and the downstream impacts of large dams – on the livelihoods and cultures of the poor and of indigenous peoples (e.g. McCully. 1996). These groups are often vulnerable and often have difficulty meaningfully engaging in processes developed without their input. This emphasis is driven (in part) by the large disparities of power between the poor and wealthy dam building companies/national governments (Roy. 1999). The emphasis on these groups is also driven by numerous efforts of international groups on behalf of indigenous peoples.⁵

⁵ Including: International Labour Organization Convention 169 Concerning Indigenous Tribal People, IUCN Indigenous Peoples and Conservation Initiative, UN International Decade of the World’s Indigenous People (1995), UN Draft Declaration on the Rights of Indigenous Peoples (1993), Fund for Development of Indigenous Peoples of Latin America (1992), the International Finance Corporation Social Development Group, Conservation International, the Permanent People’s Tribunal Charter on Industrial Hazards and Human Rights (1979), Agenda 21 – Chapter 26, and others.

Common Problems with the Process

During the interviews and from the literature, we gathered the following concerns and criticisms about how the public is involved in decisions about dams, many of which could be remedied by greater use of the best practices for public involvement discussed below. There are more, but these represent the repeated themes (expressed in the interviews and literature review we conducted), especially those that cut across the apparent positions of dam proponents or opponents:

- failure to complete public consultation prior to decision;
- not allowing enough time for consultation and studies;
- insufficient resources and commitment by the project proposer or contractor to conduct meaningful public involvement and prepare for conflict resolution;
- involvement begun much too late in the process;
- spectrum of participants is very narrow (only government and business);
- not ensuring that the broadest spectrum of sectors of society is involved pro-actively;
- failure to deal with and resolve appropriately current or previous mistrust between stakeholders and government;
- failure to involve disadvantaged or rural people and women, who may be affected both culturally and linguistically;
- entrenchment of centralised decision making;
- corruption;
- failure to follow even the most simplified legal requirements;
- lack of informed debate and consultation;
- lack of access to and dissemination of good quality information at the local level;
- hidden information, especially on investments;
- lack of full disclosure of EISs, or emphasis mostly on positive aspects;
- failure to involve affected people in the design and implementation of project monitoring, and
- public participation conducted without involving the decision-makers.

These problems with the process are often tied closely to the conflicts discussed below in Section 3.1.

3. Report

3.1 Sources of Conflict

In recent years, researchers and practitioners have paid increasing attention to the controversies, disputes, and violent confrontations around development infrastructure, in particular around large dams (Brion. 1991; Groothuis & Miller. 1994; Kasperson, *et al.* 1992; Magorian. 1982; O'Hare, *et al.* 1983). Several reasons suggested by the literature could explain why large dams are so prone to conflicts. First, they are generally justified by national or regional macro-economic benefits while their physical impacts are locally concentrated, mostly affecting those within the confines of the dammed river valleys, both up-stream and down. The mismatch of benefits and costs at these different scales creates a structural challenge to dialogue and, thus, translates easily into confrontational attitudes. Second, large dams affect critical, life-sustaining needs, such as the quality and allocation of freshwater, an increasingly scarce and coveted resource. Third, the lack of sufficient solutions to the social and environmental costs of large facilities in the eyes of those affected has resulted in increased social mobilisation around these emerging issues (see section 3.5, Institution Building).

A conflict is defined as ‘the interaction of interdependent people who perceive incompatible goals and interference from each other in achieving these goals.’ (Hocker & Wilmot. 1995: 21) Conflict resolution scholars and practitioners distinguish between conflicts, which involve many parties and extend over time, and disputes, which involve specific and bounded issues that parties pursue. Disputes may be incidents in a larger conflict.

Scholars have argued for many years that conflicts and disputes can be useful (Coser. 1956; Simmel. 1955; Deutsch. 1973). Societies, organisations, and nation states would become stagnant if there were no conflict. Conflict can promote interest and curiosity about an issue, provide a vehicle for learning about problems, and improve decisions and their implementation. Conflict provides the creative impetus to continually change relationships and social structures. By suppressing conflict, organisations and societies eliminate valuable response mechanisms. Encouraging the open expression of difference allows social structures to eliminate causes of alienation, disassociation and antagonism and to readjust structures to meet social norms or to develop new unifying norms (Coser. 1956). As noted above, such norms concerning public involvement have evolved considerably during the past 30 years.⁶

However, much conflict becomes destructive because of the ineffective and inefficient ways it is handled. Healthy societies have a variety of strategies, processes, and for a for managing and resolving disputes.

Two ways of distinguishing the beginnings of conflict can be identified. First, some conflicts originate in differences or competing interests. Interests are "people's feelings about what is basically desirable" (Raven & Rubin. 1983). Interests are an individual's or group's articulations of their reasons for acting. Interests are shaped by social, gender, cultural, and historical factors. Examples of dam-related interests are acquiring electricity, creating jobs, making profits, not being flooded, retaining land ownership, changing political power, maintaining watershed forests, and many more.

Second, other conflicts originate in psycho-cultural dispositions and interpretations that are culturally shared ways of understanding and responding to others' behaviours (Ross. 1993). Individual and group dispositions are learned ways of feeling and knowing. These dispositions reflect the political, social, and cultural messages about our identities and roles, and our place in family and social hierarchies (Roy. 1994). They also include "culturally learned and appropriate methods for dealing

⁶ As have the issues and assumptions concerning large-scale industrial development, of which large dams are a major example.

with others both within and outside one's community" (Ross, 1993). They provide individuals and groups with politically and socially acceptable ways to interpret motives, behaviours, and events.⁷ These sources of conflict are linked. Different parties do not always see how the issues are connected, and they may not understand the perspectives of others with different cultural values and experiences. The conflicts involve stakeholders from different social systems and institutions: from environmental to social, organisational, technical, cultural, religious, and interpersonal relationships.

Research on conflict indicates that conflict is more likely to occur when:

- people perceive that a decision or event significantly affects them;
- there are questions about whether the distribution of risks, benefits, and cost is fair, and
- people perceive that they can take some action, that it is a political decision rather than fate (Coleman, 1957).

Conflicts about large dams begin from different values, interests, the history of relationships, social structures, lack of information, and interpretations of data. The way a public participation process is conducted is often a source of conflict per se. An issue experienced world-wide is that stakeholder groups, when the outcomes of the process do not correspond with their desired outcome, attack the public participation process itself. The process was either too long or too short, there was too little time to comment, or too much, the process provided too little or too much confusing information, the public participation practitioners were biased, the practitioners cannot claim to be independent because they are being paid for by the proponent, and so on. It is for these reasons that it is important to build checks and balances into the public participation process, and to assure that stakeholders have reasonable control over the structure and issues of the process.

Successful conflict resolution must address the sources of the conflict. Each party must also be able to thoughtfully analyse the importance of the issues, the interests of all the parties, and the alternatives that the parties have to negotiation (especially their own). Different conflict resolution processes will address interests and psycho-cultural differences more or less adequately. It is also important to fit the conflict resolution strategy to the history of the parties' relationships, and the existing social, cultural, and institutional context.

Major Conflicts from Large Dams

The major areas of conflict and dispute concerning large dams often stem from the common problems with the development process listed above (section 2.2). When these problems are basically poor communications, the disputes that occur may be relatively easily resolved, but the relationships between the stakeholders can remain strained or seriously damaged. When the problems are related to inadequate participation activities, then improvements can be made that often help keep parties from deep conflict. However, when the problems are the result of intentional efforts to exclude stakeholders from processes, to hide information, direct lying, or failure to implement promises, the resulting conflicts can spread to include issues not directly related to river valley management (e.g. legitimacy of a government) or escalate into situations that are very hard to resolve in the short or medium term (e.g. demonstrations, civil disobedience, or violence). For example, the Pak Moon Dam in Northeast Thailand has been the focus of long-term conflict that has involved several issues including decreases in fish populations and the destruction of a natural tourist attraction – rapids in the river – that developers originally assured villagers would not be destroyed, but which were nevertheless eliminated later in the process.

⁷ Figure 2 (Annex 5) details how different interests and psychocultural dispositions shape conflict beginnings.

From the literature we reviewed and interviews we conducted, there are a number of specific major disputes and conflicts that appeared:

- ◆ differences (sometimes profound) over the meaning of and purposes for “development” (This is a significant focus of dispute in many large dam projects and was raised in a many of our interviews, presentations to the WCD, and written accounts of individual dams);
- ◆ conflict between the (usually) governmental representatives of those who will get benefits from the dam (electricity, jobs, flood protection, water, etc.) and those who will be affected by the costs (This is a significant feature of most facility siting – specifically large dams – circumstances, since they are not the same groups and the costs can be significant for those they affect);
- ◆ disagreements over the legitimacy of resettled villagers having to sacrifice their land and occupations for the benefit of others who “require” electricity or irrigation;
- ◆ local communities divided over issues such as whether to be involved with the projects or not, who would get benefits from the project, those highly-dependant on land which would be flooded versus those who would be less directly affected (For example, Mexico’s resettlement planning for its Aguamilpa and Zimapan dams lagged far behind construction and was at first developed with almost no input from the people affected. Influenced by the company’s need for a World Bank loan, revised approaches involved the resettlers directly. One native group (the Zimapan) was so antagonistic to the first “boiler plate” resettlement plans excepted by the tribal leadership, that new leaders were selected and a negotiating group was formed that developed protocols for all negotiations with the company; all arrangements had to be signed by the committee to be binding on the tribe.);
- ◆ specifics of resettlement processes and projects, since they are known to be often unsuccessful (During the resettlement for the Akosombo dam in Ghana, there were instances of significant conflict between incoming settlers and the hosts among whom they were settled. Since various arrangements had been made to protect the incoming people, the hosts became jealous.)
- ◆ differences over valuations of property for compensation (This is a very common issue in many facility siting disputes; see O’Hare *et al.* 1983.);
- ◆ stakeholders who stand to benefit resent the length of the processes (e.g. impact assessment, public participation, resettlement studies, etc.; at public meetings for the Lao PDR’s Nam Theun II dam, leaders of local villages – which were to be resettled but which were also to receive significant assistance they regarded as benefits (health clinic, school, etc.) – asked national officials and the dam consortium executives why the process was taking so long);
- ◆ project sponsors, national governments, and financial institutions cannot agree on terms for the project (including financing, resettlement and environmental planning, project design, and other issues);
- ◆ disagreements over water policies and current purposes and uses for dams (given that the original purpose has disappeared or changed, or was fraudulent or never understood) (As Romania begins to review the history of its industrial development, dams such as the Ixvorul Muntelui Bicaz and Portile de Fier I are now being questioned by some groups and academics. There was almost no public involvement in the original decision-making, and even now the decision-making process is still very centralised. In Slovakia, national energy and water management policies are now being implemented that were designed in the 1980s; people are questioning the real purpose of the dams being proposed.), and
- ◆ resentment and questions (from either local or national governments or from NGOs) about the proper role of financial institutions (e.g. World Bank) in national or regional projects. (In 1996, Sobrevivencia, a Paraguayan non-governmental organisation, filed a claim with the World Bank Inspection Panel concerning the Yacyretá dam on the border between Paraguay and Argentina. The inspection panel process allows directly affected peoples who have been harmed by a failure of the Bank to follow their own policies or procedures to request an independent review of a project. In its claim to the Inspection Panel, Sobrevivencia detailed the complaints, abuses, and policy violations that occurred in the construction of the dam).

Large Dams As a Type of Facility Siting

A large dam is one of a group of industrial, commercial, and governmental facilities that are increasingly contentious and difficult to site and build (others include hazardous waste decontamination facilities, solid waste landfills, hospitals, conservation areas, shopping complexes, highways, parking areas, and many more). Put very simply, if one of these types of facilities may be built in a particular place, and even if the residents of that place generally believe that the benefits of the facility are needed or valuable for the wider community as a whole, they are often very concerned that a disproportionate share of the problems and risks will be borne by them alone.

For the past 20 years, facility siting has been a major focus of work by scholars and practitioners in parallel with work on public participation, conflict resolution, and impact assessment. By combining ideas from these four fields, Susskind (1990) developed the following Credo for guiding facility siting processes:

- seek consensus through a broad-based, participatory process;
- work to develop trust;
- get agreement that the status quo is unacceptable;
- choose the facility design that best addresses the (agreed upon) problem;
- seek acceptable sites through a volunteer process;
- consider competitive siting processes;
- work for geographic fairness;
- keep multiple options on the table at all times;
- guarantee that stringent safety standards will be met;
- fully compensate all negative impacts of a facility;
- make the host community better off, and
- use contingent agreements.

These elements have been found to increase the likelihood that facility siting efforts of all kinds: (i) are conducted in a manner that is fair, (ii) use available time and other resources efficiently, (iii) yield decisions that are technically wise, and (iv) are socially, financially, and politically feasible. The details of sections 3.7 and 3.8 describe the public participation and conflict resolution principles, approaches, steps, and tools that can help carry out the elements of the Credo.

For the most part large dam conflicts are similar to those found attending the siting of other large-scale industrial projects. One important exception is the set of issues surrounding resettlement: the geographic scale is usually much larger than for other projects, many more people may have to be relocated from their homes, and whole communities are often involved. Another exception is the availability of sites that are much more geographically constrained and specific than for most other types of industrial siting (and which therefore limit the Credo suggestions on using volunteer or competitive processes and geographic fairness for site selection).

3.2 Involvement and Conflict Dynamics (Power Relationships)

When individual or group interests and psycho-cultural dispositions are thwarted or unacknowledged, people look for ways to assert or achieve them. The types of issues and the relationships of the parties affect how the individual or group chooses to pursue their interests or values. Their options for satisfying their interests and values are also shaped by social and cultural factors, and the institutions and contexts in which they arise. Given the diversity of individuals, groups, and institutions involved

in dam conflicts it is important to briefly address how social and cultural factors influence public involvement and conflict dynamics.

Gender, ethnicity, class, land tenure and religion are social institutions that influence the options stakeholders have for pursuing their interests and values in dam conflicts. Most societies, even those committed to equal opportunities, are stratified. Women, religious and ethnic minorities, poor economic classes, and indigenous peoples face different social opportunities. This may affect conflict dynamics in several ways.

First, groups who have traditionally had little voice in society may be alienated, apathetic, and passive. Since they have had little experience with being heard or taken into account, when confronted with issues that affect their lives, they do not participate or voice their interests because they have no experience or expectation that it will be meaningful (Gaventa. 1980). During resettlement efforts for Mexico's Aguamilpa and Zimapan hydroelectric projects, one of the native groups affected (the Huichol) had essentially no experience of group meetings with outsiders, and the first attempts to organise such meetings were a failure. Participation improved when the resettlement field teams relied on house-to-house visits to discuss the process.

Second, groups who have little voice and input into decisions may quickly escalate the tactics they use to seek a hearing or involvement. Since they have little experience of being heard or taken account of with traditional non-violent mechanisms, they may resort to extreme demands and/or violent tactics faster than would a group whose experience involves being included, heard, and taken into account.

Third, individuals and groups with little voice or input may be led (or influenced) by individuals and groups from outside their group. Since they have had little experience with normal democratic participation and conflict handling, they may lack internal spokespersons or leaders.

Different social institutions also affect involvement and conflict dynamics. Law and social regulation vary considerably across societies and countries. These variations will affect the availability of different ways of participating and handling conflict. Family and community norms, education, government regulations, and bureaucratic organisation all will affect the tactics and processes groups use to pursue their interests. Individuals and groups in conflict usually have disparate access to resources and different capacities. Resources may include money, time and information; capacities may be organisational, linguistic, cultural and informational. These differences in legal or cultural rights, abilities and capacities to voice, and resources to sustain activities affect involvement and conflict dynamics.

The above discussion indicates why the involvement of local and regional groups in designing public participation and dispute resolution processes is so important. Even people from the same country, but who work for the national government or a large company may not be able to fully appreciate and incorporate into the process the best approaches for involving local people.

3.3 Decision Making

Public policy decisions, such as how to manage watersheds, how to control cyclical floods, and how to produce electrical power, progress through a typical course of decision making steps. The basic elements of the policy process can be grouped by their relationship to what a government does to act on public problems (Pops & Stephenson. 1987). For large dams or their alternatives, there are nine basic steps, which do not have hard beginnings and endings, but tend to intergrade one to the next and may be revisited during later stages of the process (e.g. reconsidering alternatives, based on the findings during site selection or project design):

- problem identification and framing (ideally as part of integrated river basin planning);
- alternatives proposal (with multi-attribute analysis and impact assessment);

- single alternative selection and site selection;
- project design;
- impact mitigation (particularly displacement and resettlement processes);
- construction;
- operations monitoring and evaluation;
- relicensing (and associated construction), and
- decommissioning.

Although other WCD thematic reviews cover decision-making processes, a brief focus on decision-making allows us to illustrate the types of decision-making models that promote and restrict public participation and dispute resolution processes. Understanding the process of decision-making will help stakeholders plan for (or possibly insist on) better public participation and conflict resolution activities throughout the process. More importantly, it will make sure that the information and ideas from the activities actually affect the decisions being made. Stakeholders should be involved at each stage of the decision-making process. Disputes can occur at each stage of the process; understanding this will prevent all participants from being caught off guard and should yield more meaningful and useful processes. Specific tools for public involvement and dispute resolution are described in Sections 3.7 and 3.8 for the steps outlined above.

Access to these decision-making steps is very constrained (or non-existent) in authoritarian, corrupt, or highly-centralised settings. Although change is underway, most of the political economic decision-making processes for the dams built in eastern and central Europe in the 1960s, 70s, and 80s (e.g. Kama-Volga in Tatarstan and Yumaguzinskay in Bashkortostan (both in Russia), Slatinka in Slovakia, and the Portile de Fier I in Romania) had little or no genuine public participation. Eastern Europe is still saddled with overdimensioned facilities built during this period with authority-based decision-making processes. Besides the central government, other stakeholders and the general public could usually not (and often still cannot) express their concerns or represent their interests in legal ways.

Problem Identification and Framing

In this early first stage, a wide range of stakeholders with different interests and viewpoints must be involved at the very beginning. Concerns and issues manifest themselves specifically at early stages in legitimately different perceptions about the issues and problems that need to be addressed for the watershed or river valley as a whole. Incomplete or ill-defined problems can create enormous difficulties in later steps. The lack of a solution to a problem or a solution that does not address the whole problem can lead to unnecessary disputes and conflict. The way a problem is identified and framed often includes implicit cultural, gender, disciplinary, political, and economic assumptions. When these assumptions are not fully revealed, understood, and debated by all parties, disputes and conflict can result.

Conducting a variety of multi-stakeholder dialogue processes about what problems exist and which ones need to be solved allows decision-makers to incorporate more knowledge and perspectives into problem definition.⁸ These processes can also afford other stakeholders opportunities to genuinely

⁸ In almost all circumstances concerning large dams or their alternatives, there will be a small set of “decision-makers” who have the final authority to decide on most issues. Some experiments have been conducted with fully collaborative decision-making in Canada, U.S., and Europe that provide for all stakeholders to have full involvement in the process of decision-making with the understanding that the governmental “decision-makers” will abide by the decision of the collaborative group, in exchange for agreements that the individual collaborative partners will not take the governmental agency to court after the agreement is made. For the most part these experiments have involved issues

affect the early decisions that can dictate whether a large dam – or some alternative – is the solution of the needs faced by a river valley, region, or country. Too often, however, important stakeholders are not included in early negotiations or even discussions about the future of an area. For example, when the premiers of Newfoundland and Quebec met to announce an agreement to build a new hydroelectric venture in central Labrador, they were met by indigenous Innu people from all over the region who were “bitterly disappointed that they had been excluded from pre-announcement talks,” and who protested so vigorously that the premiers were forced to make their announcement at another site. More importantly, the announcement included “belated assurances to the Innu that they would be consulted as partners” from then on (Clugston 1998, pp 58, 60). We want to emphasise that the most fundamental mistake to avoid is that of making decisions (at any of the stages) before the problems and solution options are fully developed and explored in a public process.

Public participation programs should start with information transfer with regard to water resource development, and the financial and technical considerations of a large dam (or some alternative) in (what is now called) integrated water resources planning. Why are large dams necessary? Is it possible to achieve the same water resource development objectives in the absence of a large dam? Will one or a series of smaller dams be sufficient? Could an alternative have fewer impacts? These are complex, technical issues. Stakeholders must share a common understanding of these considerations, and a mechanism must be in place that will give stakeholders some influence on the decisions being made before the public participation process moves ahead.

Alternatives Proposal, Single Alternative Selection, Site Selection

The stage when alternatives are being considered or a specific project proposed – at the regional planning stage, or for a more specific site-based project – is the point in the process when a full public participation process is especially needed and valuable. Such processes are needed to inform the general public and the possible affected stakeholders as to what is being considered. They are particularly valuable to provide information, ideas, and concerns to the multi-attribute analysis for reviewing feasibility and the attending environmental, social, and economic impact assessments. In many cases the outcomes of these assessments depend largely on how the problems in the assessments are framed, which alternatives are considered, which research methods are used, and which assumptions about the future are accepted.

Once a solution is proposed and chosen (especially when building a large dam), new stakeholders will become involved and the context of the issues will change from a broad to a more focused context. The adding of new people may mean that the process must revisit discussions about initial problem definition. This may pose frustrations for project planners. However, patience in being open to new perspectives pays rewards in gaining the understanding and engagement of new participants in discussions about solutions. This is particularly important because solutions for these issues will have significant social and environmental impacts. The public should be honestly and completely informed about any possible environmental or social impacts of the proposed solutions. The diverse issues, concerns about impacts, and suggestions for enhanced benefits raised by the public should be used to assist the development of the terms of reference for the specialist studies as part of the EIA/SIA. Failure to involve stakeholders in study design, particularly in the scoping of questions for impact assessment, is a major reason why so many conflicts arise even though an apparently good-practice public participation process took place – questions and issues of concern to members of the public were not considered (or reconsidered as new stakeholders become involved) in the evaluations and decisions.

such as rule making, waste cleanup, and environmental policies and plans; rarely have they been tried for large scale facility siting such as dams.

Project Design and Impact Mitigation

Through collaborative problem-solving processes, the many different stakeholders can also work together to suggest modifications to proposed solutions that reduce impacts and incorporate more of their needs and values. Conflicts will also arise at this point, as the impacts of the solutions are understood. Proactive conflict resolution processes at this point can help stakeholders' values and interests to be taken into consideration and addressed. Dialogue specifically about the criteria for a sound project can provide opportunities for stakeholders to understand one another's needs and concerns more completely, and can provide a common basis for discussion throughout the rest of the construction, and post-construction steps in the cycle. This may even prevent some disputes and conflicts from escalating and becoming intractable. In situations where public involvement and conflict resolution processes are initiated after extensive planning has already been done, or opposition has already emerged, the process should acknowledge any mistrust or barriers that already have taken root and start by allowing people to express previous hardships, anger, and other emotions.

Construction

As decision makers choose the facility site, undertake construction, mitigate, and compensate social and environmental impacts, there are additional opportunities to involve the public and resolve conflicts. Explicitly articulating as many assumptions as possible regarding the solutions chosen, and creating opportunities for dialogue if those assumptions change can also create a framework that helps avoid or minimise conflicts throughout the process.

Operations Monitoring and Evaluation

Even the most well-planned facility will have unexpected delays and problems. As they happen, these need to be communicated to the public. Availability of funding may change, affecting previously-proposed mitigation measures. New conflicts will arise over consequences, as the impact of the site becomes manifest. In particular, stakeholders who are directly experiencing significant impacts, such as relocation, need to be involved in determining and then reviewing compensation, mitigation and relocation. As the facility begins operation and becomes routine, there will be more opportunities to involve the public in problem solving and conflict resolution.

Relicensing (and Associated Construction)

Many stakeholders will have changed during the life of the project's first license and additional associated development will likely have taken place (such as new towns, roads, affiliated flood control structures, etc.) Individuals may have moved, interests may have shifted, and power, political and personal relationships may be very different than before the project. Indeed, a whole generation may have gone by, and the current generation will have had direct experience with the costs and benefits of the project, its management successes and failures. Relicensing is an opportunity to assess the successes and limitations of a project's mitigation planning and implementation, over sight of operations, new issues, and the affects of unforeseen events. It is also a time to re-evaluate the need for the dam and whether it is serving its original purposes. Since decommissioning is a possible alternative, relicensing procedures will require many of the same steps and will need much the same public involvement and conflict resolution structures as did the original project (albeit usually in a much reduced time-frame).

Decommissioning

As with relicensing, decommissioning will certainly require much the same process as did the original dam (or an alternative project). There have been very few decommissionings and dam removal to date, but it is clear that such efforts will be major construction projects in their own right, with significant social, environmental, and economic impacts. The stakeholders, their social and economic

circumstances, and their interests may be very different, however, from during the early stages of the project. As an example of possible difficulties to come, the Teton dam in eastern Idaho, USA failed in the 1970s and since then, those who were benefiting from it have been urging government agencies to rebuild the dam, while others want to see the site left alone.

Appropriate participants in and processes for decisions about watershed planning, irrigation and energy production, dam facility siting, and construction are not necessarily obvious or transparent. The decisions often involve many actors from the international arena, many levels of government, numerous business sectors, and a wide geographic area. Although we recognise this complexity, as well as the complexity that develops from different social, political and cultural contexts, this overview of decision-making stages identifies points at which stakeholders can be involved and conflicts resolved.⁹

3.4 Stakeholders (or Parties)

How the distribution of benefits and costs from dam projects is understood and, as a result, how well these issues are included and addressed within the decision-making process is directly related to who is perceived as a legitimate stakeholder, who is not, and why it is sometimes hard to tell. In concept, the stakeholders who most need to be involved in public participation processes and especially in negotiations over disputed issues are these: those directly affected by the decision (especially negatively), those proposing to build and operate the project, those able to implement or block the decision, and those who are legally or administratively required to participate. This potentially can be a large group. For dispute resolution processes, this set of “core” stakeholders is necessary to ensure that the negotiations that take place are effective, i.e. that they result in implementable agreements. However, for public involvement processes even a long list of “core” stakeholder may be too restrictive. In some cases, interest should be created among a wide range of potential participants to ensure that diversity of opinion is generated. Additional stakeholders who also should be involved may include those indirectly affected, other interested sectors of society (e.g. construction associations, energy purchasers), others who may contribute local knowledge, or those who want to be involved (e.g. groups concerned about or highly knowledgeable about the issues – environmentalists or advocates for farmers).

Most stakeholders in large dam development proceedings are self-selected. They either have proposed the project, stand to benefit directly, stand to be affected negatively, work for non-governmental organisations whose missions indicate that they should be involved in the process, or work for governmental agencies that must be involved in the process. But, in some cases, those agencies and companies trying to build dams express concern (or even objection) that some of the groups participating in public participation programs are not “legitimate”, by which they seem to mean that these groups are not from the set of “core” stakeholders listed above. This is mistaken. Excluding groups who are motivated by their own concerns or interests to participate in the process only increases their efforts to mobilise opposition, since not only do their interests remain unmet but their sense of fairness also is violated. Also, integrative solutions or creative ideas they might bring to the process will not be included.

⁹ For information on consensus building and conflict resolution for larger scale and cross-boundary river basin planning, see Bingham, Gail, Aaron Wolf, and Timothy Wohlgenant, *Resolving Water Disputes: Conflict and Cooperation in the United States, the Near East, and Asia*, (Washington DC: Agency for International Development, ISPAN, 1994). For additional information on decision-making and public involvement, see Kaner, S, Lind L, Toldi C, Fisk S and Berger D, 1996. *Facilitator's Guide to Participatory Decision-making*. New Society Publishers in co-operation with Community at Work, Canada.

In addition, groups are left out because they do not know they are stakeholders or because they have not been notified about the process. When this occurred in Phase 1A of the Lesotho Highlands Water Project it was to the detriment of those left out and to the quality of the decision-making. In other cases, stakeholders know about the process but do not prioritise their involvement in the process as highly as other activities and events that compete for their time and attention. Still other stakeholders may not participate in the process because as individuals they face insurmountable obstacles when they are not represented by an organized group. Poor, disenfranchised, and/or indigenous people (particularly women, in some cases) also face the added problem of processes to which they have very limited access – because the process is too far away, expensive to attend, or technically difficult to understand. The process is also likely to be conducted in a cultural setting very foreign to their own. On the other hand, when an effort is made to both visit local villages, and bring representatives to meetings in larger cities the ability of local groups to represent themselves is greatly improved. According to some observers and the literature, efforts to bring the public involvement process directly to local villages (and even individual homes) which were made for the Nam Theun II dam in Lao PDR, Phase 1B of the Lesotho Highlands Water Project, and the Manantali Dam in Senegal greatly improved the access of local people affected by the project and the quality of the decisions made.

For some stakeholders there can be even deeper difficulties that prevent their involvement in even the most carefully designed process. Individuals and groups may fear political repercussions if they participate, or there may be historical disadvantages or disempowerment that prevent their participation (commonly described for non-national stakeholders in eastern European countries, because the history and current reality is that decisions will be made without taking into account their views). Economic class, culture and sub-culture, caste, religion, race, and gender may all affect whether specific people participate and whether they can be adequately represented by groups outside their own (i.e. the government agencies, advocate groups, or even their peers). Extensive efforts must be made by process designers to probe for, understand, and try to solve these difficulties.

Launching a Project from a “Need” or Problem Identified and Framed

Dam projects usually are initiated as the result of interactions between government agencies, financing entities, and construction companies and in most cases, the final decision is a decree by government. Thus, these entities can be considered to be a constant for the process (McCully. 1996, UN. 1988). The agencies may be assigned the responsibility for obtaining a societal-identified commodity (e.g. energy), solving a problem (e.g. flood control), or stimulating the economy (e.g. by providing jobs). Financing entities are either looking for investment opportunities or they have a mandate to assist with some aspect of a nation’s economy (e.g. poverty reduction by the World Bank). Construction companies are in the business of making profits by building what the other entities decide.

For some observers and participants in the creation of large dams, the scale and national importance of these projects mean that governments are the decision-makers. Whether or not this is good is a significant point of departure for many different observers and participants. Whether someone sees this as good in any given country depends on their view of the quality of governance, the extent of democracy, and their position in economic and political life. For some, governments have become primarily vehicles for global companies that need to build large-scale infrastructure. Others see governments as increasingly reduced in their capacity to build dams (or other large projects) to provide benefits to their citizens by the increasing effectiveness of organized opposition. For their part, the organized opposition sees the hundreds of dams under construction and the limited public involvement as evidence that they have little genuine influence.

Small countries in particular have a difficult time participating in the large dam building process. They can be overwhelmed by the scale of the project, the knowledge and expertise of the companies (and some NGOs) involved, and the complexity of the technologies. Often if a participatory process

is to be conducted it needs to happen in a relatively short amount of time, on behalf of stakeholders who may not have access to modern technologies for decision-making (e.g. email, computers, etc.), and using scarce resources. Smaller countries must often struggle to be respected and not taken advantage of by their neighbours or large financial interests. Sometimes the national governments of small states are not even consulted before and during the project design steps.

Representation

Proponents of dams raise different concerns about representation than those raised by stakeholders who are negatively affected by them. For government agencies and others involved in developing the public participation programs required of them, the issue is usually framed in terms of who is a "legitimate" representative of the groups of stakeholders and other interested parties who are not formally organized. Some express the concern that "outside" groups, especially, are trying to speak for local interests and issues, and that this is not regarded as "legitimate." The issues and impacts are seen as being mischaracterised and over-stated, or (sometimes) the outside groups are seen as "instigators," using the local groups to raise or advance larger socio-political-economic agendas.

Others see the situation very differently. To them, the internationalisation of large dams (as an issue and as a fact, via financing) means environmental or trade groups who are knowledgeable and able to participate on behalf of local and regional interests should step in. They believe they should help to provide representation especially when a local group does not have its own expertise or resources. To these groups, their knowledge and access to the decision-makers is somewhat of a counter-balance to the even greater access by dam builders, thus conferring its own legitimacy. For some of these groups, there is the belief that they have the "right" or even the moral obligation to engage in public participation processes "on the side" of local interests, in order to offset the large power discrepancies between local stakeholders and dam proponents.

For local groups, governments, and residents, support by other "outside" agencies and NGOs can mean the difference between participating in the process or not. On the other hand, sometimes local stakeholder groups express concerns about the adequacy of the representation that is conducted at public forums on their behalf. For example, they may complain that local governments are too often beholden to large construction projects, and later to the administrative entity charged with managing the dam; they may also say that outside NGOs do not adequately understand their issues and concerns (a view that some NGOs acknowledge). Depending on the type and quality of support or assistance they get from NGOs, local groups may also feel that they are being misrepresented by other groups who seek to help them – local governments, dam promoters, and NGOs alike. In one view, the problem with outside stakeholders is that they "have an all too common tendency to insist on being the ones telling those holding the stakes (of local and directly negative effects) where the stakes should be placed, and they are rarely obliged to live with the fences created once the stakes have been driven in." (Footnote iv from Hildyard, *et al.* no date.) A different view holds that since large dams are "global" (in the sense that the companies who build them and the organisations that finance them are "global"), then "global" stakeholders such as international NGOs are legitimate.

Since the number of directly-affected people can be extremely large – and augmented by those indirectly affected and by those interested – those who design public participation programs or assist with negotiations face a daunting task in ensuring that most (if not all) of the relevant stakeholders are well represented.

Non-formal and Underrepresented Groups

Perhaps the most pervasive theme of our literature review and interviews was about the destructive aspects of dam building on indigenous and other land-dependent peoples. As Richard Falk described it: "The state system is also often at odds internally and trans-nationally with deeply rooted cultural ecosystems, including with the wellbeing and life world of indigenous peoples. It is not only

protecting such peoples from development that can pose threats to their cultural and even physical survival. It is also a matter of learning from and appreciating indigenous peoples, realising that they provide modern societies with an invaluable body of wisdom about how to carry on a project of 'sustainable development' over a period of centuries." (Falk. 1999: 5)

Several sources also emphasise that many changes brought by dams (both good and bad) last a long time and affect future generations. Other groups often affected but insufficiently included are women, downstream residents, those living far from the dam but close to the roads leading to the site, and those who get access to the generated electricity or water (or do not). In a particularly serious example of a reason to include downstream stakeholders in operations planning, from the beginning of its operations the Manantali Dam only served to capture water to provide for irrigation; not until 1994 did it began releasing water for downstream use. The four years during which no water was released brought tremendous hardship for downstream communities.

People negatively affected by dams most likely do not see themselves as stakeholders in a problem solving process. Rather, as the "Declaration of Curitiba" indicates, they see themselves as victims of a system that is powerful, unrelenting, and multifaceted. They also see themselves as largely excluded from decision making. What they seek is "genuine democracy which includes public participation and transparency in the development and implementation of energy and water policies. They also seek decentralisation of political power and the empowerment of local communities," including the right to approve or disapprove any dam (Curitiba. 1997).¹⁰

Relationships, Interdependence, and Trust

A significant and obvious theme that emerges from any reading of the literature and conversations with those involved in dam processes is that people negatively affected by dams and some (if not many) of their NGO supporters have very little trust in large dam promoters, developers, and related government agencies. The issues about this lack of trust are not generally about the quality of information provided. Instead the major issues are seen as the withholding of information, broken promises, minimal attempts to involve the public, and attempts to get around the requirements or down play the negative impacts.

Despite the overall lack of trust, there are also examples of local people working well with dam projects, on the dam itself, and on specific issues such as road construction, resettlement, and others. For the Salto Grande dam in Uruguay, for example, the local communities saw it as a real opportunity for development, and therefore welcomed opportunities to engage in participation efforts. In another case, Phase 1B of the Lesotho Highlands Water Project was seen (by at least some sectors of stakeholders) as a major improvement over Phase 1A. The Lesotho Highlands Development Authority implemented a significantly more extensive public involvement program during the planning for Phase 1B and assigned staff and financial resources to this far in excess of what was done for Phase 1A. Authority staff report that these measures have lead to a greater understanding and acceptance of Phase 1B of the project. Nevertheless, there are still concerns from some stakeholders that the process was not transparent and that more should have been done. This illustrates again the complexity of these processes, particularly those where previous actions have lead to mistrust.

It is important to note, however, that those who are either building dams or who are conducting public participation programs are almost always professional people who take great committed pride in their

¹⁰ For their part, builders of dams may or may not see themselves as stakeholders, but they do not believe that they are being intentionally destructive or intentionally victimizing people.

work. In many cases, they are usually in favour of the dam on which they are working.¹¹ They often do not see why the perceived benefits of the project should be "held hostage" to the complaints of either a few local residents, or to "outside" participants. They see the dam as providing benefits and their preferred approach is to determine whether those benefits will outweigh the costs. Occasionally, even some people who must endure resettlement want the benefits and wonder why outside organisations are demanding that the extensive evaluation and participation requirements be met (e.g. before a loan can be given).

Transparency

An additional important and common theme found in the literature and heard in interviews is the concern of many (both those in favour of and those opposed to the dam) groups for a transparent process.¹² The withholding of information is intrinsically detrimental to good decision-making because it deprives all parties of the information they need for meaningful debate of the issues. In addition, critics of a dam may seek to have access to information that they believe will demonstrate the problems they see with the proposed facility. For their part, the proponents often believe that with sufficient and accurate information the general public (and even the critics perhaps) will help arrive at a good decision and will have confidence in the decision once made. In both cases, all parties believe that the information will demonstrate that they are correct. However, they also believe this cannot be shown unless the process is transparent. Since, in many cases and countries, the EIA process is the focal point of public involvement processes, "EIA should be an interactive, participatory process, including the perception of the environment from local communities, especially affected peoples . . . Decisions should be made through meaningful discussion and information sharing" (Dorcey 1997: 123). Greater use and strengthening of existing EIA processes would contribute positively to the objective of increased transparency.¹³

3.5 Institution Building

A major concern of both this thematic review and of the associated reviews on resettlement and ethnic minorities is institutional capacity building as an answer (or response) to problems associated with resource disparities. As noted above, such resource disparities can often cause conflicts or impede effective involvement in decision-making and conflict resolution. We are concerned here with two different types and scales of institution building situations. The first relates to the needs and capacities of unorganised constituent stakeholders, local government agencies, and non-governmental organisations. The second considers the recent transformations of national governments and international organisations, and the ability of these larger entities (including the WCD itself) to greatly affect the dam-building process by providing education, convening, mediation, and neutral observer services.

Increasing Capacity in Local Groups and People

One of the benefits of contentious development projects is that they sometimes create opportunities, conditions, and incentives for the strengthening (or possibly creation) of local and regional

¹¹ In the best public involvement programs, the designers and implementers of the process should be impartial as towards the project; however, often in practice the public participation practitioners are employees of either the government or the consortium of firms building the dam.

¹² While usually a serious issue of contention, some cases have been seen as relatively transparent, such as Salto Grande, Driekoppies, Maguga, Lesotho Highlands Water Project Phase 1B (although not entirely, according to some commentators), and St. George.

¹³ See also the International Association for Impact Assessment (IAIA), www.iaia.org.

organisations. This strengthening process can have importance to civil society on issues that go beyond the original development that helped create them.

It is clear from our interviews and literature review that the intentional building of a group's organisational capacity to participate in dialogue and negotiation efforts can theoretically be a benefit of dam projects. Equally clearly, some participants connected to the building of dams are also concerned that such efforts are likely to be overly expensive, ineffective, politically destabilising, or tantamount to selling out (depending on the participants' interests and points of view).

How a group sees such capacity building depends a great deal on the source of the training, funding, and other support. Assistance can often come from the dam builder or national government since they have the resources, which could in principle be applauded as the "right thing to do," but fail to achieve its goals. As an example to demonstrate the complications, in the Lesotho Highlands Water Project process, specific training programs for the acquisition of new skills were introduced as a part of the compensation for resettlement. However, the applicability and sustainability of measures to address social needs and poverty alleviation must be considered up front. For example, a training centre where rural people can get free training has been established as part of the Project. However, some observers report that the training provided does not necessarily assist community members to earn an independent livelihood. Training in welding is given, but there may be no electricity in the villages to which they return. A concern has been expressed that very few of those that receive training have been able to use their training to support themselves to become self-sufficient. Therefore, people are returning to maize growing in steep, hilly areas with resultant effects of erosion and environmental degradation. If the assistance comes with conditions attached, or an implicit understanding that the receiving group should "support the dam", then the capacity-building assistance is likely to be seen in a less favourable light.

Despite the difficulties, building the capacity of groups of local, poor, or minority stakeholders is a legitimate and potentially valuable step for governments or project managers to include in their public consultation processes. Such intentional institutional strengthening can help ensure that the participation of groups is meaningful to all concerned, and of value to the project. Information known to local residents is likely to be better-communicated to the project if these groups are effective as organisations. Groups that are well-organised will be better-able to take direct part in public involvement activities. Effective groups with significant community support are more likely to be able to represent their communities during negotiations and be accepted as legitimate representatives by other stakeholders.

Unintended capacity building may also occur, simply by groups perceiving the necessity of organising, demonstrating, participating in dam-sponsored events, or deciding to negotiate with other parties over issues. For example, women from villages affected by the Zimapan dam in Mexico were at first too shy to speak at public meetings, but because there were sufficient numbers of sessions and settings that helped them feel comfortable, over time they became more experienced and assertive about specific resettlement plans that had not considered their needs. In another example, out of necessity, people displaced by the Bisalpur Dam in Rajasthan, India organized to secure implementation of resettlement plans and compensation that were many years behind the promised schedule. Over time the organisation's enhanced capacities allowed it to assist people affected by other aspects of the project – those living next to the canal, those downstream from the dam, and those whose grazing land was converted to resettlement farms (Hemadri 1998).

Groups may start as relatively unorganised, less knowledgeable, lacking clear goals and objectives, understaffed, and/or under-funded. If so, they may seek assistance from (especially) non-governmental organisations more experienced than they, local governments, or even sympathetic national government programs (perhaps not related to dam building). This assistance (or even partnerships) can help disadvantaged groups increase their organisational effectiveness or political power. This may, in turn, allow them to engage in future decision-making processes more effectively,

or to more effectively resist dams or other projects that do not provide them with benefits sufficient to outweigh whatever costs are expected. In a U.S. example, environmental groups that organized in opposition to the Foothills dam in Colorado were sought out for consultation earlier in the process on the next proposed dam in the region (Two Forks).¹⁴

Government Agency Capacity

There can also be a need to strengthen the local, provincial, or national public institutions responsible for watershed planning, project decision-making, public involvement programming, monitoring of mitigations, and other important functions. Without strong governmental structures, the chances of effective public participation and conflict resolution mechanisms are much-reduced. In the context of the Nam Theun 2 dam, funding was provided by several international organisations to provide the Lao PDR environment ministry (STENO) with a full-time advisor and trainer to enhance and expand the agency's capabilities to carry out public involvement programs for a number of national development initiatives. Strong governmental structures will be especially important to smaller countries as they attempt to negotiate effectively with much larger and more powerful neighbours and with global construction and financial organisations.

Transformation at the National and International Scale

For many national and international organisations, pressures from stakeholders, advice from scholars and practitioners, and the evolution of international norms have all resulted in significant improvements in public participation and conflict resolution processes over the last two decades. Gone are the days when governments, companies, and financing organisations could make decisions without some measure of public involvement. Essentially all of the interviews and literature that stemmed from a "pro-dam" perspective embraced the general concepts of good public participation practice and process transparency. Even critical NGOs acknowledge the value of – for example – the World Bank public participation and environmental impact assessment rules in opening up processes for greater involvement and opportunities for negotiating outcomes (WB 1991).

3.6 Overview of Best Practices for Public Participation and Conflict Resolution

Earlier sections of this report focused on why administrators and other officials involved with dams and dam siting decisions should involve stakeholders and the public in the decision-making process. This section discusses specific principles, approaches, processes, and success factors in a hierarchical framework that assists the reader to see how they might be best applied to each of the stages of the process outlined in Section 3.3:

- beginning with national and regional planning for energy and watersheds;
- during project planning for a large dam or an alternative project;
- particularly for decisions about displacement, resettlement, and compensation;
- carried on through construction, operations, monitoring, evaluation, and
- finally for relicensing and eventual decommissioning.

The idea of "best practices" is still under development in the literature and in practice for utilities, industry, and other facilities – in these fields some uses of the term refer primarily to specific techniques or references to examples achieved by the best agencies, organisations, or companies

¹⁴ For more information dispute resolution processes for water issues in the United States, see Bingham, Gail, *Seeking Solutions: Exploring the Applicability of ADR for Resolving Water Issues in the West*, Report to the Western Water Policy Review Advisory Commission, 1997.

(sometimes called “benchmarks”). For the fields of public participation and conflict resolution, “best practices” means a hierarchy of principles, approaches, processes, and tools which have proven to be effective in a variety of circumstances and different types of projects, and which have been useful in the context of recurring difficulties and challenges for a major area of activity like large dams and their alternatives. Generally, best practices for public involvement and conflict resolution can be usefully understood using the following framework:

- Principles (why the best practices should be used);
- Approaches (strategies that achieve the Principles);
- Process Steps (for developing a high quality and meaningful processes), and
- Tools and Skills (for implementing each of the steps) (NOTE: in this document we do not replicate tools and skills detailed by other practitioners, although several ‘tool boxes’ are listed for reference).

This framework is intended to provide the reader with a context for considering needs, objectives, and design issues for public involvement and conflict resolution activities. Best practices do not provide a blueprint, but rather a set of principles to guide the process, and approaches and tools to use as needed and desired by the participants. Public involvement and conflict resolution processes must be sufficiently flexible to accommodate local needs, and appropriate to local circumstances. The appropriate procedures are likely to differ from area to area and from project to project. The challenge is to understand the local circumstances and to design a process that will enrich decision making.

3.7 Best Practices for Public Participation

Public participation can be seen by various practitioners and participants very differently. Consider these three different definitions (as quoted in UNDP 1998):

With regard to rural development . . . participation includes people’s involvement in decision-making processes, in implementing programmes, their sharing in the benefits of development programmes and their involvement in efforts to evaluate such programmes.

Participation can be seen as a process of empowerment of the deprived and the excluded. This view is based on the recognition of differences in political and economic power among different social groups and classes. Participation in this sense necessitates the creation of organisations of the poor, which are democratic, independent, and self-reliant!

Participation is a process through which stakeholders influence and share control over development initiatives and the decisions and resources that affect them.

Even for this set of diverse perspectives, participation is central to development and for all of them (to varying degrees) involves fundamental engagement in decision-making. Unfortunately, public participation is too often viewed by some dam developers, technical specialists, and governmental authorities as an irritating regulatory “add-on.” It is not always accepted that public participation is a process that can benefit everyone through capitalising on the collective wisdom of a range of people representing various perspectives of society. Thus, the foundation of any effective public involvement process is a genuine and positive interest in dialogue by project sponsors and others in decision-making positions, and critics as well.

A discussion of the principles behind public participation is a good way to start for several reasons. Among them is the realisation those public participation processes can be used for a number of reasons, not all of them beneficial. For instance, participation processes may be undertaken only to meet the requirements of donor agencies, without the project proponents actually intending to implement public suggestions. Additionally, participation can be used as a form of ‘propaganda’ wherein project proponents use the educational and informational aspects of participation processes to

garner support for their proposals (or even previously made decisions) rather than to elicit ideas and solutions to problems. Processes based on the principles outlined below (from International Association for Public Participation (IAP2) – a world-wide group dedicated to increasing the use of participation in public decision-making processes) are more likely to be genuine efforts to engage in information and problem solving.

Principles for Involving the Public in Decisions

The two principles on which all public involvement should be based are these:

- 1) the public should have meaningful and continuous voice in decisions that affect their lives, and**
- 2) their participation must influence or have an impact on those decisions.**

These principles are rooted in the reality of governmental legitimacy and the ideals of democratic societies, which hold out the prospect that everyone can have input into the meanings and material conditions that affect their lives. The level of participation enjoyed by the public may vary from case to case, and some forms of consensus-based decision making may be the best way to proceed. It is imperative that the public's participation has an effect, or else they will come to believe that they are little more than window dressing or lubricant for decisions already made. Such 'non-effectual' participation delegitimizes the process, sours relations, and makes future interactions even more difficult. Ineffective public participation also means that decision-making processes can lose possible enrichments – important data, creative ideas, integrative solutions, and more.

Dam developers and government regulators need and will benefit from information and involvement from all affected stakeholders – especially local people – in order to design wise and sustainable policies and projects. Local people in particular need information from governmental, non-governmental, and other actors in order to make meaningful agricultural, domestic, and local economic and social/cultural plans.

Approaches to High-Quality Public Participation

From the central principles above flow four subsidiary approaches on which to design good public participation processes:

- **The public must speak for itself.** Although there are representation mechanisms in many governance structures and many experts believe they know what the public interest is or what the public wants, the public must be involved in articulating for itself and in its own ways what its interests are.
- **The public participation process must seek out and facilitate the involvement of those potentially affected.** It is not enough to have a public participation process, if participation is difficult for diverse people who are unorganised and/or uneducated on technical issues. The process must proactively reach out to discover who might be affected by the decision and involve them in ways that are meaningful to them.
- **The public participation process must address the process needs of all participants.** Participatory processes must be designed to address the important issues of all individuals and groups substantially affected by the decision. People understand issues, communicate, and make decisions in many different ways. Gender, class, race, culture, religion, and education shape these differences. The process must be designed to include issues that may not be important or equally important to all parties. The process must involve the participants in defining and designing how they will participate. This is particularly important when working across cultural or organisational differences. The process must be flexible, inclusive, and designed to elicit information and increase participants' comfort with the process. An example of such a process is

the one used between Hydro Quebec and native peoples of Canada. In this process Hydro Quebec and the affected tribes (i) negotiate the specifics of how the public will be involved, (ii) directly involve First Nation and local officials, (iii) have extensive discussions with the local populations, and (iv) codify procedures on land claims.

- **The public participation process must provide participants with the information they need to participate in a meaningful way.** Meaningful public participation requires timely and full access to information about proposals, problems, impacts, and alternatives. Good faith in a participatory process requires those with resources to produce this information to share it with those who do not have such resources.

These four approaches point the way to help decision makers, process planners and participants to ensure that the public has a meaningful and continuous voice in decisions that affect their lives and how that participation can have an impact on those decisions.

The Participation Steps (A Process Continuum)

High-quality public participation processes often go through a number of common steps, although individual projects will differ from place to place in terms of the effort and time required (based on Kaner, *et al.* 1996). Note that many public participation processes will not necessarily lead to consensus building, nor must they to provide genuine public involvement. The process can legitimately be aimed at generating a broad range of issues for technical evaluation, or providing the authorities and project proponents with the views and needs of stakeholders.

In a different view of the public involvement process, Roberts (1999) distinguishes between involvement, consultation, and full participation as the three progressively more inclusive levels of participation. In these three levels, a range of activities takes place, from education and information sharing, to consultation and citizens advisory groups, to the final level of public participation in consensus-based decision-making plans. These levels of participation are included in the steps below.

Step 1. Stakeholder and Process Analysis. Process managers need to determine who the stakeholders are and engage them in discussions about how they can be, should be, and will be involved in the overall participation process. Conducting the assessment itself can be a valuable way to involve stakeholders and educate them about what forms of participation are possible. The analysis is also important for beginning to collect information on which aspects of peoples' lives might be affected, and to identify any groups that might be affected, but who had not been identified previously. Sufficient resources must be found to support the efforts indicated by the assessment step.

Step 2. Education and Awareness Creation (One-way Information Transfer). Stakeholders cannot participate meaningfully in the absence of information. Information transfer, education, and capacity building are ongoing activities that underpin the entire process of public participation and consensus building. Roberts notes that providing information is by itself not a form of public participation, but rather an initialising step that begins to involve people, and should underpin any kind of further involvement, consultation, and process. Included information sharing is the premise that the project's proponents will undertake a continuous effort to provide information to the public throughout the project cycle (see Section 3.3).

Step 3. Consultation and Information Sharing (Gathering Diverse Opinions and Contributions). Hundreds or even thousands of stakeholders may initially participate in one way or another in a watershed management or large dam process. They are likely to raise a wide diversity of perspectives e.g. different concerns, different suggestions, different local expectations and needs, and different priorities. In many cases this step includes mechanisms to integrate these perspectives, supported by technical evaluation.

This consultative and participatory step often requires the development and support of semi-permanent structures within which public representatives (or stakeholder representatives) are consulted at various stages of the project process – such as scoping or reviewing of impact assessments. It is through these organized and supported structures that stakeholders can be afforded genuine interaction with and influence on the decision-making for a large project. As part of the Lesotho Highlands Water Project, “community liaison structures” were set up to look at all community issues emanating from the project implementation, and to co-ordinate with project authorities to ensure minimal disturbance of affected people. Though the Lesotho Highlands Development Authority set up these community-based structures to increase public participation, perception of the community liaison structures is not uniform. Some groups feel that the structures do not improve public outreach and instead distance the Lesotho Highlands Development Authority from direct public input. As important as structure can be, the integration of this step into the decision-making process is usually the most challenging in terms of time, effort, costs, energy, and endurance by all concerned.

Advisory groups, blue ribbon commissions, and oversight panels are characterised by several important features. The first is their access to more information than is usually made available by an educational or large-scale public participation process. The second is the nature of their official or semi-official status; while advisory groups often work in collaboration with existing decision-making structures, they usually do not supplant them. Their main power is to advise decision-makers rather than to take a part in the decision-making process itself.

Step 4. Option Creation, (Possible) Convergence in Opinions, and a Decision. Eventually, convergence in opinions and perspectives should start to emerge, and fewer stakeholders may be directly involved, until a decision is reached. Whether this decision is developed as a consensus of all the participants or more simply as a formal decision utilising the stakeholders depends on the nature of the process, the willingness of the more powerful stakeholders to share decision-making authority, etc.

Step 5. Consensus-Building for the Long Term (During Project Implementation). Focussed consensus building can start to take place once a semi-permanent group or institution is established, and its members from different sectors of society can work with each other across a table. For Roberts, this highest level of public participation is collaborative decision making, which involves consensus-building procedures (see Section 3.8). In most cases, such collaborative decision-making includes members – either wholly or representatively – from all of the stakeholder groups that are either represented by advisory groups or have been targeted by educational campaigns.

The main difference with this level of participation is that the groups involved are a part of the decision-making process rather than just learning from it or advising the decision makers of their needs and concerns. At the most integrated level, consensus building processes add the requirement that any decisions made be based on satisfying all of the participants rather than some or most of them. Four forms of consensus building implementation are also possible (quoted from UNDP 1998):

- Decision-making: when consensus is acted upon through collective decisions, this marks the initiation of shared responsibilities for outcomes that may result. Negotiations at this stage reflect different degrees of leverage exercised by individuals and groups;
- Risk-sharing: this level builds upon the preceding one but expands beyond decisions to encompass the effects of their results. . . . accountability is fundamental at this level, specially when those with the greatest leverage may be the ones with the least at risk;
- Partnership: this relationship entails exchange among equals (in terms of respect) working towards a mutual goal. . . . [and] assumes mutual responsibility and risk sharing, and
- Self-management: . . . where stakeholders interact in learning processes which optimise the well-being of all concerned.

We want to emphasise that not every stakeholder can or should be involved in every single step and process for decision making. All of the consensus building steps (collective decision-making, risk sharing, partnerships, and self-management) are arrangements worth pursuing, but they also require extensive funding, stamina and commitment by participants, relatively advanced levels of skill, and a genuine willingness by all parties to work co-operatively.

Tools and Skills for Public Participation

There are many tools available to create, implement, or enhance a public participation program. These involve everything from town hall meetings to joint fact-finding commissions, to consensus-based decision-making models. Figure 3 (Annex F) is an abbreviated list of tools for public participation, including options for information sharing, advisory groups, and full participation. Designers of public participation processes will want to refer to existing “tool-kit” documents for specifics about individuals tools and their use.¹⁵

The selection of tools should reflect the goals of the public participation program, as developed in response to the level of desired participation and guided by the principles for meaningful public participation outlined above. Each participatory process is a unique combination of the issue needing resolution, the stakeholders involved, the geographic location, the cultural dimension, and the historical context. This uniqueness argues for a multilevel approach to give the sponsors of the process and the affected stakeholders the flexibility to choose the best tools to achieve the desired level of participation based upon sound principles.

Each dam proposal or project is a unique endeavour, and most will require professional public-participation practitioners to design (with the affected stakeholders) the appropriate approach, depending on the needs of the stakeholders involved and the stage of the decision cycle (see Section 3.3 and Figure 1 in Annex D).

Measuring Success

¹⁵ Sources for some of the existing tool-kits for public participation are:

- Creighton and Creighton. 1999 (2nd edition). *The Public Involvement Manual*.
- EBRD (European Bank for Reconstruction and Development). 1995. *Manual on Public Participation for Investors in Central and Eastern Europe and the Former Soviet Union*. EBRD, London.
- IAP2 (International Association for Public Participation). (<http://www.iap2.org>)
- IDS (Institute for Development Studies). University of Sussex. (<http://www.ids.ac.uk/ids/particip>)
- IFC (International Finance Corporation). 1998. *Doing Better through Effective Public Consultation and Disclosure*. IFC.
- IIED (International Institute for Environment and Development). Resource Centre for Participatory Learning and Action. (<http://www.iied.org/resource/>)
- IPMP (Institute for Participatory Management and Planning). (<http://www.ipmp-bleiker.com>)
- UNDP (United Nations Development Program). 1998. *Empowering People: A Guidebook on Participation*. UNDP, New York (<http://www.undp.org/csopp>) [includes extensive bibliography, lists of organizations in many countries, and sources of participation on the internet]
- USEPA (United States Environmental Protection Agency). 1991. *Community Relations in Superfund: A Handbook*. EPA, Washington, DC.
- WB (World Bank). 1996. *World Bank Participation Sourcebook*. World Bank, Washington, DC.

(with Good Process Elements)

While there is substantial value added to including public participation processes in watershed planning and decision-making for a large dam (or an alternative), documenting these values will help all stakeholders improve these processes and plan better for their implementation. A number of evaluation projects have assessed the values, costs and benefits of these processes. Below we list some of the common indicators of project success. Incorporating the good process elements listed below will go a long way to achieving the following attributes:

- the decision-making process allows full and active stakeholder representation;
- the decision-making process is accepted as legitimate by stakeholders;
- the decision-makers and stakeholders understand each other's concerns;
- the public has trust and confidence in the decision-makers and the facility;
- key decisions are improved by public participation, and
- key decisions are accepted as legitimate by stakeholders.

These attributes reflect the values of the public participation process. The U.S. Department of Energy's Office of Environmental Management (and others) have developed performance indicators and evaluation techniques for each of these attributes. Some of the indicators and evaluation techniques require the collection of new data, but most of them just require analysis of data that most projects would already have on hand. For example, to assess whether the decision-making process involved full and active stakeholders, they recommend identifying all the relevant stakeholders, determining which ones have been involved in any public participation efforts and dividing the latter by the former. Other indicators require surveys, for example to assess whether the decision-making process is seen as legitimate, a survey could be conducted asking stakeholders to rank the fairness and legitimacy of the process.

In order to conduct an efficient and useful evaluation of the public participation process, we recommend that the public be involved early in helping to determine what should be counted as success and how to measure it. If the information is available early on to the decision makers they can improve the program simultaneously.

As noted above, public participation processes can and should be undertaken at all stages of the project cycle for large dams or their alternatives. To help both process designers and the participants determine whether there is appropriate public participation taking place at each stage, we have listed examples of significant criteria and markers (milestones) that could help identify achievement. We must emphasise again however, that each process is going to be singular in its circumstances and its needs, the issues and conflicts, and the people and institutions involved. These examples are given for illustrative purposes only, and not to suggest that they should be used in every case.

Throughout the Entire Project

Good Process Elements:

- *extensive communications on all aspects of the project with all stakeholders* (bearing in mind the ability of stakeholders to interpret information);
- *widely-announced opportunities for comment* (written invitations, media messages, etc.) on all documents;
- *stakeholders receive all documents well in advance* of meetings, and
- *direct involvement in meetings*, site visits, and other events by leadership of all stakeholder groups (especially the project proponent, contractor, and major government agency, so that other stakeholders will have direct access to decision makers).

Problem Identification and Framing

(ideally as part of integrated river basin planning)

Good Process Element:

- *genuine citizen positions (seats)* on planning commission, advisory panel, research team, or other mechanisms used to provide government agencies with input and decision-making about water resources.

Alternatives Proposal

(with multi-attribute analysis and impact assessment)

Good Process Elements:

- institutions involved work with stakeholders to write *public involvement plan* for entire process;
- *public meeting held before final decisions* are made on scoping for impact assessment (to discuss/debate the proposed alternatives to be studied and methods to be used);
- *wide distribution of analyses* and assessment Discussion Document for comment;
- *series of small multi-sectoral workshops/focus groups* to obtain in-depth comment;
- draft *impact assessment indicates how public input was used* (or not) in a “response” document;
- *present draft Scoping Report at a public meeting* for stakeholders to verify that all issues of concern and suggestions for enhanced benefits have been considered;
- provide *ongoing progress feedback* to stakeholders while technical assessments are under way;
- *widely-announced public meeting to comment* on draft findings of impact assessment, and
- widely-distributed *comprehensive summary* with full assessment to key stakeholders and in public places.

Alternative and Site Selection

Good Process Elements:

- *open house* to visually display materials on proposed location and general design, and
- *public meeting(s)* (including one in the affected area) *to announce selection*, detail decision rationale and mitigations budgeted, gain additional comments.

Project Design

Good Process Elements:

- *stakeholders have dedicated seat on design team* or advisory committee to design team, and
- *public meeting* to describe design approach and mitigations, and obtain comments.

Impact Mitigation

(particularly displacement and resettlement processes)

Good Process Elements:

- technical analysis teams and *processes designed to learn* from those being resettled;
- *public meeting to detail mitigations*; public meeting to plan resettlement process, and
- *resettlers’ advisory panel* to monitor and report on mitigation implementation, resettlement implementation, and compensation.

Construction

Good Process Elements:

- *citizen's advisory panel* to monitor and report on construction, especially in context of mitigations.

Operations Monitoring and Evaluation

Good Process Elements:

- *citizen's advisory panel* to monitor and report on operations, especially mitigations (for the Don Pedro hydroelectric project in the U.S., interim reviews were conducted by a stakeholder panel with assistance from a mediator to help parties agree to appropriate instream flow protection for salmon), and
- *citizen seat on evaluation panel* to make recommendations on operations or mitigations modifications (Mexico's Aquamilpa and Zimapan dams included independent monitors to whom the construction company was required to report on its resettlement processes).

Relicensing and Associated Construction

Good Process Elements:

- *consultation with stakeholders before design of the relicensing process* (for the relicensing of two dams on the Clark Fork river in the U.S., the license holder engaged in a facilitated process that first explored the use of a collaborative process, and then developed a process with the parties to reach a "settlement agreement" in which the license holder would submit the new license application consistent with the agreement);
- *public meeting to review* and comment on relicensing application, and
- relicensing and new associated constructions projects are *given the same attention to public involvement as the original dam* (scaled to their size and effects; on the American River in the U.S., a 41-member Task Force on flood control issues work with facilitators to develop principles, priority projects, mitigation plans, site review protocols, and construction approaches in an accelerated process that ended one year sooner than normal agency review. This allowed construction to be completed before a "storm of record" passed safely down the river).

Decommissioning

Good Process Elements:

- *membership on decommissioning advisory panel*, and
- *public meeting* to review and discuss plan for decommissioning

Benefits of Good Processes

Good public participation processes can assist dam proposals and siting processes in a number of ways.

1. High quality public participation processes increase communication, both in extent as well as in accuracy. While misperceptions and miscommunications may still occur, good public participation processes should allow for rapid clarifications and a lessening of conflict based upon communication errors.
2. As a device for 'hearing all sides' public participation has the advantages of lessening acrimony and reducing the chances for escalation of conflicts by providing agreed-upon forums for discontent. As long as participation is real – and not just window dressing – there is a greater chance that those who have 'lost' in the decision-making process will see the process as fair and that their views were heard and their interests seriously considered. This will not occur in all cases, and in large scale facility siting circumstances, such as the building and siting of large dams, it may happen that participants who suffer significant costs will still feel angry and (possibly) continue to oppose the decision made.

3. In a ‘wide-open’ public participation process, that is one in which there is no pre-determined outcome, input from various stakeholders can assist in making sure that any decision taken is as fully-informed as possible. This is particularly true when consensus-building processes are used, as these require that all parties at the table agree before a decision can be made and implemented.
4. A successful public participation program can increase the level of “buy in” those individual stakeholders share in the project. This is beneficial both in the sense of making the project a success, but also in terms of securing additional funding should the project require it or run into technical difficulties. Caution must also be exercised by all parties concerning “buy-in” as a goal. Some parties may be willing to “live with” an agreement or decision, even though they do not fully agree with it. Overly ambitious efforts to achieve full “buy-in” may have the unintended consequence of alienating these participants, even to the extent of outright opposition. On the other hand, buy-in is possible, as demonstrated by the Lesotho Highlands Water Project. At a recent Treaty Review National Dialogue meeting of the Project, all representatives pledged their support for the project, subject to the project meeting certain obligations toward the affected people. However, some observers did not view the Treaty Review process as having extensive involvement by all parties.
5. Public participation is a requirement by large international funders and donors, such as the World Bank. Although the extent to which these requirements are adhered to is highly variable, their use can sometimes make the difference between a successful – and funded – project and a failed one.
6. By involving the public, possible future issues and conflicts can be brought into the open and discussed, thereby increasing information for decision makers and decreasing the chances of miscommunication.

Both public involvement and conflict resolution activities should be developed and implemented throughout watershed and power planning, decision making about facility capacity, siting and other choices, and construction, operations and deconstruction of the facility.

3.8 Best Practices for Resolving Conflict

Conflict resolution is more than a set of tools or tactics. A society, organisation, or industrial sector that has healthy conflict resolution processes has a conflict resolution system. A conflict resolution system includes psychological and cultural expectations, rules and regulations, processes, fora and administrative and governance structures. A conflict resolution system has a series of linked steps to respond to current grievances, needs and conditions as well as learning from participants to create new approaches and values. Not all conflicts can be resolved, but in a healthy system there are comprehensive and coherent ways for people to express differences, resolve disputes and manage conflictual relationships.

There is significant overlap between the principles and tools for conducting public participation and conflict resolution. Extensive use of the methods described above for involving stakeholders will help create a working structure and the trust needed to effectively and fairly resolve disputes as they arise and may reduce sources of potential conflict.

Principles of Conflict Resolution

The following principles of conflict resolution are derived from our interviews and our review of conflict resolution theory, research, and reflective practice. The field of conflict resolution – while new as an academic inquiry – benefits from a rich vein of research from all the social and life sciences. Research from biology, psychology, and social psychology helps us understand the ways that individuals perceive their interests, differences, and trouble and construct those perceptions into grievances. Research from anthropology and sociology illuminate how individual grievances are shaped by the cultural and societal ways of understanding self and group. Social norms and cultural

ways shape the terrain upon which individuals formulate grievances, align with others with similar grievances, and pursue their interests. Finally, research from economics, law, labour studies and international relations provides a descriptive and normative framework for understanding social processes for handling difference and conflict.

There are three fundamental principles that should guide conflict resolution efforts:

1. Decision makers should take into account that differences and disputes are normal and inevitable in all human relationships. Conflicts are caused by the differences in the ways that diverse people understand the world, each other, and their interests and goals for themselves and others.

Conflict resolution takes as a fact that conflict is inevitable but still can be a positive force in all human interactions. People have different interests and values. These differences can often provide the creative impetus for individual, relationship, and social changes. To deal productively with these differences and conflicts, we must develop and use the appropriate individual and group skills, processes, and fora.

2. Decision makers should make use of the many ways that sustainable relationships and societies understand, respond to, and handle these normal and predictable differences.

Every society has a rich array of mechanisms and fora in which to deal with differences and disputes. It is important for decision makers to use those mechanisms and work with the culturally appropriate individuals to develop ways of handling disputes about the construction and management of the facility. While conflicts over dams may be handled using the typical societal ways of handling conflicts, it is likely that a new facility will overload the dispute handling systems and create new and unforeseen problems. Proactive attention to designing ways of handling the conflicts will ameliorate some of the intractable and violent conflicts that often occur.

3. Better decisions emerge when diverse interests, knowledge, and expertise are brought to bear on framing, analysing, generating, and implementing solutions for complex problems like large dams.

Disputes, particularly over complex technical, social and environmental issues, can only be solved when all the important information is available. Much of this information comes from project planners and various technical experts. However, significant information about the land, watershed and climate patterns comes from local people. Since the issues are so complex, it requires the input of many scientific, technical, economic, and local experts in analysing and problem solving.

Approaches to High-Quality Conflict Resolution

From the three central principles outlined above flow four subsidiary approaches to good conflict resolution practice:

- Involve all stakeholders in some way in each stage of problem solving. Those stakeholders who are directly affected, can block an agreement, or will be involved in implementation must be included in any conflict resolution efforts. Other interested stakeholders can be included who have relevant information, are indirectly affected, or represent groups with secondary interests. The public needs to be kept informed about the progress of resolving the dispute.
- Focus on the substance of the problem separately from difficulties between the individuals. Conflicts are best resolved by recognising that both the substance of the issues and the difficulties between individuals require attention. Disputes about values or stemming from personality differences must not be allowed to deflect attention from solving the substance of the problem. Joint fact-finding efforts on scientific and technical issues can help parties develop a common understanding of the “facts” that should make efforts to resolve differences more productive.
- Completely identify and analyse the problem before trying to solve it; generate evaluation criteria before developing options to resolve the conflict; assess and choose an option with all parties’ input and by using the jointly-derived criteria. The collaborative effort of all parties to define the

problem, develop evaluation criteria, and agree on a solution is central to the success of a conflict resolution process. These steps build trust among the parties, establish a “problem solving” mode of interacting, and create a setting in which the parties can share their values, interests, and concerns. When the parties understand each other in this full way, resolution options and final agreements are more likely to emerge that are better for each participant than the option of having no agreement.

- Pay as much attention to implementing the agreement as to developing the agreement. Successful conflict resolution depends on what happens after the agreement is signed. Mechanisms must be included as part of the agreement that ensure that issues can be renegotiated if parties do not implement their part of the agreement fully, or if elements of the agreement are affected by unforeseen events. Contingent agreements can also take into account uncertainties that can only be resolved with experience or additional information.

Negotiation

In practice, the dispute resolution approaches and processes described below are often applied to negotiations, which remain the central mode of communication between parties in disputes, and around which the varied procedures are structured. Parties may seek to negotiate under conditions in which they are (quoted from Moore. 1986, p.11):

- interdependent and must rely on the co-operation of one another in order to meet their goals or satisfy their interests;
- able to influence one another and can undertake or prevent actions that can either harm or reward;
- pressured by deadlines and time constraints and share an impetus for early settlement;
- aware that alternative procedures and outcomes to a negotiated settlement do not appear as viable or desirable as (an agreement) they reach themselves;
- able to identify the critical primary parties and involve them in the problem-solving process;
- able to identify and agree on the issues in dispute;
- in a situation in which the interests of the parties are not entirely incompatible, and
- influenced by external constraints, such as unpredictability of a judicial decision, potentially angry constituencies, high business costs, and other factors encouraging them to reach a negotiated settlement.

When many or even some of these conditions are present, parties involved in dam processes may seek to negotiate issues over which they disagree and to use the approaches below in doing so.

Agenda Setting

An agenda is a skeletal outline for a meeting, program, or process that serves as a guide for participants. Agreement on the agenda by all parties symbolizes consent and knowledge of the topics, issues, and events that will be covered. It also sets out an order and allows participants to fully comprehend and agree to the nature, purpose, and goals of the gathering or process. There can be a variety of agenda formats – from town hall meetings to separate house-to-house visits in rural communities. If an outside facilitator is managing the process, s/he can have a "draft" agenda circulated to perspective attendees and seek input to finalize the agenda prior to the meetings, or pre-meeting planning sessions can also be held with stakeholders to plan the agenda. During the assessment or “conflict analysis” stage, the facilitator or mediator will commonly ask participants what issues should be included on the process agenda (and for individual meetings). An agenda may include agreement on the rules for the process or meetings (ground rules), who will be accepted members of the meeting group, nonmember participation, and outside observers. The agenda setting process frequently helps diverse participants more fully engage in (what may be) an unfamiliar

process. It may also allow participants to air initial individual or group concerns at the outset of the process.

Processes for Handling Conflicts

Conflict resolution processes include agenda setting, collaborative problem solving, joint fact-finding, mediated negotiations, partnering, use of an ombudsperson, and arbitration. These processes need to be linked into a system of dispute resolution options moving from the least formal, collaborative problem solving groups, throughout negotiation to the most formal, arbitration.

Collaborative Problem Solving

A wide array of stakeholders should be involved in collaborative problem solving to define, discuss and propose solutions to societal problems around watershed planning, electric power generation, and agriculture and community water use. For the Lesotho Highlands Water Project, a National Dialogue on the design of a Treaty Review Process was held with involvement of local stakeholders. Some interviewees felt that the Treaty Review Process was successful in extensively increasing the level of involvement of affected parties, yet others felt that the Treaty Review Process did not have extensive involvement of affected people, even though the Authority reports the participation of all principal chiefs in the review. Again, this illustrates the scope and depth of consultation that is required in order for all parties to be satisfied that due process was followed. Collaborative problem solving processes involve participants who have a stake in the outcome or a planning or decision making process. Through series of facilitated meetings, participants can work to find ways to meet the needs of all the parties affected by the decision or who are able to block its implementation.

Fact-finding

Joint fact-finding sessions involve face-to-face discussions and consensus building between technical experts, decision makers, and other essential stakeholders in an effort to translate technical information into formats and language understandable by all parties. It is an effort to identify areas of scientific and technical agreement and disagreement for use as a baseline for further negotiation or consensus building efforts. Joint fact-finding dialogues or negotiations are an excellent way (and sometimes the only way) to begin discussions between parties who have a history of antagonism or mistrust. In addition, fact-finding may be essential when the parties do not really have an agreed-upon set of facts or data for analysis or policy-recommendation. Such a baseline is likely to be needed for the parties to effectively discuss or negotiate policy questions, siting decisions, management approaches, or implementation options.

Mediation

Once a solution is chosen a new set of actors may be involved. If the decision impacts them directly then mediation can be conducted to resolve disputes. Mediation is the intervention into a negotiation by an acceptable impartial third party that has no authority to make or enforce a decision to assist parties in reaching their own mutually acceptable reconciliation, settlement of issues, or agreement. The mediator actively assists parties in identifying and clarifying issues, prioritising areas of concern, developing solutions and structuring implementation of agreements. Mediators have been used for a number of international cross-boundary water disputes (e.g. for the Yarmuk River) and in North America for many types of facility siting, but relatively rarely in other parts of the world (Bingham, 1997, Bingham *et al.* 1994).

Partnering

Partnering is a process developed by and widely used by the United States Army Corps of Engineers and other agencies. Partnering involves a collaborative team approach to construction and

management of large facilities. Instead of the normal adversarial contractual relationship, the co-operative management team works together to design, choose common objectives, and implement a co-operative partnership for evaluating progress and solving problems (Edelman, et al. 199X). During the Lesotho Highlands Water Project, Lesotho Highlands Development Authority in conjunction with local authorities set up a Conflict Resolution Mechanism at the community level to handle disputes. The Authority reports that chiefs were empowered to deal with administrative and dispute issues at the village level on a day-to-day basis. At the engineering/dam construction level, Dispute Review Boards have been utilised. The Authority felt that in most community-related disputes, agreements have been reached. Nevertheless, concerns are expressed by other groups that chiefs may not be resolving the disputes in an open and fair manner, and that in some cases the Authority coerced the chiefs. This illustrates that any dispute resolution mechanism should be as transparent as possible to increase confidence in the process, promote trust in the individuals and agencies involved, and build support and legitimacy of the decisions made through the process.

Ombudsman

The purpose of an ombuds office is to serve as a project facilitator/mediator to work with project managers and stakeholders in solving problems as they arise. More importantly, the ombudsperson is entrusted with designing and repairing systems to help prevent problems from occurring or reoccurring in the future. It is essential that the ombudsperson/office be selected by criteria developed with the direct involvement of the various stakeholders to ensure that the person/office has sufficient credibility to be effective. In addition, the ombuds process must be designed in such a way that everyone who seeks to use it will feel comfortable and safe doing so.

Arbitration

This is a valuable step to include in a dispute resolution system. Arbitration is widely used and accepted in international commercial settings. In arbitration an impartial third party hears evidence and arguments from all the parties and then renders a determination. For the Salto Grande dam, Uruguay and Argentina established an International Arbitrage Tribunal to resolve disputes between the two countries over management of the dam. In one Lesotho Highlands Water Project dispute, which arose due to construction of an access road to the construction site, an independent assessor was used to settle the dispute. In addition, after a labour dispute resulted in violence, the Government of Lesotho set up a judicial Commission of Enquiry that produced a report and a set of recommendations that are currently being used.

Incentives for Adhering Parties to an Agreement

Once an acceptable outcome is negotiated, a written version (sometimes publicly announced) begins to help parties adhere to the agreement, which may include specific tasks for each party, deadlines for progress, funding mechanisms to assist some parties, specific penalties for noncompliance, and mechanisms for expedient re-negotiation if a breakdown should occur. Confidence in the agreement reached (and methods of enforcement, if necessary) should bring respect for the process. The participants will have greater confidence that the final settlement will be maintained among all participants, and those who have significant involvement in devising a solution will be much more likely to abide by it than to a solution imposed on the parties. For self-enforcing agreements, parties may agree to have money held by a third party that will be dispersed at certain times and based on certain conditions or events. To forestall (or deal with) breakdowns in the agreement, parties may agree (in advance) to enter a mediated renegotiation, or as a last resort yield to a binding arbitration that expedites the process of solving the problem. Sometimes this enforcement tool is enough to keep the agreement bound together; the parties would rather live with the settlement they helped create than allow an outsider to mandate a solution. Another option is for the parties to include the agreement in a judicial court order or into a legally enforceable contract. Unorthodox and creative solutions are always possibilities based on mutual consent of the parties.

Tools and Skills for Conflict Resolution

Designers of conflict resolution processes will want to refer to existing “tool-kit” documents for specifics about individual tools and their use.¹⁶

Measuring Success (with Good Process Elements)

Some strides have been made recently in the areas of environmental conflict resolution and community mediation to ensure that the needs of the participants are being met as well as the requirements of donor agencies that their funds are being well spent. While there has been considerable research evaluating individual conflict resolution cases, there has been less research on how to evaluate conflict resolution systems or programs. Several recent projects have begun to pull together comprehensive evaluation frameworks.

One way of looking for success (for both public participation and conflict resolution efforts) is to consider closely those outcomes, processes, and relationships that the participants identify as indicating success (Bingham 1997):

Outcomes

- reaching agreements;
- reaching agreements that satisfy participants’ interests and/or solve real problems;
- reaching agreements that are better than otherwise could have been achieved, and
- reaching agreements that are implemented.

Processes

- processes are seen as fair by the participants;
- all affected parties are represented;
- there is not undue delay;
- encourages the exchange of accurate and complete information;
- there is adequate time for parties to consult with their constituencies;
- not overly costly in time or money;
- consistent with applicable procedures and laws, and

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- ¹⁶ Some of the existing tool-kits for conflict resolution are:
 - ACUS (Administrative Conference of the United States). 1987. *Sourcebook: Federal Agency Use of Alternative Means of Dispute Resolution*. Washington, DC.
 - Brown, Scott, Christine Cervenak, and David Fairman. 1998. *Alternative Dispute Resolution Practitioners Guide*. U.S. Agency for International Development, Bureau for Global Programs, Field Support, and Research, Center for Democracy and Governance, Washington, DC. [abraginski@usaid.gov]
 - Moore, Christopher W. 1986. *The Mediation Process. Practical Strategies for Resolving Conflict*. Jossey Bass Publishers, San Francisco, CA, et al.
 - Susskind, Lawrence and Jeffrey Cruikshank. 1987. *Breaking the Impasse*. Basic Books, New York.
 - Susskind, Lawrence, Sarah McKearnan, and Jennifer Thomas-Larmer. 1999. *The Consensus Building Handbook*. Sage Publications, Thousand Oaks, CA, et al.

- do not set precedents for other parties not at the table.

Relationships

- civil behaviour is the norm;
- participants provide each other with mutual recognition and respect, and
- results in improved capacity for parties to solve problems together in the future.

There are six primary criteria that should be used to assess any conflict resolution program:

- Outcome Reached;
- Process Quality;
- Outcome Quality;
- Relationship of Parties to Outcome;
- Relationship between Parties, and
- Social Capital.

Outcome Reached

The first of these is whether an outcome is reached. Conflict resolution processes are often agreement-focused; therefore whether an outcome is reached is an important element to assess. Participants may measure whether there was a unanimous or consensus decision. The outcome can be assessed to see if the terms are verifiable. The public needs to accept the outcome and ratify the terms.

Process Quality

It is very important to look at how participants perceive the process. There has been substantial research on how to assess procedural justice, that is how participants in a process perceive the fairness, inclusiveness and accessibility of the process.

Outcome Quality

Along with assessing the quality of the process, participants and sponsors need to assess the quality of the outcome. There is a range of issues here to measure: what are the costs of implementing the outcome, is it sustainable environmentally, culturally and financially, and is it clear and realistic?

Relationship of Parties to Outcome, Relationship between Parties, Social Capital

The last three measures look at whether conflict resolution processes change the relationships of the parties' and groups' capacities to work collaboratively together in the future. An assessment could measure whether there is a reduction in overt conflict or expressed hostility or an improvement in relationships. These are just some of the things that can be developed with the collaboration of the stakeholders to assess the effectiveness of individual conflict resolution strategies or conflict resolution systems.

As with public participation processes, conflict resolution procedures can and should be in place for all stages of the project cycle for large dams or their alternatives. To help both process designers and the participants determine whether there are appropriate conflict resolution structures for different stages, we have listed examples of significant criteria and markers (milestones) that could help identify achievement. We must emphasise again however, that each process is going to be different in its circumstances and its needs, the issues and conflicts, and the people and institutions involved.

These examples are given for illustrative purposes only, and not to suggest that they should be used in every case.

Throughout the Entire Project

Good Process Elements:

- *full participation of government regulatory agencies*, demonstrating their willingness to use consensus building and to provide greater incentive to other stakeholders;
- *publicly stated government assurance of implementation* of agreements (and a longer-term track record of following through with the assurances);
- *all riparian parties are included*, even those without political standing (during negotiations over allocation of the Yarmuk and Jordan Rivers in the Middle East, NGOs, public interest groups, environmental groups, and Palestinians were not included; as a possible result, the entire river is allocated, and could be taken with no water at all for instream uses);
- *sufficient financial resources* are afforded to parties in need of assistance to ensure their meaningful involvement in each of the stages of the cycle;
- *willingness of parties to find individual representatives who are informed, experienced*, have a reputation for honesty, are forthcoming, committed to consensus building, and respectful of other parties;
- *willingness of parties to replace representatives* who do not have the above features, and
- *negotiation and consensus building groups are afforded opportunities to consider both social and technical issues*.

Problem Identification and Framing

(ideally as part of integrated river basin planning) (*see also Throughout the Entire Project, above*)

Good Process Elements:

- ♦ *significant efforts to build consensus* among all the major parties at this stage (During negotiations over water allocation, storage, management, and conservation for the U.S. Truckee-Carson River Basin, a subset of parties reached agreement on a key issue which allowed other issues to then be negotiated by the full set of stakeholders.);
- ♦ *negotiations to develop agreements in principle on the process* (Relations between Hydro Quebec and Quebec's "First Nations" include agreements on such issues as participation, how studies will be carried out, integration of studies into the decision making process, revenue sharing, compensation, and remedial measures.) ;
- ♦ *efforts to build consensus are started well before there are hardened ideas* about what solutions are "best";
- ♦ *parties engage in fact-finding* and data collection in advance of any construction projects, and
- ♦ *specific negotiation that the status quo is unacceptable*.

Alternatives Proposal

(with multi-attribute analysis and impact assessment) (*see also Throughout the Entire Project, above*)

Good Process Elements:

- ♦ *clearly different alternatives are discussed*, including creative technical options, and the "no-action" alternative;
- ♦ *joint efforts among stakeholders for study and analysis*. (Hydro Quebec and Quebec's "First Nations" have formed joint technical and environmental committees to conduct project studies, including joint environmental impact assessments.)

Alternative and Site Selection

(see Throughout the Entire Project, above)

Project Design

(see Throughout the Entire Project, above)

Impact Mitigation

(particularly displacement and resettlement processes) (see also Throughout the Entire Project, above)

Good Process Elements:

- *negotiations held on compensation and locations for resettlement.* (About 2200 people were resettled for the Driekoppies Dam in South Africa. Individuals and households were consulted as to their preferred resettlement land, and no decisions were made until the local Chief gave consent.);
- *negotiations include protocol for decision-making* (full disclosure of information, joint financial audits, no individual deals, etc.);
- *intensive counselling by teams of social scientists and use of mediation to resolve individual claims.* (This approach was used to settle conflicts between resettles from the Akosombo dam in Ghana and their “hosts.” The counsellors explained the legal positions to people, and also explained the mechanisms that newcomers had to use to gain permission from traditional leaders to use the land. Because the area in question is vast, the Volta River Authority had to rely on goodwill and continuous, ongoing, and personalised information transfer to settle and reduce conflicts.)

Construction

(see also Throughout the Entire Project, above)

Operations Monitoring and Evaluation

(see also Throughout the Entire Project, above)

Good Process Elements:

- ♦ *scoping sessions* for changing operations of dam and other structures (For example, the U.S. Tennessee Valley Authority conducted extensive small group planning sessions during its scoping for changing flood control rules; at the sessions participants jointly selected measures to evaluate future system performance and identified trends that might later affect river planning.), and
- ♦ *jointly designed and conducted programs.* (Hydro Quebec and Quebec’s “First Nations” have developed several joint processes for the construction phases of projects, including revenue sharing, wildlife conservation efforts, jointly managed environmental monitoring, remediation work efforts, and an implementation committee to oversee the project.)

Relicensing and Associated Construction

Good Process Elements:

- ♦ *relicensing and new associated constructions projects utilise facilitation or mediation to make decisions.* (For example, on the American River in the U.S., a 41-member Task Force on flood control issues worked with facilitators to develop principles, priority projects, mitigation plans, site review protocols, and construction approaches in an accelerated process that ended one year

sooner than the normal agency review. This allowed construction to be completed before a “storm of record” passed safely down the river.)

Decommissioning

(see Throughout the Entire Project, above)

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Annex 1 Interview Questions

Interviews conducted by RESOLVE, Inc. and its international partners – Tisha Greyling, Dr. Anne Randmer, Isabel Viana, and Prof. Vanchai Vatanasapt

Background.

The World Commission on Dams was established to address central issues of controversy with respect to large dams and their effectiveness in sustainable development. The Commission's overarching goals are to:

- review the development effectiveness of dams and assess alternatives for water resources and energy development, and
- develop internationally acceptable standards, guidelines, and criteria for decision-making in the planning, design, construction, monitoring, operation, and decommissioning of dams.

To assist with accomplishing these goals, the WCD has asked RESOLVE, a U.S.-based non-profit dispute resolution organisation to work with an international team of senior advisors to write a thematic review of "Participation, Negotiation, and Conflict Management" concerning large dams. I am one of the senior advisors to the study (one each from Africa, Eastern Europe, Southeast Asia and South America).

More information on the WCD can be found on its web site: www.dams.org and about RESOLVE in its site: www.resolv.org

Objectives

This thematic review has four interrelated objectives:

1. Improve the understanding of conflicts around large dam projects, their typical patterns and their root causes.
2. Identify alternative decision-making procedures on dams that prevent conflicts and/or minimise their intensity; this requires the identification of critical decisions requiring conflict resolution/negotiation throughout the project cycle.
3. Propose key principles and approaches for negotiating choices within society, preventing conflicts, and settling them if they occur.
4. Preview the potential contribution of, and current practices for, participatory approaches to decision-making on large dams.

This thematic review will be built on and illustrated by a series of specific cases, including examples of successful dispute management and public involvement efforts as well as examples of projects that did not give stakeholders opportunities for involvement or which had major conflicts.

Questions and Issues for Discussion

For each example of a large dam project we discuss, it will be most helpful to the study to consider the issues of conflict management, participation, and negotiations from several aspects, which we will discuss in detail in a moment:

- Who were the stakeholders and what were their interests?
- How were the stakeholders represented, and how were the representatives determined?
- How were decisions made concerning the dam and how were the stakeholders involved in the process (before, during, and after construction)?
- What were the roles of science, power, and politics in the decision-making?
- How did conflicts and disputes get resolved?

- Over recent years, the controversies, disputes, and violent confrontations seem to have amplified around development infrastructure, in particular around large dams. During our discussion, we would like to know, in general and from your experience, what are the reasons that could explain why large dams are so prone to conflicts?
- To get started, please tell me about 1 or 2 specific dam projects with which you are knowledgeable (so that we can refer to them as the interview progresses).
- Here, we need a brief description of the project(s): (name of the dam, size in megawatts, location, name of the river, length of the project, was it public or private).

Stakeholders and Their Interests

For the projects you described, please tell me about the types of stakeholder groups that were affected (local communities, national businesses, regional governments, downstream river-side dwellers, prospective power users, displaced populations, affected ecosystems, etc.)

- What were the specific interests and concerns of each of these groups?
- Were the interests and concerns of any stakeholder groups neglected?

Stakeholder Representation

- How was (or was not) the legitimacy of these stakeholders as parties to decision-making established?
- Were any groups left out of the decision-making process and (if so) why?
- To what extent were majority and minority rights and concerns balanced?

Stakeholder Participation and Decision Making

- What forms of public participation were used during the project?
- Were the stakeholders fully able to express their concerns?
- Did the process facilitate the consideration of the multiple and often contradictory societal needs and priorities?
- Did the process contribute to building public awareness and ownership of the option finally selected?
- Did the process foster transparency and accountability?
- Was there a stated understanding that the decisions being made would affect a broad range of interests, including those of future generations? If not, why not?
- In your projects, was there an attempt to get "local consent", and what was meant by this?
- Did the participation of the public help to lower project costs?
- Were negatively-affected groups compensated and (if so) how was fair compensation determined?
- Were there critical phases where systematic consultation led to (or might have led to) improved short-term and long-term technical performance in dam construction or use?
- Did the public participation procedures ensure a more effective role of advocacy and technical support to NGOs?
- Were there specific participatory approaches that empower disadvantaged groups (women, indigenous communities, and others)?
- Did the public involvement process in any way serve to gain public acceptance for an inadequate, ill-conceived, or poorly-implemented project or an unfair sharing of impacts or inadequate compensations?
- What was the relationship between civil society and the dam promoters?
- To what extent did the consultation and participation prevent disputes around the project?

Resolving Conflicts and Disputes

- Please describe the specific conflicts or disputes that emerged during the project(s).
- What kinds of decisions did the negotiations support? (e.g.: to identify development needs, to choose among dam and non-dam options, to build or not to build the dam, to improve the project design, to set better deals for resettles, to buy out local communities, etc.)
- What were the scope and limits to negotiations?
- Did the process attempt to deal with the asymmetry of power among the various interest groups in the negotiations around dam projects and their alternatives?
- Was mediation (or some other form of dispute resolution) used in case of non-agreement?
- If a consensus was not attained in your project, how did the parties reconcile the rights of potential beneficiaries with the rights of affected populations?
- How did the stakeholders seek to ensure compliance and commitment of the parties with the negotiated results?
- Describe any incentives or control frameworks for enforcement that were developed.
- Were resources and capacities (human, financial, managerial, etc.) mobilised to ensure enforcement of agreements reached?
- Is it realistic to expect that dam projects – or other development projects, for that matter - should only be built if they constitute win-win (or mutual gains) outcomes (for all the parties)?
- Is there anyone else you think we should contact to talk about these issues?
- Is there written literature about the projects you described (especially materials that are not in English)?

Annex 2 List of Interviews

NOTE: the views reflected in the review, and the examples cited, do not come solely from these interviewees. The authors have also relied extensively on the literature about dams, their expertise, and documents from the Internet in forming the ideas of the Thematic Review.

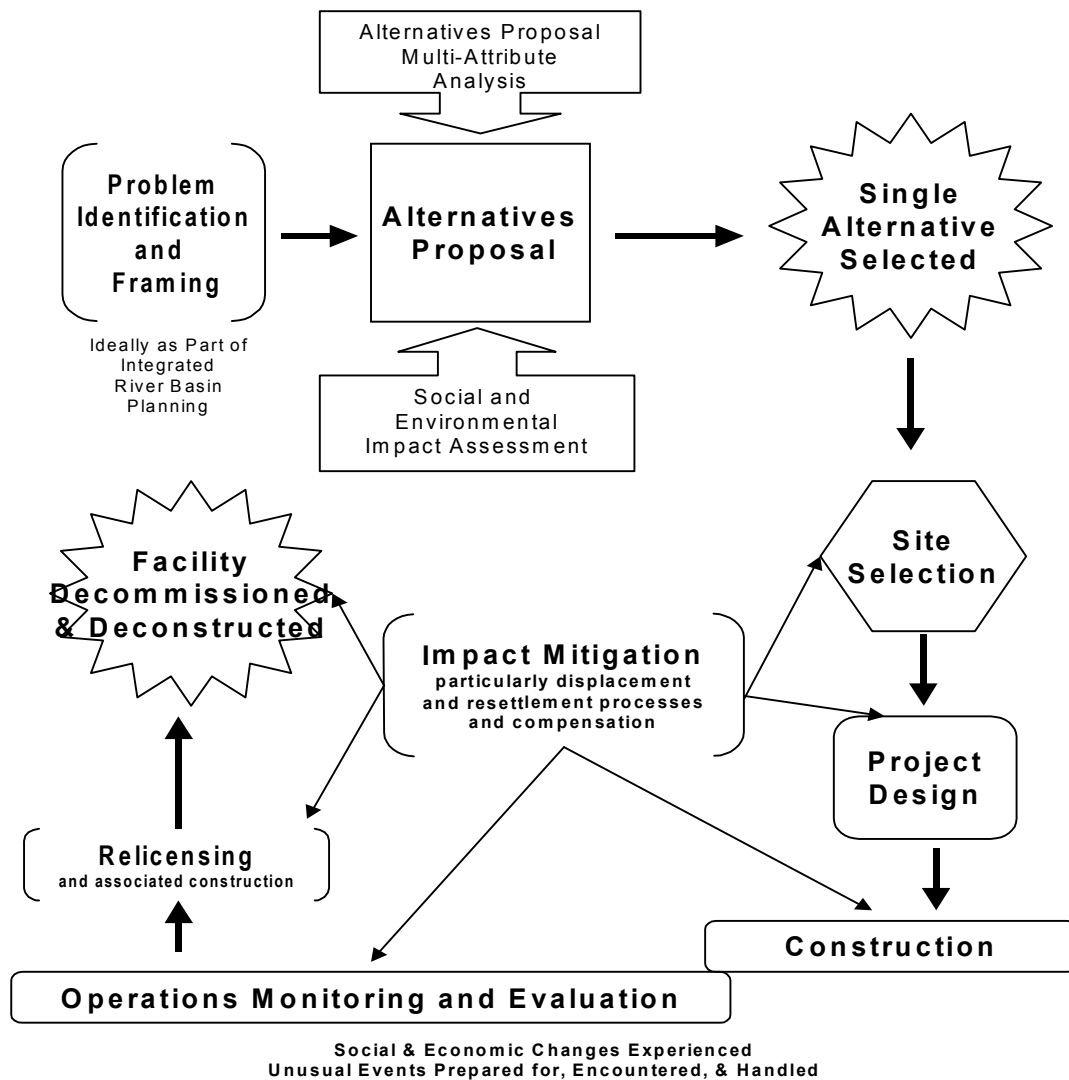
REGION	NAME/TITLE/ ORGANISATION	CITY/COUNTRY
Africa	Mr. Rob Clanahan CEO, Komati Basin Water Authority	Nelspruit, South Africa
	Dr. Mbarack Diop, Director Tropica Environmental Consultants, Ltd.	Dakar, Senegal
	Dr. EAK Kalitsi Chairman of the Board, Volta River Authority	Accra, Ghana
	Mr. Reatile Mochebele, Chief Delegate Lesotho Highlands Water Project	Maseru, Lesotho
	Ms. Mahlepe Mothepu Lesotho Highlands Development Authority	Maseru, Lesotho
	Mr. George van der Merwe Trans Caledon Tunnel Authority	Pretoria, South Africa
	Obed Lets'ela Lesotho Highlands Water Commission	Maseru, Lesotho
Eastern Europe/ Russia	Mr. Dan Dobrescu, Technical Director, Institute of Hydroelectric Studies & Design	Bucharest, Romania
	Ms. Elena Kolpakova, Co-ordinator NGO "Help Volga River"	Nizhni Novgorod, Russia
	Mr. Juraj Zamkovsky Center for Environmental Public Advocacy	Poniky, Slovakia
Southeast Asia	Mr. Shlamali Guttal, Senior Associate Focus on the Global South, Chulalongkorn University	Bangkok, Thailand
	Mr. Mohar Singh Monga Mekong River Association	Phom Penh, Cambodia
	Mr. Khamleung Sayarath Environment Ministry	Vientiane, Lao PDR

South America	Dr. Jose Pedro Isasa, Secretary General Comisian Tecnica Mista de Salto Grande	Montevideo, Uruguay
	Mr. Miguel Reynal, President Ecos Fund	Montevideo, Uruguay
North America	Mr. Jean-Etienne Klimpt, Representative Hydro Quebec	Montreal, Canada
	Mr. Neil Stessman, Director Reclamation Service Center, US Bureau of Reclamation	Denver, CO, USA
International	Mr. Walter Ahrensberg, Chief Environment Division, Inter-American Development Bank	Washington, DC, USA
	Mr. John Briscoe, Senior Water Advisor The World Bank	Washington, DC, USA
	Mr. Jerry Delli Priscoli US Army Corps of Engineers	Washington, DC, USA
	Mr. James Mahoney, Vice President, Engineering & Environment Export Import Bank	Washington, DC, USA
	Mr. Patrick McCulley International Rivers Network	Berkeley, CA, USA
	Mr. Aly Shady International Commission for Irrigation and Drainage	Hull, Quebec, Canada

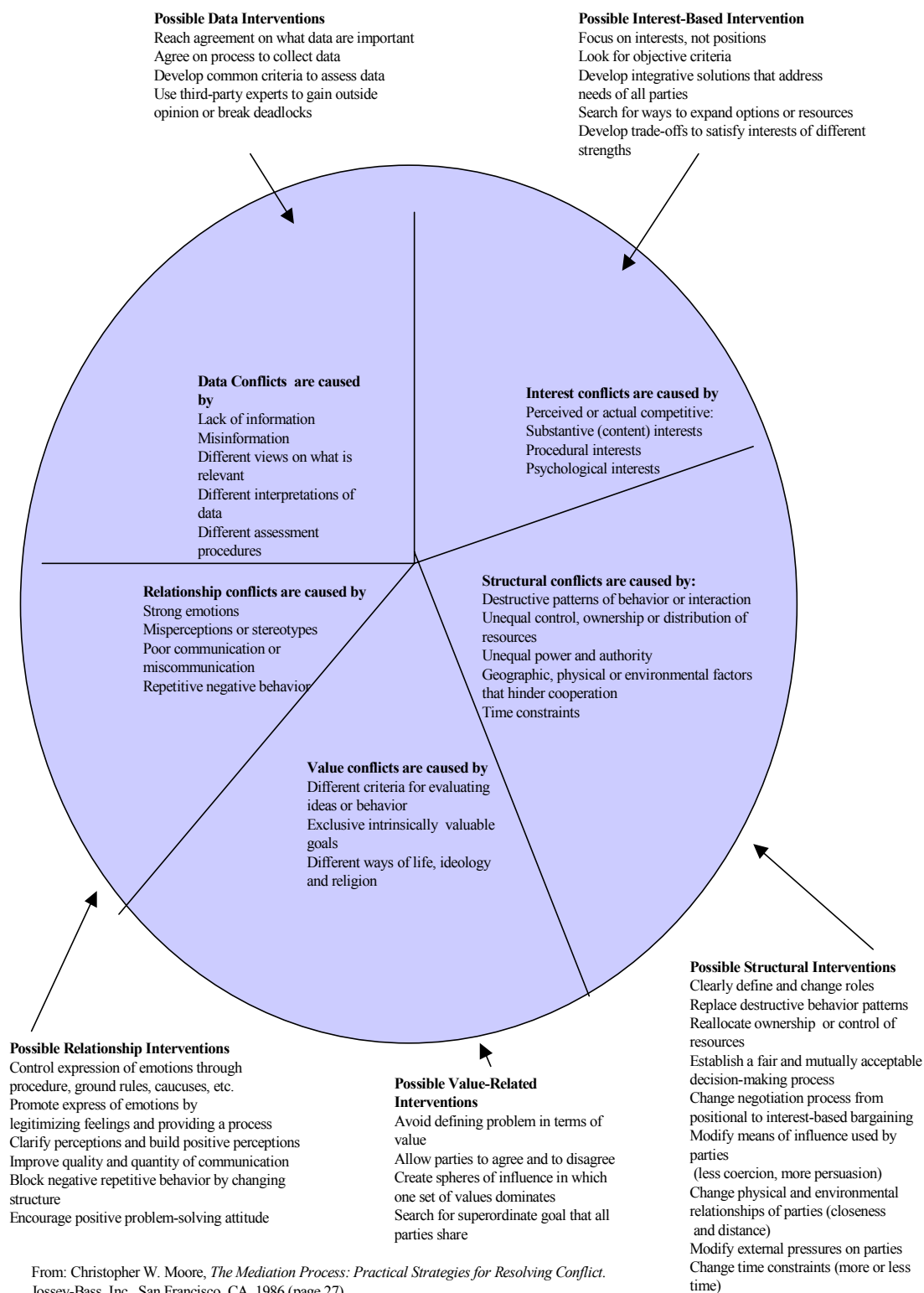
Annex 3 Dams Cited

Aksomobo, Ghana
Aquamilpa, Mexico
Bisalpur, Rajasthan, India
Clark Fork River dams, US
Churchill River project, Quebec, Canada
Don Pedro, US
Driekoppies, South Africa
Foothills, US
Great Whale, Canada
Illisu, Turkey
Itá, Brazil
Ixvorul Muntelui Bicaz, Romania
Kama-Volga, Russia
Lesotho Highlands Water Project, Lesotho / South Africa
Maguga, Swaziland
Manatali, Mali / Mauritania / Senegal
Nam Theun II, Lao PDR
Pak Moon, Thailand
Portile de Fier I (Irongate), Romania
Salto Grande, Uruguay
Sardor Sorovar, India
Slatinka, Slovakia
St. George, Canada
Tennessee Valley Authority dams, US
Teton, Idaho, US
Yacyretá, Paraguay / Argentina
Yuaguzinskoya, Russia
Zimapan, Mexico

Annex 4 Stages in Decision-Making



Annex 5 Sphere of Conflict – Causes and Interventions



Annex 6 Tools for Public Participation

(see especially EDRB 1995)

Information Bulletins, Newsletter, Discussion Documents, Reports, Etc.	Provides written information at different levels of complexity to a wide public.
Displays and Exhibits	On-site or location-specific information sharing about a decision or the availability of a public participation program. Can provide limited feedback and 'advice.'
Press Releases, Editorials, Conferences	Allow dissemination of more detailed information to a very wide audience. Impact depends on audience literacy.
Newspaper Insert	Similar to above but provides for feedback in a limited, survey-like fashion.
Radio & Television	Less detailed one-way communication; but very wide audience. Radio call-in shows can provide for limited feedback.
Targeted Briefing	Location- & population-specific, often with Q & A afterward.
Open House	As above, but provides larger time frame for interested individuals to attend, become informed, & give feedback. However, does not allow the views of different sectors of society or individuals to be exposed to each other.
Site Visit	Visits to the site for specific purposes (e.g. alternatives, comparisons, monitoring, etc.)
Field Office	As for Open House, except for time period extended throughout project cycle.
Interviews with Key Individuals	Individuals should be essential stakeholder representatives.
Formal Surveys	Wider response, however, survey returns may be low or limited due to literacy concerns.
Polls & Questionnaires	Higher level of response than surveys. Outsiders conducting polls may receive inaccurate or misleading answers.
Public Seminar	Small group facilitated meeting to share information, concerns, and opinions.
Focus Groups	Open-ended discussions intended to gather information on probable public responses to proposals or proposed decisions.
Large Public Meetings Town Hall Meetings	Generally used at specific stages to share information and garner limited feedback. Without professional facilitation and some technology it is difficult to acquire a good deal of input.
Conference	Usually has a limited attendance and includes both stakeholders and scientific experts. Generally designed to answer technical questions and generate options rather than decide policy.
Samoan Circle	Process designed to allow large groups to participate in possibly contentious discussions. Up to 100 can participate with 5-6 "speakers' chairs" in the middle.
Advisory Panels	Blue Ribbon Commissions, or other advisory groups. Serve as a link between affected stakeholders and government/proponents.

Working Parties	Designed to focus on a single issue, take input, and create guidelines for later decisions.
Task Force	Limited duration and size groups designed to focus on a single issue, testing ideas, monitoring processes, or examining technical issues.
Brainstorming	Facilitated problem-solving, option-generating processes.
Nominal Group Techniques	A set of techniques used to generate and present ideas and options in a structured manner. Possible outcomes are ranked according to generated criteria.
Planning Cell	Technique used to incorporate public participation in resource allocation and usage plans.
Unassisted Negotiation	Direct Negotiations Between Stakeholders
Mediation	Facilitated Negotiation

Appendix I: List of Submissions for Thematic Review V.5

The WCD is committed to an open and consultative process. To broaden the scope for participation and input from all interested groups and stakeholders the Commission invited submissions on all aspects related to its work programme. As they were received, submissions were classified according to the area(s) of the work programme to which they are relevant. Therefore the submissions used here are those that have been identified as applicable to the Thematic Review V.5 on Participation, Negotiation and Conflict Management.

Submissions arrived in parallel to the drafting process of the WCD's reports. Those listed here are the 32 submissions specifically for TR V.5 which were received by February 2000. Also note that submissions are not numbered sequentially.

Every submission has been read carefully. Some are informed individual perspectives on which the WCD can not mediate. For example, there are some submissions that seek the endorsement of the WCD, and the WCD's mandate is neither to adjudicate nor to mediate on specific dams or disputes.

Therefore, the submissions received for Thematic Review V.5 have been used as background information. All submissions have informed the WCD as to the different positions on the dams debate. A few submissions only included an abstract or an outline for a presentation at one of the consultations with insufficient detail to be included.

Author	Serial Number	Title
Eggen, Oyvind	ECO068	Private Benefit, Public Risk: Theun-Hinboun Power Project as an Example
Hori, Hiroshi	ENV147	Recommendation for the Study of Development and the Environment in the Lower Mekong Basin
Mitra, A	INS002	Large Dams and Alternatives: Planning, Implementation, Participation and Sustainability
Budhathoki, Shobakar	INS017	Highly Controversial Proposed Karnali-Chisapani Hydro Electricity Project: Against Public Welfare
Nucete, Miguel	INS081	Conflicts Resolution and Negotiation: The Experience of Sistema Hidraulico Yacambu – Quibor in Venezuela
Argwings Odera	INS111	Dams and Transparency: Managing Information Flow and its Impact on Affected Communities
F.C Oweyegha-Afunaduula <i>et al</i>	INS113	Corporate Crime and the Craze for Huge Hydro Power Development Projects in Uganda: The Alternatives
Poultney, Clive	INS115	The Combined Phongolo River Flood Plain Committee - Phongolopoort Dam, SA
Paulo Procópio Burian, Cecília Maria Vieira Helm	INS126	Environmental Communication and Indigenous People and Hydro-electric Power Plants on the Tibagi River – Parana State
Rothman, Franklin Daniel	INS140	Decision-Making Process in Dam Construction in the Rio Doce River Basin, Minas State Brazil
Daneri, Jorge Oscar	INS143	Citizen's Participation and the Anti-dams Law of the Province of Entre Rios
Daneri, Jorge & Cappato, Jorge	INS143	1. Citizenship Participation and the Anti-Dams Law of the Province of Entre Rios, Argentine Republic 2. Dams and Climate Change: New Hydroelectric Projects on the Del Plata Watershed. A debate in the framework of the UN Convention on Climate Change

Adams, K.R.F Ken	INS152	Towards Participatory and Sustainable Dam Development
Shoemaker, Bruce	INS164	Developing Hydropower in Lao PDR: Poor Process, Bad Decisions
The Referendum Movement on the Issue of a Dam Construction	INS166	The Case of the Yoshino River
Kanao, Ken-ichi	INS169	Let the River Run: Sagami River and its Precious Friends
Guttal, Shalmali	INS173	Public Participation and Consultation for the Nam Theun 2 Dam
Lee, See-jae	INS176	Movement against the Construction of the Tong River (Yongwol Dam) in Korea
Mitchell, Arthur	INS179	Wetlands, Integrated River basin Management and Dam Construction
Pottinger, Lori and Majot, Juliette	INS185	Corruption in Dam Building Industry: The Case in Lesotho
Oza, Nandini	INS186	Information in Brief about Dam Related Struggles in the State of Gurajat (India) and other Dam Related Issues of the State
Taylor, Meg and Miller, Shawn	INS187	Doing Better Business Through Effective Public Consultation and Disclosure: A Good Practice manual
Advocacy Support Unit	INS196	SUNGI and the Ghazi-barotha Hydro Power Project: Experiences with Participation
Janossy, A	OPT034	Case Study Features of the Danube Case
Peterson, Russell	OPT122	Proposed Prek Thnot Hydropower Project, Cambodia
van der Velde, Edward and Tirmizi, Jamshed	OPT137	Irrigation Policy Reforms in Pakistan: Who's Getting the Process Right
Organisation Nacional Indigena de Colombia	SOC042	Paramilitares Asesinan Autoridad Tradicional Embera Katio del Alto Sinú
Clugston, M	SOC047	Power Struggle
Moe, Christian	SOC057	From Scorched Earth to Flooded Earth: The general's Dam on Burma's Salween River
Sunil Tankha	SOC059	Participatory Planning and Implementation for Involuntary Relocation and Resettlement: Lessons from Ceara
Peña, Elias Diaz	SOC077	Yacyreta Hydroelectric Project: The Struggle for Participation
Tricarico, Antonio	SOC139	Social and Environmental Impacts of the Lesotho Highlands Water Project

Appendix II: Comments Received for Thematic Review Participation, Negotiation in Large Dams Projects

The WCD is committed to an open and consultative process. To broaden the scope for participation and input from interested groups and stakeholders, the Commission invited specialists, centres of excellence and WCD Forum members to prepare comments on the thematic drafts. Comments were received throughout the progression of the thematic review. The comments were incorporated to the extent possible into subsequent drafts of the thematic.

Every comment has been read carefully. Some are informed individual perspectives on which the WCD can not mediate. For example, there are some comments that seek the endorsement of the WCD, and the WCD's mandate neither to adjudicate nor mediate on specific dams or disputes. Others may go beyond the scope of the individual thematic review.

The comments are separated into Appendix sections relating to specific draft that they refer to. Section numbers referred to in individual commentaries will have changed in the final version of the report.

Comments on Draft of December 1999

a) Nicholas Hildyard	The Cornerhouse
b) Warren A. van Wicklin	The World Bank
c) Joseph Milewski, Jean-Étienne and Réal Courcelles	Hydro-Québec
d) Laurence Boisson Chazournes	University of Geneva, Switzerland
e) Patrice Talla	Faculty of Law, University of Geneva
f) Biksham Gujja	WWF
g) Shalmali Guttal	Focus on Global South, Thailand
h) Liane Greeff	Environmental Monitoring Group, Cape Town
i) Miguel Nucete	Former President of Yacambu-Quibor River Management Agency, Venezuela
j) Dr. Cristina Espinosa, Dr. Ger Bergkamp and Erin Grinnell	IUCN
k) Thayne Coulter and Patrick Mangan	US Bureau of Reclamation

a) Comments by Nicholas Hildyard, March 2000

This paper provides a useful treatment of some of the key issues pertaining to conflict management in development projects. However, there are important gaps in its coverage of participation and negotiation which urgently need to be addressed if the paper is to fulfil its terms of reference: whether the current authors are the right team to do this is an issue that the Commission should consider.

Insufficient analysis of the experience to date with participation and consultation:

The TOR for the paper correctly stresses the need to summarise "the state of the art knowledge, practices and key viewpoints" (emphasis added) on each of the topics outlined in the scoping paper.

Although the paper accurately summarises (p. 5) the overall experience of "participation" in projects involving dams – failure to consult, not allowing enough time for consultation and studies – it lacks specific examples to illustrate the failures of process that it identifies. Indeed, one gains the impression that the authors, though well-versed in the theory of conflict resolution, are unfamiliar

with the complex history of dam conflicts – and thus with many of the key structural issues that need to be addressed.

Only one case (Yacyreta) is considered in any detail, suggesting a worrying lack of familiarity with the literature and casting doubts on the team's selection as lead authors. The concentration on a single case would be justifiable if Yacyreta encapsulated the full range of causes underlying the failure to consult, but (inevitably) it does not. An analysis of even a fraction of the numerous other examples in the literature is essential in this paper if readers are to gain a more complete understanding (and knowledge) of the range of institutional, political, economic and cultural practices that currently militate against participatory planning processes. Such processes would include:

- institutionalised racism and other forms of discrimination;
- the pressure to lend;
- everyday institutional practices – from cost benefit analysis to national planning – that deny affected people a language in which to express their concerns, even where participatory processes are nominally in place ;
- the lack of accountability of planners and implementing agencies to affected peoples;
- the career incentives, hierarchical organisation and institutional priorities within many planning agencies, and
- gender imbalances etc.

These and other practices, many of which have already been identified in other review papers, require fuller analysis and illustration than currently found in the paper, as do the wide range of proposals for addressing them.

There is also a need to substantiate some of the uncritical claims made for successful participation in specific projects (Nam Theun 2, for example, or the Lesotho Highlands project) and to balance these claims with the views of critics.

Best Practice

Much of the current section on best practice is not about "best practice" at all. Rather it consists of a set of would-be "best practices". This needs to be addressed. If there are no real-life examples of the principles outlined in the paper being implemented, then the authors should say so – and analyse why and how this failing might be addressed. It is of little use giving principles for "best practice" if no one can implement them. If they are being implemented, then the paper should give chapter and verse on:

- how this has been achieved;
- by whom;
- as a result of what institutional and other pressures, and
- with what results?

There is also a complete absence of any discussion of what constitutes "best practice" for affected communities. This is a fundamental failing, not least because it suggests that "best practice" is something that applies only to institutional players – a view that reinforces, albeit unintentionally, the already marginalised position in which affected communities generally find themselves.

If, as the paper suggests in passing, genuine participation by affected communities rests in large part on their relative power – which in turn is dependent on their ability to organise – then this has important implications both for those confronted by proposed projects and for the institutions that might become involved in funding or managing them. For example, for would-be

fundings, best practice would be to refuse to fund dams where communities are denied the political space in which to organise. This is one form of best practice which could be considered in the paper: yet it is not even considered.

Power Relations

The TOR for the paper identifies "the asymmetry of power between those who can make or affect decisions . . . and those who are affected by them" as a major issue to be explored in the final paper. Yet scant attention is paid to this critical issue. How, for example, do current practices in consultation and participation reinforce inequalities in power? How does this affect the outcome of participatory processes? Again there is a need for detailed analysis of these issues, using specific case studies (of which many are available in the literature) to draw out key policy implications.

The paper also fails to give due consideration to the more general issue (again identified in the scoping paper as a major area of concern) of how dam projects impact the wider power relations in society and in affected communities. It is essential that the paper corrects this omission and treats this critical issue in the depth it deserves, even if this requires the services of an additional author who is familiar with the wider political dynamics of dam building.

Overall, the paper fails to address in sufficient detail or in sufficient analytical depth the structural, institutional and other barriers (such as the privileging of certain types of expertise over others) that curtail, restrict or deny a space to marginalised groups for negotiation. Although it acknowledges in passing that "gender, ethnicity, class, land tenure, religion are social institutions that influence the options stakeholders have for pursuing their interests and values in dam conflicts" (p.7), the policy implications of this key insight are not pursued. What everyday social and institutional practices, for example, reinforce power structures that exclude or marginalise affected communities (and groups within communities) from official decision-making processes? How might these practices be changed to increase the bargaining power of marginalised groups? Or, again, how does the current discourse of participation – including the language used in the paper itself – act to the detriment of marginalised groups? In what ways, for example, does the division of the world into "decision makers" and "stakeholders" actively undermine efforts to correct current imbalances in power?

Negotiation

Despite its title, the paper fails completely to address the issue of negotiation. What, for example, differentiates negotiation from participation? What lessons have been learned from on-the-ground experiences of negotiation, as opposed to participation, in deciding the use of contested resources? What measures were necessary to open up a space for negotiation? What are the pros and cons of shoring up negotiated agreements through legally-binding agreements? What are the preconditions for successful negotiations? Etc. Here the experience of the Cree and their negotiations with Hydro Quebec could usefully have been explored in detail. As it is, however, the issue of negotiation only receives treatment in the title.

Participation as a Right or as Lubricant

As the paper rightly acknowledges, participation, consultation and negotiation can be approached either as a right (the right of the public to have a decisive say in the decisions that affect their lives and livelihoods) or, more cynically, as a means of engineering consent or of defusing controversy.

The literature on participation – and the experience on the ground – strongly suggests that processes aimed at instrumentalising participation as a right are incompatible with those aimed at merely lubricating decision-making in order to secure predetermined goals. Participation as a right demands an open-ended process in which no one party has the power to dominate; participation as a lubricant, by contrast, aims to limit the scope for discussion whilst simultaneously guiding the decision-making

process in ways that appear open-ended and inclusive but which in reality close down the space for negotiation and marginalise critical voices.

The paper fails to address these incompatibilities – or their policy implications. It is an omission that must be addressed if the paper is to be credible.

Conflict Resolution

Underlying the paper is an assumption that, given the implementation of conflict resolution mechanisms, all conflicts are somehow resolvable to the mutual benefit of all. Many would challenge this assumption. In many cases, the conflicts reflect incompatible interests – and compromise is not possible. Dams frequently fall into this category, particularly where those affected refuse to move. Yet the paper offers no guidance on how commissioners might address irresolvable conflicts. Where agreement cannot be reached, who wins out? This issue is of vital importance and one on which the commission will need to take a clear view. The paper should offer some guidance to the issues involved.

b) Comments by Warren A. van Wicklin, (04 March 2000)

At last Tuesday's meeting the table summarising World Bank comments on WCD thematic papers indicated that neither of these papers had been reviewed. I feel it is a very high priority for the Bank to provide comments, so I took a few hours this weekend to read the four papers and Volume 2 of the Briefs. Unfortunately these papers came at a bad time for my own work schedule, so I could not devote more time to provide thorough comments, but the following will give you at least an indication of my views. I would urge additional efforts to get some of the 11 people sent the papers to provide comments. I do think every WCD paper should be reviewed by at least three Bank staff, to provide some checks and balances.

General observations. Like other WCD papers, these four papers draw very heavily from the academic and NGO literature, which tends to emphasise the negative impacts of dams, and to appear somewhat anti-dam. I am concerned about the positive impact, pro-dam perspective getting so little space in these papers. Most of the papers also seem to cite the same few dozen bad cases, with very little reported about the majority of dams that did not have these problems. I think this makes it more difficult for the Commission to achieve a balanced perspective. There needs to be some sense of how widespread and representative the problems are, but with a fairly anecdotal approach, the papers fail to provide that basic information. If all I knew about dams was what the WCD papers contain I too would have a much more pessimistic perspective than I currently do.

Social Impact: Equity and Distributional Issues. This paper very clearly and succinctly lays out the pro-dam and anti-dam views on pages 3 and 4. It identifies winners and losers in different project phases and geographic areas. It identifies positive and negative impacts. All of this is to be commended. It points out many areas where there is inadequate attention and knowledge. It lays out a large inventory of issues that should be addressed. There is a section that explores benefit sharing, especially of revenues. It does not explore other forms of benefit sharing (jobs on the project, ongoing employment opportunities, etc.). There is a significant amount of material on good practice principles, but not much on specific recommendations. Nonetheless, the overall quality of the paper does provide good overall guidance on potential ways forward. I found this to be the most satisfying WCD paper I've reviewed.

Downstream Impacts. This is one of the background papers for the Social Impact paper. It begins by saying it aims to address critical knowledge gaps about downstream impacts, but that very lack of knowledge and data prevents it from succeeding. While the paper does a good job of cataloguing an impressively large variety of potential downstream impacts, the paper offers relatively few concrete examples. Furthermore, most of the impacts they examine are negative impacts. Positive impacts are

mentioned more pro forma and in passing. There is very little discussion of good practice about how to mitigate negative downstream impacts. The most memorable example is restoring periodic floods downstream, especially from the Manantali dam, but apparently that began in 1997 and it is unclear how well it has worked to date. The paper offers only one page with five principles for taking account of downstream impacts.

Gender and Large Dams. This is another background paper for the Social Impact paper. It suffers from even less empirical evidence than the downstream impact paper. The paper cites the 1998 OED resettlement report several times, which shows how hard up they are for findings. OED did not focus on gender and found even less to report, except for the India case study paper, which the gender paper does not fully take advantage of. Because of the lack of data, the authors freely admit that they draw upon the broader gender and development literature, but it is unknown how much of that is relevant to large dams. The paper strives for balance, but the gender and development literature they cite is so negative that the paper ends up being very negative, although mainly in the abstract, not about particular dams. The only good practice seems to be what OED found in China. Both authors appear to be from South Asia and the paper disproportionately relies on cases and literature from India, almost to the point that one wonders what the situation is like elsewhere. The paper fails to cite any of the gender and resettlement literature in the Bank (Gopal, Sequeira) although I believe that material is unpublished and not well known outside the Bank. The recommendations appear reasonable, but are fairly general and abstract.

Participation, Negotiation, and Conflict Management. This paper is based fairly heavily on interviews with 23 dam experts from many different countries, types of organisations, etc. The paper does review relevant literature, but has limited emphasis on case studies except indirectly based on the interviews. This may have been necessary as relatively little appears to have been written about these processes on a case study basis. Therefore the paper is better at laying out the issues than in citing examples of good practice. At points the paper comes across as too theoretical. The paper does cite some good practice, such as Lesotho Highlands. Overall I find this paper to be fairly helpful. The recommendations are mainly suggested tools for conflict resolution, so they are very process-oriented. The limitation is that many of these tools might be dependent on societies having good conflict resolution systems. There is relatively little suggested on existing constraints in this regard, and how to move forward. Translating good practice from OECD countries to many developing country contexts could be very difficult.

Volume 2 Briefs. Only the two thematic papers are summarised, not the downstream and gender background papers. The brief on the Social Impact paper is very candid about the lack of information on downstream impacts and gender issues. As with Volume 1, the briefs are more balanced than the papers. Because these two papers (I.1 and V.5) avoid some of the flaws of the other social impact papers (I.2, Resettlement, and I.3, Indigenous People), the briefs are working with better material. On the other hand, because papers I.1 and V.5 are fairly rich, the briefs lose more good material. Long lists of questions are no substitute for a concise list of key recommendations. Again, I wonder why the WCD adopted this approach (no recommendations, only questions) for the briefs. At least the brief on Social Impact has a section entitled "A Framework for Addressing Equity" which is a step in the right direction.

Summary. Although all the papers have some limitations, and I think they are a bit too focused on the negative, I am more positive than I was after reviewing the resettlement and indigenous papers. I think these papers are making useful contributions, although much more in terms of laying out the issues than in identifying good practice or other solutions.

c) Comments by Joseph Milewski, Jean-Étienne Klimpt and Réal Courcelles, (2 March, 2000)

The document is a clear and concise textbook presentation on participation and negotiation, but does not address the "tough" practical and ethical questions, such as:

- how to resolve the *need for greater public participation*, and the *need to shorten the length and uncertainty of the decision-making process* (EA, Licensing process)
- How to get communities to participate in the early design stages of a project, before a decision is taken on various project alternatives.
- How to handle participation regarding *policy issues* (water, land-use, energy policies...) and participation regarding specific *project issues* (whether a specific project is acceptable). These are both participation issues, but at a very different level of analysis. Very often a project becomes the focus for a debate on policy issues, which paralyzes and/or derails the debate on project issues.
- How does one handle conflict resolution regarding the legitimate *rights of the locally-affected* people who might refuse a project, and the legitimate *right of a larger constituency* (region, nation) who favors/needs the project (NIMBY)
- How does one tackle the problem of participation / conflict resolution in countries where needs are urgent and where the "standard" OECD country procedures for EA and licensing may take 5, 10 or even 20 years?
- What detail of information & what level of participation is required at each step of a project phase? (e.g. preliminary studies, feasibility studies, draft design, licensing....)

All these are very real questions that project proponents, governments and regulators must confront on a regular basis, when handling dam projects. By not addressing these specific issues, the report leaves the Commission with the burden of trying to figure out answers for some of these questions by themselves. In other terms, the practical experience is not reflected in the report.

Specific comments:

sect. 3.7: "Best practices for resolving conflicts"

It seems to us that the best practice is missing: In our mind "conflict avoidance" should be the first objective and best practice, and much can be said on how to avoid conflict in the first place. One can argue that once conflict has erupted, then the job has not been done. From this perspective, public participation and negotiation are tools to avoid conflict. Conflicts arise when the diverging interests and perceptions are not properly recognized / integrated / addressed in the planning process.

A distinction should be made between "diverging views & interest" (perfectly coherent and something to be expected in any society), and "conflict" - e.g. a state of opposition or hostilities - (Concise Oxford dictionary).

The sentence in the report (bottom paragraph of p. 21) illustrates our point, above:

"Conflict resolution takes as a fact that conflict is inevitable".

Conflict is not inevitable; diverging views and interests are. Conflict is a breakdown in the shared social communication / negotiation process. Conflict is inevitable only in societies where no common social negotiation mechanisms are left.

- In Annexes A. -Dams Cited:

Sainte-Marguerite, Québec, Canada. (not St-George)

- The Appendix D, Fig 1: Stages in decision-making is not comprehensible.
- The Endnote XVI does not reflect clearly the process at Hydro-Québec. A suggestion is to replace it by:

"An example of such a process is the one used between Hydro-Québec and Aboriginal Peoples in Québec - Canada. In this process Hydro-Québec and the involved First Nations and communities 1) agree on a framework to carry out the Feasibility Study so that joint decisions can be made and joint EIA can be achieved 2) if the project is authorized by the different levels of government and well received by the local communities, then a Partnership Agreement is signed with the latter for the carrying out of the project. As for land claims issues, these are governments responsibilities; Hydro-Québec is not involved in their settlement."

d) Comments by Laurence Boisson de Chazournes, (23 February, 2000)

1. The Legal and Institutional Framework for Participation and Conflict Management:

It would be important to state that the legal and institutional framework for participation and conflict management should be taken into account as it might provide the "public space" necessary for participation to take place. Furthermore, conflict resolution methods may also be provided by the existing domestic structures in a country or through their updating.

2. The Cultural and Social Practices

It would be important to stress that the guidelines as stated in the report might have various profiles, depending on the region, the country and the people who are affected by a dam project. In other words, the cultural context is important when implementing the guidelines.

e) Comments by Dr. Patrice Talla, (23 February, 2000)

The analysis of public participation and methods of conflict resolution is based on the need to involve local populations in decision-making on projects which impact on their way of life and is linked to the national political situation, especially in developing countries, where dams are numerous.

In developing countries, the isolation of indigenous populations and the economically disadvantaged is due to a lack of political culture. They have little opportunity to express their ideas on activities which concern their life, nor do they have the means to react to the consequences of economic and infrastructure activities. It is important to take into account this political aspect as it relates to good governance.

Whilst the existence of guidelines is important, the question remains as to how international organisations can ensure their implementation. The role of international civil society also needs to be addressed. In the case where the construction of dams is unavoidable, it is important to inform the population, to evaluate the consequences on both the environment and traditional aspects of human activities (agriculture and fishing etc.).

How can indigenous groups express themselves? Who is best able to represent these groups? Are they organised in such a way that they can easily express their opinions? The answer to these questions can be linked to lack of information. Are the governments able to give the necessary information at the right time and in a way that the local populations can understand? All these depend on the political strategy of the particular government. In principle, the practice should be the expropriation and compensation of the population, but is this always the case? Is this an appropriate and sufficient solution? To illustrate this point, two examples may be considered.

At the end of the 1960s, the government of Zambia decided to build Kariba Dam, near Kafue-Lusaka. This project had a dramatic impact on the indigenous populations as they were displaced to an area far from their land and houses. Subsequently, the water from the dam flooded the land they were farming and was the main source of their sustenance. The conflict which ensued between the Zambian

authorities and the population persisted for many years as the authorities were uninterested in seeking a solution. This can be interpreted as a lack of good governance because the authorities did not take into account the general interest of the affected populations. There were probably no political risks with these populations for the government.

In the case of the Kata Sea Defence Project in Ghana, the local population refused to move in order to enable construction of the project, on the basis that they have a particular attachment to the land (they have been there for many years and their ancestors are buried there). The government cannot afford to go against the wishes of the Keta as it is from these people that it derives their greatest political support, a support which they cannot afford to lose.

The social and cultural consequences are more important than economic impact. Authorities cannot abuse their power by imposing their projects. One aspect of the principle of public participation and conflict resolution can be found in the traditional context. This involves contacting traditional authorities who usually have influence over the population. Their involvement in decision-making and their perspective can avoid problems.

Public participation must be seen for what it is: an essential human right, but governments use it as a political tool. As noted, the level of public participation is linked to the right to information. This process initiated by the WCD should include the formulation of a special section in the recommendation, which deals specifically with the right to public participation.

Land is the source of life and human sustenance. That is why many national conflicts have their source in land related issues. In traditional societies, the loss of land is considered as the end of life. When governments and economic actors decide on the building of dams, they at the same time, decide on the life of the populations concerned.

If the main point of conflict resolution is the assessment of the economic, social and cultural damages, then it is important to involve the population in the decision-making process, in its entirety.

f) Comments by Biksham Gujja, (14 February, 2000)

1. The report has some useful information on academic aspects of participation and conflict management but not much specific to the dams. The information in the report is applicable to any situation related to developmental projects. Most of the information is academic and probably available in the standard textbooks. By replacing the word 'Dams' the report can be applicable from road building to land reforms.
2. Lack of consultation (particularly with poor and local people) related to dam building is well known. But the report is expected to bring out some examples of how the issues have been resolved with negotiation.
3. Throughout the report 'public' is mentioned as some homogeneous group with one interest. Facilitating participation will result in good things. This is a very simplistic understanding and particularly unuseful when we are looking at the conflicts related to dams. This aspect has been very poorly dealt with in the report.
4. What about the conflicts with the ecosystem?. There are conflicts related to dam building which are real even after 'resolving' all the concerns of all the stakeholders. The impact on ecosystems is effective mostly in the long run or effects some downstream people who are not even in the scene in the beginning. The conflict related to ecosystems was not even mentioned in the report.
5. The conflict between developed and developing countries is one of the major conflicts (which is positive) for the present day debate on dams. 'Such norms concerning public involvement have evolved considerably during the past 30 years' (page 6, 3.1). By that time many developed countries had constructed dams. These new norms, guidelines now being dictated by the international community, are very well intended and in the interest of the developing countries as well, but still

there is resentment by many governments towards such imposition. This is a real conflict which needs to be addressed at conceptual as well as operational level. The report has little about this aspect.

6. One of the major conflicts and a source of other conflicts related dam building today is the different perceptions of 'development' and 'sustainable development'. The countries which are involved rather aggressively in building the dams today to some extent believe that they are building strong nations and in that process some 'sacrifices' are needed. These countries also to some extent believe that these 'new' rules are being framed to 'hamper' their 'progress'. This needs to be acknowledged as part of the conflict and dealt with it at various levels. It is also true that many dams built in 'developed' countries do not meet the 'present' methods and norms of public participation. Even though this has been mentioned in an academic way ('conflicts are caused by the differences in the ways that diverse people understand the world, each other, and their interests and goals for themselves and others' page 21, 3.7) it has not been elaborated on or related to the situation of dams.

7. The report has not captured the international dimension of conflicts and negotiations. For example, there are cases where 'loans' were withdrawn to stop the 'bad' projects (with very good intention, e.g. Narmada, India). This has not resulted in resolving conflicts but rather aggravated them. Similarly, to avoid such situations (of loan withdrawal), countries have gone different routes (e.g. China) to build much bigger and potentially more damaging dams (to people and the environment).

8. Therefore the preview of conflict management has to look wider than 'stakeholders'. This is not so in the report.

9. It would have been useful if the report had highlighted a case where conflicts have been managed through negotiations related to specific dams, which could be used as models for other situations. There are many tools (table.3) and a list of wishes (measuring success on page 20), but it would have been useful to know the examples where they have been applied to successfully resolve the conflicts.

10. There is some useful information on Page 21,22 and 23, but again academic. 'a wide array of stakeholders should be involved in collaborative problem solving to define, discuss and propose solutions to societal problems around watershed planning, electric power generation and agricultural and community water use' (page 22), but again, is there an example?

11. The report totally ignores the established institutions (legal and political) in the countries. Those institutions may be ineffective and not responsive, but have a role to play. In many countries the conflicts related to dams have ended up in the courts and sometimes the decisions were favourable to the poor and the ecosystems. How can they be dealt with and used effectively? There are elected representatives, assemblies and parliaments. How can these be used as well?

12. The further challenge in conflict management is not lack tools and methods, but how to apply them in real situations. What happens if conflicts are not resolved to the satisfaction of certain stakeholders and what is the role of the legal and other institutions in facilitating the decision? History of the dams' conflicts indicates that often the delay in resolving the conflict is more expensive than the conflict itself. What happens if some groups do not abide by the resolution? These are the real issues.

13. The most important one is the issue of who represents the ecosystem. Sometimes people who are effected by degradation of ecosystems do raise the issue. They can be compensated, but how can the loss to ecosystems be compensated? How about some issues which will only come out in the long term (changes to ecosystems, changes in quality and quantity of groundwater, sedimentation, loss of livelihoods in the coastal areas far from dams). Sometimes the people who are living far from the dam do not get anything (compensations to land, houses) and they are the losers. It is difficult for them to organise and represent in the negotiations since the effects are not immediate and not so visible.

14. The report has not mentioned the future challenges and how the nature of conflicts might change and accordingly affect the management. During the next two decades or so some of the poorest countries may start building dams in accordance with their perception of how to resolve the water crisis, generate hydroelectricity and control floods. How to avoid certain dams and meet the aspirations of the people and state need more emphasis than managing the conflicts while building the dams which do result in ecological and human misery.

15. Looking at the report in the light of the Commission's overarching goals (reproduced below), it has not made a significant contribution.

- To review the development effectiveness of dams and assess alternatives for water resources and energy development;
- To develop internationally acceptable standards, guidelines and criteria for decision-making in the planning, design, construction, monitoring, operation and decommissioning of dams.

16. Looking at the TOR for the thematic report and the Specific aspects expected to be covered by the report:

How the legitimacy of stakeholders as parties to decision-making is (or not) socially established?
How decisions are made which affect a broad range of interests, including those of future generations?

This has been covered partially. Not discussed is the legitimacy (in the context of the existing legal frameworks) of the stakeholders.

What has typically been the scope and limits to negotiations around dam projects? What kind of decisions have they supported? (e.g.: to identify development needs, to choose among dam and non-dam options, to build or not to build the dam, to improve the project design, to set better deals for resettlers, to buy out local communities, etc.)

Not covered at all.

How to deal with the asymmetry of power among the various interest groups in the negotiations around dam projects and their alternatives. To what extent majority and minority rights and concerns can be balanced. What is meant by "local consent"?

Dealt with in a general sense but not specific to the dams. Alternatives to the dams project have not been discussed.

Whether it is realistic to expect that dam projects – or other development projects, for that matter - should only be built if they constitute win-win situations? If a consensus is not attainable, how to reconcile the rights of potential beneficiaries with the rights of affected populations? What should be compensated and how to determine fair compensation?

Not discussed at all.

What are the available instances of mediation and recourse at various levels of decision-making, in case of non-agreement? Is there a need to establish a broad national or supra-national mediation, regulation and incentives framework to support the negotiations around dams (at the example of the International Tribunal in Hague, or the Montreal Protocol)? What could be the main elements of such a framework?

Mediation is mentioned (page 22), but that is too vague and can be applicable to anything. Not discussed in detail no suggestion of any framework to deal with the current conflicts related to Dams

How to ensure compliance with and commitment of the parties to negotiated results (e.g. enforcement of treaties, implementation of negotiated compensation and mitigation measures, etc.). What could be the incentive/control framework for enforcement? What are the rules for investors and host countries? How to better mobilise resources and capacities (human, financial, managerial, etc.) to ensure enforcement of agreements reached.

Not covered.

Using lessons and good practices regarding dispute settlement and conflict resolution practices and mechanisms, identifying how to increase the level of avoidance of disputes and conflicts around dams and improve the effectiveness of conflict management.

Not covered.

Identify best practices in conflict management approaches, and suggest a framework for the prevention and resolution of conflicts around large dams.

Not covered.

4. Issues specifically related to consultation and participatory decision-making include:

- On the basis of selected experiences, the mapping out of how consultation and partnership with communities and interest groups affect the results of large dams projects, and in particular successes and failures of project components such as the mitigation of environmental and social costs, and the management of conflicts between interest groups.

Not covered.

- What are the critical phases where systematic consultation leads to improved short-term and long-term performance?

Not covered.

- Identifying best practices regarding institutional building and strengthening of participatory approaches around large dam projects, and analysis of the extent to which they could be promoted more systematically in the future.

General methods and tools have been mentioned but they are not specific to dams nor are they based on examples.

- Identifying the current and desirable role of civil society in consultation processes regarding large dams. How to ensure a more effective role of advocacy and technical support to NGOs. Documenting best practices regarding partnerships between civil society and dam promoters.

Not covered in detail.

- Identifying participatory approaches that empower disadvantaged groups (women, indigenous communities, and others).

Not specific to the dams. Some tools have been mentioned. Good participatory approaches have been extensively developed by various organisations and groups and they can be adopted.

- Reviewing of existing procedures/guidelines and prevailing practices in engaging stakeholders in large dam projects; recommending a framework for improved stakeholder consultation throughout the planning and project cycles.

Not covered.

17. Overall the report does have some useful information but it is very academic and may not be very useful in resolving the conflicts related to dams.

g) Comments by Shalmali Guttal, (2 February, 2000)

Overall, the paper does not really say anything new or different about participation or conflict management. Despite the caveats offered by the authors that the paper was not meant to be a comprehensive or definitive piece on the issues, it is more a compendium of ideas from people and literature than substantive analysis of conflict creation, resolution and participation in the case of large dams. While the paper does offer some good points towards the end about what could constitute best practices, it is weak in overall substantive analysis and contribution to the "body of knowledge" that the WCD aims to build. There seems a lot of between-the-lines stuff and it would be better if the authors just came right out and said what they mean. Some specific points that I find problematic are:

1. Among the list of interviewees, there seem to be only two or three people from civil society, and certainly no-one from any affected peoples' group. In fact, the perspectives of affected peoples are seriously under-represented.
2. Pages 4-5: While there is a lot of elaboration of theoretical frameworks of participation, negotiation and conflict creation, there is little or no exploration of the political economy of conflicts, and the meaning of authentic opportunities for participation for vulnerable stakeholders. Just to say that the Government is distrusted is not enough. There needs to be more informed discussion about what types of differences among stakeholders and social groups give rise to conflicts, the nature of these conflicts, who distrusts the government, why, etc.
3. Page 12: The mismatch of costs and benefits goes well beyond a "structural challenge to dialogue," it is a fundamental moral-ethical question, especially since large dams are positioned as development initiatives; however, when you do a distributional analysis it seems that the most socio-economically vulnerable groups pick up most of the costs and end up with the least benefits; there is a clear relationship between conflicts, and how the full and real costs and benefits of allocating resources towards dam projects and mitigation are assessed; many of the causes for conflicts are deeply entrenched and this needs recognition.
4. Page 13: In a truly consensual, or even democratic decision-making process, the ability of some groups to make or influence decisions over others should not be permitted to unduly control the overall process; governments, State agencies and large corporations have more power than affected peoples' groups, but all of them are stakeholders after all; so the point is not that stakeholders have "reasonable control" over some of the public participation processes, but that control of these processes is balanced and equitable across the stakeholder groups.
5. Page 15: An extremely important set of assumptions that need to be revealed are those about development – what it means, how it is defined, framed and understood; assumptions about development are necessarily informed by class, culture, gender, etc., and are much more fundamental to conflict than is currently recognised; they are also key in how natural and human resources are assessed and valued; conflicts about immediate impacts and the "greater common good" cannot be separated from these assumptions.
6. Page 16: Some bits on this page seem to posit public participation as a process by which people can be convinced about the needs for large dams; the process should not be about pushing or justifying dams or other ready-made solutions, but about authentic debate about what the problem is (if there is indeed a problem) and what solution might work best for whom.
7. Page 18: (Re. self selected participants, etc.) Exclusion is objectionable not simply because it reduces opposition, but more because it is often an attempt by those in positions of power to manipulate other stakeholders by allocating or taking away legitimacy; who is eventually to say which group is a legitimate stakeholder? Are private companies legitimate stakeholders simply because they bring money to the table? Are governments legitimate stakeholders simply because

they have institutional/State power? Also, if development approaches and interventions can be globally applicable (as dams seem to have become), then so can stakeholders be globally legitimised.

8. Page 18-19: What are the "insurmountable obstacles?" It is extremely important to articulate why some stakeholders will not prioritise their involvement: fear of political repercussions, lack of self-confidence and self-esteem, and other insecurities that arise from historical disadvantage / disempowerment; also, it is extremely important that local stakeholder interests are adequately valued and represented; all stakes cannot be accorded the same value – experiences of those immediately affected by the dams are very different from the "interests" of dam developers, etc.; we cannot make the assumption that affected people will always be appropriately represented by the State or other peer groups – societies are internally differentiated by class, caste, sub-cultures, etc., and these make the challenges of representation extremely tricky.
9. Page 21: Again, a major source of conflict is the manner in which costs and benefits are identified, valued and weighed in terms of distribution; the question needs to be asked whether there is space in mainstream development thinking to look at "value" beyond the confines of traditional costs and benefits; for those who have a hammer, anything can be a nail, and dam project proponents will always find justifications for their position; this comes through very clearly in public involvement and the challenge is whether genuine public debate can not work "solution backwards" (the Nam Theun 2 public involvement consultations were all solution backwards – there was NO debate).
10. Page 22: Sure, we all need better, more participatory EIAs, but surely the authors can say more about transparency than this?
11. Page 27: It's all very well to identify these discrete stages of a participation continuum, but it is in the last instance window dressing if the public – particularly those most affected – is unable to influence the final outcomes.
12. Page 32: It is important to elaborate what is meant by "full and active participation;" stakeholders should be able to speak openly and safely, without fear of political or other repercussions; also those groups who have been historically disempowered will have trouble participating fully; also, we need to recognise that participation and representation are not the same, and certainly not substitutable.
13. Page 34: Not always possible to separate personality and substantive conflicts; substantive issues can arise precisely because of difference in perception, interpretation and framing of situations – culture, material reality and psychology are more interlinked than is often apparent.

h) Comments by Liane Greeff, (31 January, 2000)

As is typical of the review process, the comments here concentrate on problem areas, though there are many positive aspects of the paper and the authors have managed to synthesise the issues well and succinctly. The comments come in three parts:

1. Broad overview comments;
2. Comments from the Lesotho NGO - Transformation Resource Centre - with respect to the paper's references to Lesotho NGOs and the Lesotho Highlands Water Project;
3. Comments made by Mark Butler, of Critical Resource on behalf of the Environmental Monitoring Group, on the Draft Thematic Paper.

1. BROAD OVERVIEW

- A paper on participation should ensure that it is undertaken in a participatory fashion and it is clear from the list of 23 people interviewed (page 37) that they are not representative of the broader stakeholders around dam issues, as only two interviewees represent civil society. This is particularly true for the seven African contacts that represent six authorities and one Environmental Consultant. In the case of the Lesotho Highlands Water Project, people from all the relevant authorities were interviewed, namely the Lesotho Highlands Development Authority, the South African equivalent Trans-Caledonian Tunnel Authority, the Lesotho Highlands Water Project and the Lesotho Highlands Water Commission. But no-one from either the communities affected by the project (either in South Africa or in Lesotho) or from the NGOs – South African or Lesotho – were interviewed. The latter were referred to in many instances, and often incorrectly as indicated by comments from the Transformation Resource Centre, one of the key Lesotho NGOs which works on LHWP issues which will be discussed in more depth. Similarly, in the case of Maguga Dam, the authorities were interviewed but not the relevant NGO. Community perceptions of the Lesotho Highlands Water Scheme and the Maguga Dam are clearly reflected in Report on the Southern African Hearings for Communities affected by Large Dams, which is available electronically.
- Whilst we agree with the tenet that there is a need for greater adherence to good practices for public participation, the paper should include a much stronger discussion of how to ensure (monitoring and enforcement) that agreements which come out of negotiated processes are adhered to. And also to explore how to build in financial mechanisms that protect those affected by the dam when developers and decision makers renege on their promises. Similarly, the discussion should look at the operational phase of the dam's lifetime in a more focused way, and give guidance on how to deal with dam impacts such as loss of floodplain agriculture and resources.
- The key principles should be highlighted in the executive summary.
- There is insufficient reference to the issue of participation, negotiation and conflict resolution in non-democratic societies such as dictatorships. There needs to be clear and strong guidelines for funders in instances where dams are being looked at in non-democratic societies.
- The paper does not go into enough detail regarding who sets the agenda in the participation process, who prepares the evidence and who has access to technological support. One potential mechanism for equalising participation is that of royalties whereby dam builders pay royalties into a fund to support indigenous people to have access to technical support. Information needs to be appropriately conveyed. For instance, when dam builders approached the Himba community regarding Epupa Dam, the only reference point they had were small farm dams. They had no idea of the magnitude of the impending development or about construction impacts such as HIV. Field visits to other dams can help communities to grapple with the issues that they will face if a dam is built.
- Similarly, not enough emphasis is placed on the inclusion of the no-development option, and also the dangers of participation. In the case of the Himba Community of Namibia, they have consistently refused to be part of the EIA and Feasibility studies, which has been advantageous to the community, as the dam proponents cannot provide a mitigation plan.
- Paper deals a lot with methodology but not about how effective it is in reality or how to ensure that mechanisms become more effective
- The paper should explore some of the conditions that make participation meaningful, such as:
- information available and easily accessible – in own language, funding implications, source etc;

- enough time for consideration by community structures (not just one meeting);
- separate the information dissemination and decision-making meetings;
- a facility or fund that enables technical support in the preparation and submission of reports or the appointment of the required technical expertise;
- a specific facility and investigation into the impacts on women;
- setting up of a joint monitoring and evaluation committee. Recourse set up as part of the negotiated agreement, including appeal and arbitration, and
- highlight costs and benefits, direct and indirect, and who pays the costs and who gets the benefits.

2. Comments on the references to the Lesotho Highlands Water Project from Motseoa Senyane and Ryan Hoover of the Transformation Resource Centre, based in Maseru:

- It seems rather strange to write a paper on participation without having interviewed any communities.
- Similarly, it is very strange to talk so extensively about LHWP without having spoken to any local NGOs or affected people in Lesotho.
- When the paper refers to "phase 2", they actually mean Mohale (phase 1b).
- With respect to the comment on page 20, it is definitely not our perception that international NGOs attempted to "woo" us to oppose the project.
- With respect to page 21, we dispute the assertion that Mohale was transparent.
- With respect to page 29, in our view community liaison structures have been incredibly co-optive and a brilliant move by Lesotho Highlands Development Authority to distance themselves from community concerns.
- With respect to page 24 and 35, the Treaty Review Process did not have extensive involvement of affected and potentially affected people.
- Lastly, with respect to page 35, accusations from villagers are that chiefs are often bribed (in a variety of ways) by the Lesotho Highlands Development Authority.

3. Notes in response to: "Participation, negotiation and conflict management in large dams projects" (draft)

Compiled by Mark Butler, with minor changes by Liane Greeff

Introduction¹⁷

In the Final Declaration of the Southern African Hearings - *Voices of Affected Communities* (1999) - it is stated that:

"In our experience, the history of large dams is one of broken promises. Large dams have been built:

- with inadequate community participation;
- with too few jobs going to local people;
- with inadequate education and information dissemination, and
- with inadequate compensation and resettlement resources, especially land.

"... To ensure that in the future, communities are treated in a just, equitable and dignified manner we make the following requests:

- Dams must be seen as a means to development, not an end in themselves.
- Affected communities must be allowed to participate as equal partners in the process. This means the following:

¹⁷ I would like to acknowledge and thank various colleagues who assisted by accessing resources, making inputs or commenting on an earlier draft of these notes, especially Anne Harley, David Hallows, Rod Bulman, Liane Greeff and Noel Stott.

- Communities become “shareholders” of dam projects, resulting in benefits accruing directly to communities through such mechanisms as trust funds;
- Communities, including end-user communities, are involved in the decision-making process before the decision to build has been made, and
- A process is established to facilitate negotiated agreements on key aspects of projects, including compensation, resettlement and benefit sharing.

"In order to facilitate effective participation of communities in the decision-making and implementation process, and to increase openness and transparency, the following must be done.

- Empower communities, including informing them of their rights;
- Increase the involvement of local and international NGOs and the media;
- Facilitate the development of community committees;
- Strengthen other existing, locally-based structures;
- Provide capacity building and training programmes, including those related to home construction;
- Make available to the public all project documents, including budgets; and
- Provide funds for community and NGO participation".

It is abundantly clear that the question/s of participation with respect to big dams are fundamental and the WCD is to be commended for recognising this and encouraging debate through commissioning the thematic review. Furthermore, there is much in the review document itself to be commended. However there are critical weaknesses and areas of concern too – the notes which follow identify and outline some of these. In these notes the concerns are articulated and, where relevant, are referenced against particular examples in the text of the "Participation, negotiation and conflict management in large dams projects" (draft) Thematic reviews: Institutional Processes (WCD 1999 – hereafter referred to as the draft thematic review).

Why participation?

The draft thematic review is not clear or consistent with respect to an understanding of participation. The UNDP (1997) points out that one can understand participation as, on the one hand, a **means** for more effective project implementation and successful outcomes or, on the other, as an **end** in terms of empowering people through a process of acquiring skills, knowledge and experience to take greater degrees of responsibility¹⁸ (e.g., in the latter context, poverty can be understood in terms of exclusion).

So participation can be concerned with both

- methods and techniques** for local people to develop a stake in development projects and programmes, and
- structural relationships** and the development of skills and capacities to negotiate and seek resources and change.

Both are important – the former can help to secure immediate access to the benefits of development, the latter makes longer term, sustainable development prospects more likely for poor people. The former is unlikely to fundamentally challenge the wider context and power imbalances, the latter is basically transformative in orientation. The draft thematic review tends to prioritise the former understanding while constantly having to face the underlying reality that effective participation is constrained by structural imbalances.

¹⁸ Of course, participation can also be 'misused' as a means to co-opt groups into a predetermined outcome or as an end to further disempower groups with limited capacities - both these possibilities are discussed later in these notes.

A weak understanding of the motivation/s¹⁹ for participation also allows the authors to treat the topic in an abstract manner without sufficient reference to the content and thrust of the arguments made by those who have struggled for recognition of the need for participation with respect to large dams. Instead of recognising that the struggle to be heard has been waged by people and groups whose views have not only been largely sidelined from the business of big dam construction but which have also proven to be essentially valid²⁰ (especially with respect to environmental, social and developmental 'externalities'), the draft thematic review tends to operate from a managerial perspective concerned with the imperative to contain conflict within the underlying framework of the big dam industry (despite occasional claims to the contrary). For example, in their general discussion of sources of conflict (section 3.1 WCD 1999), the authors stress that, in general, conflicts have a useful function in encouraging the readjustment of social norms – however, their focus is on "such norms concerning public involvement" (WCD 1999: 6). However, in respect of big dams, the norms that have been challenged by interest groups excluded from decision making in the past are not only those about participation for its own sake but the set of developmental assumptions underpinning the construction of big dams *per se* where big dams are understood as expressive of a meta-narrative of 'development' which has increasingly been questioned.

Non-dam options

The draft thematic review claims that an over-riding principle is that participation "have an impact on those decisions" (WCD 1999: 16). This is hardly commensurate with the underlying assumption which emerges from time to time in the work – namely that the public participation process will only continue if people "at least understand and, if possible, accept the justification for a large dam before the public participation process can move ahead" (WCD 1999: 9). Later in the draft thematic review (point 4 of Section 3.6) 'Best practices for involving the public' a "wide-open' public participation process, that is one where there is no predetermined outcome" (WCD 1999: 15) is by clear implication, held up as an *option*. Participatory processes are either genuine – in which case they are open-ended and people have a real opportunity to impact on decisions, or they are shams to head off conflict and opposition – in which case the outcome (i.e., building a big dam) is pre-determined whatever the 'participants' say.

The concern about non-dam options is closely related to the discussion later concerning concrete steps to access critical expertise. Given the at best ambiguous social and environmental impact of big dams, the draft thematic review should be more rigorous in outlining how to ensure that participants have a full opportunity to assess non-dam options to address identified challenges, constraints or problems. This would be a far more likely possibility if, at minimum, the processes of options scoping and impact assessments were required to demonstrate an equal distribution of financial and intellectual/expert resources to dam and non-dam alternatives. Instead the draft thematic review appears to suggest that if the participation process rejects a dam-based option, that marks the end of the process! – see WCD 1999: 9: "People must share a common understanding of these considerations, and must at least understand and, if possible, accept the justification for a large dam before the public participation process can move ahead". This appears to be confirmed in the authors' summary statement at the end of the section on 'decision making' which more or less excludes rejecting the big dam option on a case-by-case basis:

"To summarise, stages in the process that can afford public input include national energy policy, regional water planning, setting site options, final facility siting, design options, environmental impact assessment, social impact assessment, construction stages and long-term operations" (WCD 1999: 10).

¹⁹ There is the strong possibility that different interest groups (e.g., local people's organisations and big dam developers) will have different motivations for participation.

²⁰ If nothing else, the very existence and scope of the WCD indicates that the concerns raised by big dam critics are taken seriously by a broad range of stakeholders.

Participation and decision-making

The draft thematic review fails to come to grips with the relationship between participation and decision-making in a satisfactory manner. (This may in part be the result of the bizarre decision by the WCD to deal with these topics in separately commissioned papers.) Inevitably (and correctly) this draft thematic review does make some direct and indirect comments on decision making.

Influencing the decision outside the formal participation process

Other forms of leverage to influence a decision or outcome are often exercised outside the formal parameters and agreed mechanisms of a participation process. Those with power (social, economic and/or political) access a range of options and avenues in this regard – often quietly and behind the scenes. Those with less power, by definition, do not have the same ease of access and their attempts to leverage influence over a decision may be more public or strident.

Where there is perceived to be a high degree of legitimacy and effectiveness of the public participation process itself, and where other parties are perceived to be acting in good faith, there is probably a lower likelihood that parties will resort to action outside of that participation process. But perceptions of legitimacy, effectiveness and good faith are important conditions which are certainly not uniformly attained and so parties may well turn to actions outside the process – this is not necessarily illegitimate or indicative of bad faith (though it could usefully serve as a prompt to those responsible for the process to rebuild its legitimacy and effectiveness).

Participation and the principle of 'open-endedness'

The draft thematic review stresses repeatedly that participation should "make sure that the activities actually affect the decisions being made" (WCD 1999: 8); but what do they mean? Is the implication that each stakeholder group has an effective veto power? The authors only lay out a series of abstract models of participation to indicate that participation can be located on a continuum – in its fullest form (what the authors call consensus-building), decisions made may have to meet the requirement that they satisfy "all of the participants rather than some or most of them" (WCD 1999: 19).

In the authors' discussion of 'the participation continuum' they note that:

"many public participation processes are not necessarily conducted in order to lead to consensus. Instead they are aimed at generating a broad range of issues for technical evaluation, and providing the authorities and project proponents with the views and needs of stakeholders" (WCD 1999: 17).

In so doing, one version of a fundamental question is raised (but not adequately dealt with) – namely, participation for what? A quite significant distinction is suggested in the section quoted above between:

- a. joint decision-making by stakeholders (what the authors tend to call their 'consensus-building' or collaborative problem solving models), and
- b. enabling accountable decision-making by decision makers (usually government).

Perhaps these options should be left open, since both models have their place, but the distinction should be made explicit and a set of 'minimum standards' articulated for each scenario. A weakness of the draft thematic review is that it does not clearly distinguish the options and their principled and practical implications. So for example, in the section 'Decision-making' (section 3.3, esp. at p9) one paragraph²¹ discussing the collaborative problem solving model, is followed by a paragraph which starts: "As decision-makers choose the facility site, ...there are additional opportunities to involve the

²¹ the paragraph starting: " Through collaborative problem solving..."

public and handle conflicts" – clearly implying that 'decision makers' are in this instance a separate entity from participants in the public participation process.

The authors of the draft thematic review may have painted themselves into something of a corner by conflating 'consensus-building' models of decision making with effective multi-stakeholder participation in a decision. In principle, a non-consensual outcome of multi-stakeholder discussions need not necessarily imply that the participation of the stakeholders was a sham. The authors are undoubtedly correct in fore-grounding the advantages of seeking wide consensus for more sustainable and acceptable decisions and outcomes but consensus between stakeholders can surely not be the only basis for legitimate decisions.

The possibility of non-consensual decisions being the outcome of a participatory process raises at least two important issues not adequately dealt with the draft thematic review:

- a. the question of a right to appeal that decision – an area not addressed in the draft thematic review at all. That there is no provision for appeals procedures in the draft thematic review may, once again, relate to the separate thematic review on decision makers and decision making.
- b. If complete consensus is not the only basis for legitimate decisions, then the principle of accountability for decisions must be invoked – at least in the sense that decision makers are compelled to 'account' for their response to the views expressed in a participatory process ("We rejected this idea because..."). (Clearly this is not unconnected with the issue of appeals.)

Furthermore the authors' discussion of the various levels of participation is perhaps not the most enlightening. The following from the UNDP is an instructive alternative:

"These can be understood along a continuum and can range from participation as essentially an act of manipulation to a degree of participation in which stakeholders become **partners** in the development initiative and begin to assume full responsibility for its management:

- i. **Manipulation**: the lowest rung applies to situations of 'non-participation', where participation is contrived as the opportunity to indoctrinate.
- ii. **Information**: when stakeholders are informed about their rights, responsibilities, and options, the first important step towards genuine participation takes place. The main drawback at this stage is that emphasis is placed on one-way communication, with neither channel for feedback nor power for negotiation.
- iii. **Consultation**: this level entails two-way communication, where stakeholders have the opportunity to express suggestions and concerns, but no assurance that their input will be used at all or as they intended. Therefore, it could be said that at this level stakeholders are 'participating in participation'. The most frequent approaches to consultation are chaired meetings where stakeholders do not contribute to the agenda, public hearings, and surveys.
- iv. **Consensus-building**: here stakeholders interact in order to understand each other and arrive at negotiated positions which are tolerable to the entire group. A common drawback is that vulnerable individuals and groups tend to remain silent or passively acquiesce.
- v. **Decision making**: when consensus is acted upon through collective decisions, this marks the initiation of shared responsibilities for outcomes that may result. Negotiations at this stage reflect different degrees of leverage exercised by individuals and groups.
- vi. **Risk-sharing**: this level builds upon the preceding one but expands beyond decisions to encompass the effects of their results, a mix of beneficial, harmful, and natural consequences. Things being constantly in flux, there is always the element of risk, where even the best-intended decisions may yield the least-desired results. Hence accountability is fundamental at this level, especially when those with the greatest leverage may be the ones with the least at risk.
- vii. **Partnership**: this relationship entails exchange among equals working towards a mutual goal. Note that equal as applied here is not in terms of form, structure, or function but in terms of balance of respect. Since partnership builds upon the preceding levels, it assumes mutual responsibility and risk sharing.

viii. **Self-management:** this is the pinnacle of participatory efforts, where stakeholders interact in learning processes which optimise the well-being of all concerned" (adapted from UNCDF, 1996 in UNDP 1997).

Stakeholders

Problems at the 'local' level

The draft thematic review argues strongly that local populations 'directly affected' are 'core' stakeholders – and since they are often poor and apparently not very well 'organised', their participation must be consciously enabled. The basic argument that local groups of vulnerable populations must be empowered and enabled to engage meaningfully with decision making on such decisions as big dams is correct and supported. According to Forbes, the guiding principle should also take into consideration a concern for the consequences of developments and projects. Within the difficult process of arguing the relative weights of anticipated costs and benefits of a big dam, local views ultimately have to be argued in a broader decision-making framework and context. It is particularly important to take local arguments seriously in situations where the complex linkages between local populations and existing environments and local conditions are inextricably bound together with the continuation of local livelihoods and cultures – i.e. where the impact of a big dam's disruption of a local context or environment/s would be catastrophic in terms of peoples' livelihoods.

There does need to be some discussion on what constitutes local or affected populations, as the term is fairly vague as it stands and does not take into consideration the point made by Peters (1996) that "large projects, like dams, have multiple affects over time and space so that there are many locales that can constitute the proper domain of the 'local' voice" (Peters 1996: 24).

Given that the authors of the draft thematic review are implicitly aware that it is often local populations (especially when they also poor and poorly organised) who are least capable of effective participation (or who are at least the group most constrained in their participation by a range of factors), one is tempted to read a hidden cynical agenda that excludes relatively better resourced big dam critics (like NGOs) from effective participation while allowing the 'participation' of 'local' groups – especially if their 'capacity' has been developed through education and other programmes sponsored by developers, governments or multi-lateral finance institutions²².

The draft thematic review recognises that there are many ways in which societies and groups within societies are differentiated (they refer e.g., to culture, family norms and so on) but this understanding does not seem to apply to 'local' and poor 'communities'. Development practice is increasingly abandoning the notion of homogenous communities in favour of a recognition that stratification, differentiation, and competition are not only social characteristics at the macro-scale but exist – and powerfully so – through to the local and micro-level (regional, local, ethnic group, tribe, neighbourhood, and family and so on). Facilitating the participation of local populations in big dams-related processes will not avoid entrenching these characteristics unless they are recognised and addressed. This 'blind-spot' with regard to internal differentiation at the local level is characteristic of a certain romanticism about 'local', 'indigenous', 'rural', 'pre-Western' 'communities'. There is much wisdom at local level which can and should be tapped but, for complex decision-making processes like those associated with large-scale developmental infrastructure, it is dangerous to assume that any one group (technical experts, civil society gurus, local leadership and so on) has an exclusive monopoly on truth – the basic point made (if inconsistently) in the draft thematic review is probably correct that better decisions are more likely from more diverse information.

²² this is not the intention of the draft thematic review - but, if such cynical manipulation is to be avoided, the principles suggested therein must be far more clearly and forcefully understood.

Gender, and the participation of women

One instance of stratification at the micro-level which is ubiquitous is the subordination of women. The practice and theory of participation and participatory development now almost universally recognises the challenge that this poses – but the authors of the draft thematic review substantially ignore it.

Legitimacy and participation

The authors identify and discuss some of the complexities surrounding issues of representation – who speaks for whom. A real danger with the approach taken in the draft thematic review however is that 'legitimacy' for the purposes of participation is constructed largely around the criteria of representation. With regard to the roles and rights of NGOs, it might well be the case that in certain instances they claim to 'speak on behalf of' a particular group of people and that sometimes this is accomplished well and sometimes not. But on the whole the right to speak claimed by NGOs is not necessarily derived from a strict or formal notion of direct representation of particular group interests but rather from commitment to a set of values and insights which form the basis for an analysis of particular situations and a strategy to act on that analysis. Sometimes these are best expressed as impacts on local people or environments and this is 'true' irrespective of whether or not local people accept the truth of the claims made (or indeed irrespective of whether or not local people accept that the negative consequences which may be highlighted in such an analysis outweigh what they consider to be positive spin-offs – e.g., promises of jobs versus preservation of an intact river system, or relocation to newly-constructed housing versus preservation of ways of life). In some senses then, there would be no inherent contradiction for an NGO to make submissions and arguments relating to a proposed big dam even where *no* 'local' group shares those views – the arguments should be taken up in public debate and dealt with on their own merits – if no-one anywhere in the world comes to share the views or concerns expressed by our hypothetical NGO, their capacity to influence outcomes will wither anyway. As indicated earlier, some of the major themes that have been raised historically by NGOs and others in relation to big dams have indeed been taken on board as meaningful for many 'local' populations and a wide range of others globally. (It is also the case that many civil society organisations premise their work on strong principles of solidarity and accountability to the poor and marginalised and so can indeed often very well 'represent' the views, concerns and interests of those sectors. Finally there are NGOs who would claim the right to speak on behalf of 'the environment' precisely because no other social interests are doing so.)

Technical experts

While the draft thematic review recognises that the various categories of 'expertise' conventionally associated with the planning and construction of big dams are usually in favour of big dams (see page WCD 1999: 12), the authors do not recognise the obvious implication that 'technical experts' on the whole are part of the same interest structure as big dam promoters and developers, and that they therefore share an underlying world view or ideology which is more or less hostile to perspectives held by many of the critics of big dams.

In a sense, technical experts might be usefully viewed as an interest group – or at least as participants – who, along with all other stakeholders and participants, have a contribution to bring to the process. In a participatory context, their contribution (e.g., in specialist areas of environmental science, engineering, hydrology, participatory facilitation) may assist in reaching a good decision when all participants in the process can, for example,,

- a. make sense of it, understand the others' inputs, contributions and information (see the discussion of 'transparency');
- b. articulate their own interests, views, responses and concerns coherently and confidently, and
- c. negotiate on level playing fields to establish the extent of possible consensus on ways forward.

Stakeholder analysis

Although it is almost implied (and would probably be required to achieve some of the goals of the draft thematic review – e.g., their proposals for 'measuring success' of public participation), there is no explicit commitment to conducting rigorous 'stakeholder analysis' at the outset of a participation process – and to iteration and expansion throughout. This is a surprising omission when, in the field of participatory methodologies, "**Stakeholder Analysis** ...is an inherent part of any participatory approach. These exercises are intended to help planners clarify how an activity will affect peoples' lives as well as identify groups which may have been overlooked but who will be affected by the development activity" (UNDP 1997).

Principled practice

Despite the stated intention of the draft thematic review to link principles of participation with practice-oriented proposals derived from them, it frequently fails to do so effectively.

Since all the 'best practice' proposals put forward in the draft thematic review are intended to support participation of groups and people who were ironically excluded from the process of drafting the draft thematic review itself, it would be useful to see a commitment to facilitating a participatory review of actual practice as experienced by the intended beneficiaries of participation. Perhaps this is an ongoing process which the WCD itself could facilitate to provide feedback to implementers, practitioners, regulators and participants and to enable learning and improvement.

Who pays the experts?

In the draft thematic review, it is recognised for example that even providing support and expertise to build capacity for participation can be seen "in a less favourable light" (WCD 1999: 13) where it is paid for or provided by the dam builder or national government and where there is suspicion that the covert aim is to secure support for a proposed dam. When read together with the earlier acknowledgement that "those who are either building dams or who are conducting public participation programs are almost always professional people who... [i]n many cases ...are usually in favour of the dam on which they are working" (WCD 1999: 12), these issues raise questions about the possibility of open and participatory process where one set of interests can not only marshal far greater resources in support of their own agenda but are the paymasters of those who must inform (e.g., technical experts) and frame or facilitate (e.g., facilitation practitioners) the broader process too.

A related point should be made. The draft thematic review correctly notes that involvement can be uneven as a result of "disparate access to resources and different capacities. Resources may include money, time, and information; capacities may be organisational, linguistic, cultural, and informational" (WCD 1999: 8). The draft thematic review fails to provide concrete mechanisms for overcoming these hurdles. It is naïve and disingenuous to simply assert that:

"Public participation programs should start with information transfer... Why are large dams necessary? Is it possible to achieve the same water resource development objectives in the absence of a large dam? Will one or a series of smaller dams not do? Not have fewer impacts? These are complex, technical issues" (WCD 1999: 9).

We have argued that participation in big dams-related processes is not conducted only for its own sake but because the critiques of various aspects and impacts of big dams have been substantially and repeatedly demonstrated to be correct. These critiques were raised by 'stakeholders' usually excluded from formal big dam decision making who brought a different set of values, concerns, analytical tools (and indeed a fundamentally developmental vision) to bear on the issues raised by big dams. So a key aim of participation here is to ensure that such perspectives and criteria are not excluded in future big

dams practice²³. This will probably only happen in a reliable and consistent way when the hegemonic dominance of 'establishment' or broadly pro-big dam experts is at least balanced by a commitment to resourcing and accessing alternative sources of expertise. The pro-dam industry is unlikely to be the sponsor of this sort of information. So there must be concrete recommendations that ensure that information flows designed to enable participation actively seek out and commission critical expertise as well.

Information – even balanced and diverse information – is however not a sufficient condition. The draft thematic review's discussion of the need for transparency is fundamentally flawed since it considers transparency simply as the full and open access to all relevant information²⁴. Hallowes (1993) has argued that:

"we should distinguish between transparency of information and open disclosure of information. The latter simply means that no-one should keep secrets which affects other people's interests. The former implies that everyone should be able to understand information in the same way" (Hallowes 1993: 6).

The practice of 'participation' is replete with scandalously inappropriate forms and levels of 'information sharing' which at best simply serve to compound the experience of marginalisation and alienation of the poor and which at worst are clearly deliberate attempts to swamp their limited capacities with technical data and the like in the name of 'transparency'.

Where the process is steered by a multi-stakeholder structure, it might be better to secure an amount of money to constitute a common kitty to be spent and accounted for by the multi-stakeholder structure. This would begin to deal with the crisis of legitimacy faced by experts (discussed above) since they would no longer be paid by the developers directly and it would also open up the possibility of key but weak stakeholders selecting or commissioning their own expert opinion.

Governance context

Introducing their 'Principles for involving the public in decisions' (sub-section of section 3.6), the authors state that the basic principle of effective participation in decisions affecting people's lives is "rooted in the reality of governmental legitimacy and the ideals of democratic societies, which hold out the prospect that all of us can have input into the meanings and material conditions that affect our lives" (WCD 1999: 16)²⁵. What they do not address is what they propose where the assumption of a

²³ in a milder form, this is broadly what the draft thematic review has in mind when discussing improved *decision quality* as a result of participation

²⁴ later in the draft thematic review (sub-section 'Information sharing' of 3.6 'Best practices for involving the public'. WCD 1999: 18) the range of mechanisms for sharing information listed implies a greater commitment to more accessible forms of information.

²⁵ Peña's submission to the WCD on the experience of the Yacyreta hydroelectric project strongly endorses the idea that a broader democratic context can be critical to enable effective participatory processes whereas under repressive military rule, participation was violently suppressed.

democratic governance context does not hold. While an anti-democratic context hostile to participation no doubt constitutes a complex challenge for participatory decision making, it is hardly satisfactory to simply ignore this challenge (as the authors of the draft thematic review do).

A complex issue such as this deserves more than brief comment but it is perhaps worth considering whether the precedents being set by multi-lateral development agencies, where principles of 'good governance' are held as conditionalities for support to recipient governments, suggest some parallels that might be extended to censure private companies and their agents who flout the principles of good governance and participatory decision-making. The authors of the draft thematic review do hint that adherence to these principles might enable leverage of project funding from institutions like the World Bank, but it is suggested that this could be extended – few dam-building companies could easily afford to be 'blacklisted' from participation in dams- and water resource-related work.

5. Other brief comments

- WCD p6 - poor definition of interest which has usually been understood in economic and class terms.
- While part of the draft thematic review title, 'negotiation' is not dealt with except as one type of conflict resolution modality. This is perhaps insufficient since a context of hard negotiation would bring the issues of imbalances of power and access to a range of resources even more strongly into focus and may well require different forms of support and rules of engagement to ensure fairness for non-corporate, non-government, and non-professional groups.
- While they note the many and varied ways in which the capacities of poor and marginalised people to participate effectively are constrained, the authors make little attempt to spell out how, in practical, resource and regulatory terms, those responsible for reaching dams-related decisions might be compelled (or at least encouraged) to deal with these realities – apart from reiterating that such people should be enabled to participate and that there are a range of techniques for facilitating that. Is awareness enough?
- Sub-section 'Increasing capacity in local groups' of 3.5 'Institution building' (WCD 1999: 13): "...contentious development projects ...sometimes create opportunities, conditions, and incentives for the creation (or strengthening) of local and regional organisations": the consensus experience of development practitioners is arguably that creating new local structures or institutions is seldom a sustainable intervention and that one should prefer to work with existing social capital.
- The principle that the design of a participatory approach should itself be a participatory process needs to be more clearly stated. In the current draft, the only statement in this regard can be inferred (and then only as a recommendation for 'most' processes) from the following reference in parentheses:
"Each dam proposal or project is a unique endeavour, and most will require professional public participation practitioners to design (*with the affected stakeholders*) the appropriate approach, depending on the needs of the stakeholders involved and the stage of the decision cycle" (WCD 1999: 20, my emphasis).
- Perhaps it can only be addressed in the thematic review concerning decision making, but there is a fundamental question underlying much the debates herein, namely: who decides the public good?

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WCD 1999. "Participation, negotiation and conflict management in large dams projects" (draft). Thematic reviews; Institutional Processes, World Commission on Dams (WCD) (December 1999).

Various submissions to the WCD including:

Peña, Elias Diaz (nd). *Yacayreta hydroelectric project: the struggle for participation*.

i) Comments by Miguel Nucete,

1. I think that it's a good document that gets well inside the participation, negotiation and conflict management concepts, and after, summarises in a very clear way the best practices around the world.
2. From the document I can deduct, that most of the dams that are now being built and that are going to be constructed in the next years are located on underdeveloped countries. It's well known that in general, in those countries the public institutions are professionally weak, and people that work in them don't have much continuity in the same institution. Therefore, I think that the document in "point 3.5 Institutional Building" should stress not only the need to increase the capacity in local groups (stakeholders), but also in the importance of strengthening the capacity of the public institutions that are responsible for the project. I think that the document should propose the need for increasing their professionalism and their technical and administrative continuity. My experience is that if you don't have a strong (professionally speaking) public institution, the possibility of good results in managing public participation, negotiations and conflicts are very low. When you get a weak institution responsible for a project (that it's very often) that situation could be an important source of conflict rather than a conflict resolution.
3. I think that it should also be stressed in the document, that the institutions that have the responsibility of managing the project (or the owner of the project), that in developing countries are usually public, have the fundamental role and are responsible for opening the participation of the different stakeholders and for the quantity and quality of that participation. My experience is that if a manager of a public institution doesn't believe in participation, he is not going to open to that possibility, although the community were anxious and prepared to do it.
4. In point 2.2, I think that a very important aspect is lacking when they explained in the third paragraph that " By the late 1980's environmentalists and sociologists began to have significant roles, and by the mid 1990's negatively affected people and NGOs began to become significantly involved (Goodland 1997)". I think that they have to explain that that situation happened,

fundamentally because in those years there were a world tendency in underdeveloped countries to substitute dictatorships by democracies. That situation created the environment for movements that involved people negatively affected by dams and NGOs, that couldn't have existed with dictatorships ruling in those countries.

5. In the point titled "Common problems with the process", I think that is lacking one that in my experience is important in Latin America, I will call "Natural people's distrust in government institution"; that's an important barrier to stakeholder participation.
6. In point "3.3 Decision-making", in the first paragraph they say " There are five general stages: problem framing, solution generation and selection, implementation of decision, adjustment to changes and foreseen events, and evaluation(see figure 1 in Appendix D)". I agree with the order of the three first stages. However. I think that after implementation , comes evaluation, and with the results of that evaluation comes adjustments if there were unforeseen events or results were different to planned. Also, I think that the figure 1 is not clear, because doesn't show in a clear manner the five stages.
7. In the Endnotes vi, talks about Figure 2 in Appendix C, that I couldn't find it.
8. My document didn't have the pages numbered.

j) Comments by Cristina Espinosa, Dr. Ger Bergkamp and Erin Grinnell

It is important to highlight in the first place the contribution that these papers make into the general discussion on large dams. It is an important advance that social impact of large dams and the issue of how costs and benefits are shared among different social and economic groups are considered focal issues for background papers. These papers offer some important clarifications, conceptual definition and empirical examples of how large dams affect local people, the uneven impact on different groups, the need for stakeholders participation and how gender blindness constraint the social equity of large dams and of the analysis made of their impact. They all highlight the need to overcome the narrow focus of economic analysis to include non-economic values, costs and benefits and the need to look at the uneven social impact of large dams, instead of just assessing costs versus benefits without desegregating how these are distributed among different groups of people.

Once this point is made clear, and due to time limitations, we are going to focus only on what we consider the weakness of the documents. The exception is made for the document on gender, which deserve a separate treatment.

In this regard, the following comments aim to support this process of incorporating these topics and criteria within the mainstream discussion and decision-making around large dams. The comments and discussion focus on some important limitations that these documents exhibit, and some suggestions on how to overcome them are included.

The first comment after reading the different papers, is that the boundaries between their topics is not clearly defined. There is some artificial division between them. For instance, the paper on downstream impact should be part of the social impact paper. The connecting theme should be how large dams affect the ecosystems and thereby affect the livelihoods of different local groups that rely on them. This way the paper could analyse for different ecosystems and biomes, how the downstream effect affect specific social groups within households, communities and districts (something that is announced in the introduction of the Downstream impact document but never done), as part of a broader analysis of what is the diverse social impact of large dams.

The role of these papers is to present a broad analysis of what are the issues at stake, what is the status of their discussion, what are the main gaps and challenges and what is the way to go. What is missing is a more systemic approach to the way social impact has been addressed, a set of questions that allow the whole hierarchy of value systems behind development paradigms to be explicated, in order to be aware that the different options and choices are framed within certain paradigms and values. It is important to provide a more comprehensive review of the different options and positions, anti and pro

dams, let's say to cover 180° ground, from one extreme to the other, in order to better position the debate. This way the background papers can provide better elements for the debate and for making decisions that are better informed. The impression that the documents leave is too biased on the anti dams perspective. Even though we might agree with that position, it would be more powerful -and useful for practical purposes- if presented in the context of a more balanced discussion of pro and against dams approaches.

The second major criticism is that there is no integrated vision in these papers on what is social equity. In the downstream impact, the focus presented in the introduction –which is not followed through the rest of the document—is on the gender differentiation within households and communities, with no explicit reference to other important categories of social differentiation, such as rich and poor, ethnicity, religion, cast, age and seniority, rural and urban, etc. The document on social impact also focus on gender when addressing social inequity. On the other hand, the document on participation and conflict management focus only on indigenous people and local communities, ignoring the fact that they are not homogenous entities and that ignoring class and gender differentiation will sharp the uneven social impact of any intervention.

There is a need to integrate the different variables or hierarchies of social differentiation in these documents, in order to provide a more clear conceptual framework to understand how these different variables affect the social impact of large dams, and therefore what is required to implement analysis and consultation-negotiation process that taking these factors into account, can achieve more equitable results.

Related to this lack of clear definition of what is social equity, what is missing in the document is an explicit analysis of power structures and dynamics affecting equity as well as an analysis of the institutional dynamics mediating their power relationship. The word stakeholders is mentioned several times but no clear definition of the concept of stakeholder analysis is referred, nor linked with the different categories of social exclusion, such as class, gender, ethnicity, religion, urban/rural, etc.

Who are the stakeholders, how can be identified and engaged in the consultation and negotiation process? What institutional mechanisms are required to ensure that stakeholders with different power will agree on a process of sharing costs and benefits associated to large dams, which is more equitable?

Another weakness of the documents is the lack of links between the concepts of equity and sustainability. The reference to social impact is made directly on people, without relating how large dams impact on their livelihoods affect people in different ways, based on their class, gender, ethnicity, age, etc. It is an important contribution of the papers the recognition of the importance of non-economic values, factors, costs and benefits, to be considered in the costs and benefits sharing, as well as the fact that they are not evenly distributed among different stakeholders. However, the analysis need to be rounded in terms of better addressing the analysis of people's livelihoods as the link between the environmental changes and the well-being of different groups of people. Livelihoods approach also allow the analysis to connect local, national and global levels for analysis, advocacy and policy development.

Issues like transboundary conflicts are not mentioned within the downstream effect, no reference to coastal communities and in general, how within different ecosystems, the livelihoods of different people (in terms of class, gender, ethnicity, age and seniority, etc.) are differently affected.

The geographical focus is also not balanced. For instance most examples of the downstream document are from Africa, without including cases from India and Bangladesh, China that are represent important areas of conflict.

The boundaries between the topics of these documents should be better worked, in order to have them as complementary documents. There is a need to develop a common approach to social impact, equity and participation, to have similar approach to the concepts of stakeholders, local people, social

impact, participation and equity as comprehensive enough to include not only main hierarchies such as class, gender, ethnicity, etc. but their interactions. In this regard the concept of livelihoods can provide the necessary linkages between different variables of social differentiation and between the changes in the environments on which local people depend, with the social impact that large dams have on them.

A logical set of questions should go from the more general issue of what should be considered as social impact of large dams, presenting the different positions in regard to pro and anti dam approaches. A balance of potential and constraints of these approaches, well documented with case studies from all over the world, and showing the connection between environmental, economic, social and cultural changes for different people within households, communities, local and national levels, should be presented to position the discussion.

A balance in terms of what practical implications have the different approaches for the equity as well as the sustainability of large dams should be presented.

Clear recommendations of how to identify stakeholders, how to engage them in consultation and negotiation process. The problem of how to define fair participation processes in context of institutional and power asymmetries, should be stated, and recommendations based on lessons learned from experience should be presented for discussion. The focus should be on what institutional conditions and changes are required to overcome the current contexts that shape and reproduce unequitable sharing of costs and benefits associated to large dams. The possibility of discussing the possibility of building or not the dam should be part of the participation process, providing well balanced anti and pro dam arguments. The need to empower disempowered groups and individuals is part of the analysis and should be part of the strategy to achieve more equitable participation, and distribution of costs and benefits associated to large dams.

Specific comments on the paper on Participation, Negotiation & Conflict Management in Large Dams Projects

This is very comprehensive review and presents a systemic picture of the issues at stake, in developing clear procedures to enhance participation, negotiation and conflict management in large dam's projects. However, it has some important gaps that need to be considered to improve the document. Hope you will find these comments useful.

1. Gender is not explicitly addressed in the document as it is an important variable defining specific stakeholders and demanding special provisions required to make stakeholders participation comprehensive and fair. This point is extremely important, since dams as any other intervention has differential impact for men and women, and gender strongly affect the process of participation and conflict resolution at the local level. More elaboration on these issues can be found in *Mainstreaming Gender into Water Management. Why and How* (IRC/WWC 1999). Examples of this omission in the document:
 - when referring to the local groups affected by dams (p.ii) or
 - when referring to those stakeholders who lack formal organization and representation (p.iii) or
 - groups that have traditionally little voice in society (iii) or mentioning the variables affecting participant's attitude (p.iii). Although explicit reference is made to the poor and indigenous people, this concern is not extended to the gender differentiation. It has been well documented the gender blindness experienced by rural development projects, when working at the community level, or even at the household level. This explicit consideration of the way gender differentiates the access to resources, information, decision-making, and how the impact of the dam affects men and women, is lacking.
 - For instance in page 5, when presenting the common problems identified in the process of involving the public in decisions related to dams,,

- page 6 last paragraphs, when mentioning the different factors affecting behavior; page 8 when describing the different views that stakeholders have of the problem and the need to make assumptions clear for discussion
 - Page 10 presents individuals that face insurmountable obstacles when they are not represented by an organized groups, and because they cannot access the process in terms of distance, affordability and understanding of the process, such as indigenous people and poor. Women face these problems also and should be targeted as well.
 - Page 12, second paragraph
 - Page 12, 4th paragraph, communities see dam as a real opportunity for development. Question: who within the communities. More explicit reference to conflicting interests in terms of class, ethnicity and gender should be made, based on the literature reports.
2. Equitable sharing of costs and benefits derived from large dams, is only mentioned once in the whole document, in page 6 when describing the sources of conflict (in terms of the macroeconomic benefits opposed to the local impact). It is not mentioned as a component of
 - successful conflict resolution (page 7),
 - best practices for involving the public (page 14 and 15)
 - when measuring success (page 20) or
 - When describing the principles of conflict resolution (page 21) as part of best practices for resolving conflict. There is no clear explanation of how conflict, which is recognized as inevitable, can lead to sustainable relationships. The reference to skills, expertise, diverse knowledge and strategies cannot ignore the fact that differences leading to conflict require some compromise among the diverse stakeholders, based on more equitable sharing of costs and benefits, more equitable access to information and decision-making.
 - For instance in page 16, when presenting the four subsidiary principles of good public participation practices, there is no mention to the principle that public participation should include institutional mechanisms to redistribute information, power, resources that can foster more equitable sharing of costs and benefits among all stakeholders.
 3. No clear reference is made on how the impact on the environment will differently affect the livelihood of specific local groups, including men and women, indigenous people, poor, etc. This is an important connection between environmental and social impact, and should be included when discussing the process of participation, negotiation and conflict management
 4. The need to discuss the rationale of large dams in the context of integrated water resource planning (mentioned in page 9) and to discuss the implicit assumption of the process, should be highlighted at the beginning of the document. This is important to avoid the impression that public participation is defined only in the frame of an existing, on-going dam project. The need the discuss not only the dam large and diverse impact, but its rationale and the other alternatives, should be made stronger in the document.

Comments on the paper on gender

The piece on gender is very helpful with regard to the previous critiques. We feel that it could be used as a model on how to approach the difficult task of understanding the complexity of non-economic and social impacts of large dams on communities.

What sets the paper apart?

The **clarity and coherence of the paper** is key. Firstly, there is a process of clearly defining the concept of gender and what it encompasses beyond just the simple notion of women. This means that gender is discussed as including issues of access to resources, changes in social relations, economic activities and decision-making and participation processes. We applaud the authors' ability to identify

the issues and outline the concept of gender without reducing this to a simplistic caricature. For example, included in the paper is discussion of the possibility for dams to create opportunities as well as constraints for women and men, not previously enjoyed in the traditional system. This goes beyond the tendency to simply vilify large scale development, thereby limiting the debate and restricting the ability to envisage working alternatives. A real analysis should be able to envisage all sides of an issue, not just the most obvious.

Secondly, the authors outline the **intersection between gender and dams**. They again clearly identify four or five areas where dams seem to manifest change within communities including: Division of Labour and Economic Activities, Participation and Decision-Making Processes, Institutional Arrangements, Socio-cultural wellbeing and Identity. This approach could be applied to other social equity areas due to the need to narrow the debate and identify clear areas of focus.

An important element of the paper is the **use of examples**. After outlining the major issues related to dams and gender the authors walk the reader through several case studies which illustrate how i.e., resettlement effects gender and equity, thereby moving beyond geographical and economic considerations. This is valuable in that it helps the reader to envisage how change related to dam development is gendered.

The paper concludes by setting out a number of **recommendations** to counter the gender blindness that has plagued the large dam debate. This we feel is essential to go beyond simple diagnosis of the problem. Envisaging alternatives, outlining concrete actions is crucial to envisaging alternative policy, planning and institutional approaches. Recommendations for change can act to counter the abstract level of such debates regarding social phenomena and the reluctance of some to avoid prescribing action.

k) Thayne Coulter and Patrick Mangan, US Bureau of Reclamation, Technical Service Center

February 23, 2000

Thematic Review on Participation, Negotiation and Conflict Management

Review comments by Thayne Coulter and Patrick Mangan, Technical Service Centre
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Thank you for the opportunity to participate in the Thematic Review V .5: Participation, Negotiation, and Conflict Management. This Thematic Review was intended to address questions surrounding large dams from the perspective of developing a new approach that will reflect lessons learned and the shift in priorities for decision-making.

Large dams--by virtue of their complexity, high levels of funding and efforts required, and wide-ranging benefits and impacts--have become a lightning rod for questions, issues, and concerns about development. While impacts have always been present, perspectives and priorities have changed over the years. Reclamation's review of the thematic review, therefore, should be understood in the context of these changing perspectives and priorities, and our nearly-century-long experience with questions, issues, and concerns surrounding large dams in a representative democracy. We were established when our nation focused on developing arid lands. Now, our mission is to manage water and related resources in an economic and environmentally sound manner for the people of the United States. While priorities have changed, our goal remains to meet people's needs. Our actions are measured by how well they meet the needs of the affected people (stakeholders) the project serves.

Unfortunately, many stakeholders will assume that by couching the thematic review questions in terms of large dams the definition of success appears to be the construction of dams rather than

meeting the needs of the people affected by the project. Some stakeholders may see this as jumping to a solution when the problem is still being defined. Others will assume the goal is to categorically stop any large dam from construction. Large dams are only one of the tools available to meet the needs of stakeholders. Although concern may focus on construction, change is really the issue. When we consider decisions regarding dams already in place the issue is still change. Over the years, assumptions about how resources are to be used have changed. Modifying reservoir management, instream flows, and water contracts can be just as contentious as construction. Commitment to stakeholders and potential impacts are just as real after construction. The decision process applied to these decisions points needs to be the same, but the context is very different. More case studies will be needed to properly deal with the resource management stages of large dam development. The conflict and contention tends to focus on a local, regional, and national level with little international involvement or concern after construction.

In our review we found a need for clarification of the role of the WCD and what actions are to follow the review. Discussing participation and conflict management practices is limited to a conceptual level --rather than a practical, on-the-ground approach--until a clear decision process is explained and application procedures can be developed.

We found the Terms of Reference, Scoping Paper, and Linkages discussions very important to understanding the review. They addressed some of the most difficult questions and issues regarding large dams and other development opportunities. Unfortunately, the draft report cannot fulfil the tasks set out in the scoping paper. The draft paper does provide a statement of where we are internationally in terms of developing and applying conceptual knowledge on participation and conflict management. Very little is said about negotiation.

The draft report covers a wide range of important topics, however, it should go beyond a conceptual discussion of the topics. Without the guidance in the form of process and product, the concepts will not affect the decision process or product in a meaningful way. The scoping paper recognises the need for implementation guidance on applying the concepts. Initially, the call for product in the form of criteria and reports may seem most important, however, it will be the process, in the long run which will prove to be most difficult and useful.

An internationally accepted set of criteria and guidelines were not found in the thematic review. To compile criteria and guidelines, it would be most expedient to use the existing body of international law like the United Nations Charter and the International Court in the Hague as institutional locations for the criteria. Funding organisations can impose requirements for the use of their funds. However, criteria should recognise positive incentives rather than regulative restriction, if they are to be accepted and used. Demonstrated benefits such as sustainability will need to be established to illustrate the need for the criteria. In the past, each set of criteria which has been added to the equation for planning and decision-making on large dams has had to prove its usefulness to designers and stakeholders. (e.g. It was not until the late 1930's that an economic evaluation was recognised as being necessary, although most dams were being built for the purpose of developing the economy.) The nature and mechanism for this guidance is such that it will need to be accepted by all stakeholders, implementable, and flexible. To be acceptable the process must be fair and open.

One of the major concepts which may require evaluation is consensus or win-win approaches which are often used in relation to decision-making. This flies in the face of statements that conflict is inevitable. Consensus means everyone is in total agreement; something seldom reached and certainly not when diverse group participation, negotiation or conflict management are being applied. No decision is the frequent result. "Informed consent" is a much more likely goal. This term has been set forth by Hans Bleiker of the Institute for Participatory Management and Planning for quite some time. It refers to the consent granted for an action to be taken by informed stakeholders who have participated in the decision process affecting them. This concept must be applied with flexibility because the stakeholders, issues, and thresholds of acceptability will differ with each application.

Frequently, government agencies are faced with implementing a decision rather than making the decision. Informed consent is also a very useful concept at this stage as well. The authority and responsibility for taking the action is not always vested in the affected stakeholders. However, the success and sustainability of the action is almost always determined by them.

The major problem of how to get acceptance of or agreement is not addressed in the review. This is a question of reaching a decision that stakeholders agree to implement, not a question of obtaining enough support to overthrow opposition, or ensuring opposition is not enough to stop a project. Even the decision to not choose is a passive decision to avoid. Listing all the techniques and questions will not solve the problem. At the root is a process of participatory problem solving with the goal to meet stakeholder needs. Unless the stakeholders believe the process is fair and open, they will not participate. This is not the same as assuming everyone will get something. It is a process where the trade-off among benefits is open and transparent for all to see. If the process is accepted, the result can be accepted, even if one group does not get what they wanted. Mediation, arbitration, and a number of other alternative dispute resolution techniques require this trust in the process and who is conducting it for success. The thematic review needs to explain the process. Reclamation's Decision Process Guidebook and Conflict Management Guidebook among others provide a much more in-depth discussion than we have time or space for here.

Without the bibliography or list of references which is missing from the draft thematic review, we cannot know that the previous sources have been considered. The International Association for Impact Assessment has been developing criteria for Environmental Impact Assessment along with a growing debate on Social Impact Assessment. The International Association for Public Participation has a rich literature and history dealing with participation and conflict management.

The review did discuss some of the root causes and patterns of conflicts, including power imbalances, powerlessness of the disenfranchised, differences in perceptions and values within societies, I would have liked a summary of some of the classic psychological and sociological literature on the root, pattern and resolution of conflict as an introduction to this section as well as summaries of the key literature on negotiation, mediation, arbitration and other types of conflict management. I think that this would have given the readers a good foundation for the application of conflict resolution techniques to dam projects. Most of the readers involved in using the material are far more likely to have an engineering rather than social science or conflict management background. The approach to problem solving is quite different in the social sciences. If the material is not provided in the text, a supporting document with these summaries may prove useful. A discussion of how resources are perceived by different groups or the psycho-cultural difference with case studies would be especially useful.

The following insights and suggestions based on a long term case study of agency working in the field may prove useful. The U.S. Bureau of Reclamation has faced the questions related to large dam development as they have evolved over almost a century. Our policies, organisational structure, and technical staffing have dramatically changed in response to the evolution of issues, priorities and technology. Our definition of success is no longer whether a dam is built, but if we solved the problem. Our problems are a microcosm of those faced internationally, including the psycho-cultural perception of resources. We recognise the need for the application of principles to be adaptable to each project, but the experiential nature of project planning and development indicates we have something to share. We recommend the key elements of this approach be considered as a starting point for developing the institutional mechanisms for implementation of participation and conflict management procedures.

Reclamation has developed an approach which works within our context. First, we recognise our role and relationship to the people we serve. This is defined by a number of authority document (e.g. the Constitution), laws (e.g. National Environmental Policy Act), and Executive Orders (e.g.

Environmental Justice). Second, Reclamation has documented this commitment internally in a way that each employee can clearly understand and implement. The Reclamation Manual governs how things will be done within our agency. Using Public Involvement as an example, a 2 page Policy Statement clearly states a philosophy, intent, and role; a 7 page Directives and Standards statement provides minimum requirements; Discretionary Guidance on how to approach the task, the process and the techniques are explained in a Technical Manual. Reclamation has also developed guidance related to Social Assessment, Environmental Justice, and other areas related to dealing with impacts on affected people, stakeholders, and publics. Third, each organisational element of Reclamation is dedicated to the principal of service to the people of the United States. Within the framework of Policies, Directives and Standards each office is responsible to work with stakeholders related to their programs and projects. These governing principals are a way of doing business which goes beyond set of regulations.

Reclamation has a strong commitment making decisions with the best relevant multidisciplinary technical information available. The decision point is located as locally as possible and partnership other Federal, state, local, Native American Tribal, and even non-government entities is the norm. Multidisciplinary technical teams are almost universally assembled and utilised on projects. We have been expanding on our well-known engineering and hydrologic expertise to encompass other areas. The following programs are examples of expertise available in support of water conflict resolution:

1. River Basin Management. The Watershed and River Systems Management Program combines many capabilities (e.g. multiple-purpose reservoir operations, optimisation, stochastic hydrology, canal operation and management) with the water resources expertise of the USGS into a data-centred framework for water resources decision support. These capabilities now are being applied in several major basins in the western United States.
2. Drought Prediction and Mitigation. This workshop, produced in conjunction with the National Drought Mitigation Centre and the Western Governors' Association, overviews, drought concepts, contingency planning, monitoring (indices), assessing vulnerability to drought and data availability.
3. Water Management Workshop. This workshop brings together water management and water conservation experts to share methods and procedures, as well as actual field experiences to improve operations and maintenance for efficient water management. Training manuals "Achieving Efficient Water Management" and "Incentive Pricing Handbook for Agriculture Districts" are available.
4. Decision Process Program. Training modules, a guidebook, and a website (<http://www.usbr.gov/guide>) provide a flexible, adaptable approach to systematic, decision-making. The program outlines ten steps for decision processes, discusses how to work with politics, change, agendas, and other obstacles, and shows how to lay a complete foundation for developing authority, funding, and participation.
5. Alternative Dispute Resolution. BOR's "Conflict Management Guidebook" provides essential information about, and practical guidelines for, using interest-based negotiating and dispute resolution processes. It focuses on (1) partnering to prevent litigation, (2) facilitated negotiations to work out issues with mutual gain for all parties, and (3) mediation to resolve impasses with the help of neutral third parties.
6. Environmental Impact Assessment. This is a project specific course that focuses on developing alternatives and indicators to assess environmental impacts. The course can be adapted to support or reinforce international civil works projects and environmental impact legislation.

7. Training. A number of the above-mentioned tools currently are being utilised, "off-the-shelf" as training modules or workshops in the domestic program. They could be adapted and/or expanded for international program usage. In addition, a workshop could be developed specifically focusing on water resources conflict resolution. This workshop could highlight many of the current and emerging tools cited above, cover both transboundary and cross-sectoral issues, and utilise water resources conflict case studies involving U.S. rivers. In addition specific international river basins like the Nile could be targeted, and some of the tools could be honed for more direct application.

Each of these programs and tools contributes to the overall approach Reclamation has developed. Special attention should be paid to the Decision Process Program and Alternative Dispute Resolution products which are directly relevant to the thematic review's focus. We recommend that you look at these programs as examples that incorporate the best practices listed in the review that work in the field. As with all case studies, implementation will require tailoring to local site specific conditions when they are being applied. Although the guiding principals and philosophy may appear universal, our own experience has shown that psycho-cultural adaptation will require careful translation and adaptation on site with stakeholders.

