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**SUBTHEME 7: EMPOWERMENT OF MARGINALIZED
COMMUNITIES:**

The Green Connection



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Theme 2: Capacity, Skills & Transformation

SUBTHEME 7: EMPOWERMENT OF MARGINALIZED COMMUNITIES

1. SUBTHEME 7: EMPOWERMENT OF MARGINALIZED COMMUNITIES

1. PROBLEM STATEMENT

Communities with specific emphasis on vulnerable and marginalised communities are not capacitated/empowered to participate meaningfully in the environmental impact assessment and management strategy (EIAMS) processes.

2. OBJECTIVES

To ensure that all communities including vulnerable and marginalised communities are capacitated and empowered to engage meaningfully in the environmental impact assessment and management strategy processes.

1.1 GOALS

Goal 1:

To ensure equitable/fair empowerment of marginalised communities within the public participation of the EIAMS processes.

Goal 2:

To ensure equitable/fair empowerment of marginalised communities in terms of training opportunities.

Goal 3:

To ensure equitable/fair empowerment of marginalised communities in terms of environmental awareness.

Goal 4:

To improve equitable/fair access to resources/funding in order to undertake EIM studies if necessary or to participate meaningfully in public participation (PP) processes.

3. BACKGROUND

Chapter 5 of the National Environmental Management Act (NEMA) provides for integrated environmental management. The Environmental Impact Assessment (EIA) regulations were one tool, drafted and revised over a number of iterations, that attempted to regulate developmental activities with an impact on the environment. While NEMA envisaged a number of tools to assess the full range of policies, programmes and activities, the EIA has been inappropriately used as a “one size fits all” approach.

For this subtheme, the challenge is to provide for a strategy that recognises the additional value that community views bring to environmental management, that acknowledges that their experiences and local knowledge will improve the quality of decision-making, and that therefore actively promotes methods of meaningful engagement (as per NEMA section 2).

This subtheme report focuses particularly on marginalized communities and how environmental information can be most effectively communicated to such communities, and how to ensure that EIAMS processes are amended and enhanced to actively promote the participation of marginalized communities.

Assumptions

While acknowledging that this subtheme is one part of a larger project, it is important to state our assumptions upfront, even if it appears that we are stating the obvious:

- It is assumed that all stakeholders in the EIAMS review process are actively seeking to empower marginalized communities.

- It is assumed that all stakeholders understand the value that local knowledge can bring to EIAMS processes and that the study is to determine the most effective measures to engage with marginalized communities.

4. CONTEXT

The EIA is currently the most common tool used to make decisions regarding the environmental impacts of any proposed development, and it is through the EIA process whereby most marginalized communities experience “environmental management”. Local Communities, specifically vulnerable and marginalised communities, are not empowered to participate meaningfully in the environmental impact assessment and management process.

Poor communities often settle in areas that are high risk – for example, prone to flooding or close to industry. Marginalised communities bear the greatest burden of environmental pollution and degradation, and as their voices are unheard, heavy industry is likely to choose such communities to locate polluting industries. Marginalised communities are often initially unaware of the risks that they face.

The wealthier communities are able to exert influence and ensure that such “dirty” industry does not impact on their lives. Environmental injustice results when these wealthier communities often reap most of the benefits of industrial growth, consume the most products, while poorer communities bear proportionally more of the costs of ill health, poor air quality, polluted water etc.

The following extracts provide some insights into the inequities within South Africa and the burden of marginalized communities.

“ It is understood that we have a divided global society and that in South Africa there is an ever increasing gap between the rich and the poor. According to the 2007/2008 Human Development Index (Conradie 2008), the richest 20% take 62,2% of the income and expenditure cake while the poorest 20% only use 3,5%.

.....Practices such as only reading during daylight hours, heating very little water to bathe, refrigerators turned off with implications for food quality and the substitution of wood or paraffin for space heating are used (van Heusden 2008). Obviously, the social consequences are negative - children cannot study at night, there is a risk of diseases from rotting food and the use of paraffin or wood indoors increases the risk of breathing related diseases.....

The urban poor are often settled on marginal land, either prone to flooding (Cape Flats), or close to mine dumps (Gauteng) or industrial complexes (South Durban) and this exposes them to an added stress. Women are exposed to indoor polluting smoke through cooking. It is estimated that this was responsible for 2,7% of global disease burden in 2000. Future projected deaths for sub-Saharan Africa are 1,8 million

children and 1,7 million adult women between 2000 and 2030 (Commission on Climate Change and Development 2009).....

“ faced with the denial of health effects from industry and government, SDCEA campaigned over several years for a health study to corroborate what they knew to be a heavy toll of death and disease from pollution. In 2000, government finally agreed... The report was finally published in 2006 and does indeed corroborate local people’s perceptions. It found that the risk of cancer and the incidence of respiratory ailments are significantly higher for south Durban people (groundwork 2006).

In the cases referred to above, in the descriptions of the stresses that people face, poverty is related to a lack of services. In an ideal world, a household might reasonably expect clean drinkable water, energy services to enable them to meet their household needs, transport that safely and efficiently takes them to reach help if needed, and to reach school, work and entertainment; and if something goes wrong, a level of bureaucratic competence that provides a solution.” (McDaid 2009)

The environmental right in the Constitution spells out that everyone has a right to an environment that is not harmful to their health or well-being, and that this environment should be protected in order to prevent pollution and ecological degradation. Other administrative justice and access to information legislation supports this environmental right and, from an environmental impact management perspective, this means that all citizens, regardless of status and wealth, have the right to be informed, and consulted in issues affecting their environment.

The project steering committee (PSC) acknowledged the challenges of empowering communities, and drew up the terms of reference for a specialist sub theme report. In addition, the Project Steering Committee spent some time discussing marginalized communities and criteria for identifying them. This work is also incorporated into the study, and forms the starting point for the identification of marginalized communities.

Issues of relevance to this subtheme, identified by the Project Steering Committee (PSC), were located in other subthemes too and are listed here for completeness:

- *Capacity in civil society is concerned, what was raised is that there is no public awareness.*
- *Civil society does not understand the basics of environmental management. Laymen do not understand EIA processes.*
- *Communities do not adequately participate in EIA processes.*
- *The issue of language, culture and literacy barriers often is overlooked.*
- *The proposal is that environmental education is imperative on local level. Existing environmental training, education facilities must be better utilised. We propose that other*

spheres, and that is the industry as well, assist in educating the members of the public. A public participation guideline is needed.

- DEAT must work with community based organizations (CBO's) to select any specialist that carry out studies.
- The aspect of once again within the strategy, capturing the outreach, the awareness raising, basically building the entire nation's capacity around the meaning of sustainable development and environmental management
- Youth involvement should be promoted where necessary.
- More interaction between department and communities is required and more should be done to get schools involved.
- Need emphasis on capacitating marginalised and vulnerable communities to empower them to participate meaningfully in environmental processes
- Regardless of the development taking place, the EIA documents must be fully translated from English to a minimum of 3 languages most used in the affected areas. These must be provided simultaneously with the release of English documents.
- There is insufficient focus on Environmental Management Plans (EMPs) and its compilation comes too late in the process. Many concerns of the public/officials could be addressed in the management of the environment and the qualitative and quantitative measures employed. The EMP is paper only, if there is no follow up or positive consequences for non-compliance.

A further input at the PSC level attempted to tease out the scope of marginalised communities. For this sub-theme report, the PSC identified a number of criteria that might be used to describe the way in which a community is marginalized. The PSC conclusions provide the specific context within which this report is placed.

The PSC summarized marginalized communities by referring to three factors: geographical areas, dependency and social standing:

1. Geographical areas covers settlements in disaster prone land, distance from communications hub, distances to travel in order to participate, as well as those who are “ out of touch” with world trends – for example those who lived in areas predicted to be worse affected by climate change and are poorly adapted.

2. Dependency covers those communities dependent on the land for survival, as well as those ‘dependent’ on Environmental Assessment Practitioners (EAPs) for information, or development for jobs.
3. Social factors cover those aspects of communities that relate to literacy, age, gender, health, culture, class and wealth, and other social aspects that influence how much communities are able to participate in decisions that affect them.

The PSC also highlights a category of political factors, which covers issues such as dependence on political favours, distrust of the state, and fear of political intimidation. The PSC workshop highlighted the vulnerability of communities caught up in tensions between mining interests and environmental integrity. The PSC also looked at a proposal for support services to build the capacity of marginalized stakeholders and this proposal will be reviewed in the conclusions of this report.

5. Methodological Approach

There is an array of literature that speaks to the challenges of ensuring meaningful public participation in the context of poverty, and specific examples are used where appropriate. In addition, interviews were held with a number of individuals active in the environmental sector, from non-governmental Organisations (NGOs) and community based organisations, that are actively working with marginalized communities. These individuals were selected from environmental organisations active in the environmental justice sector. In order to attempt to cover the diverse contexts from South Africa, an attempt was made to interview people from rural and urban settings, and from different provinces, for example, Western Cape and Gauteng, and KwaZulu Natal (KZN) and Eastern Cape. A list of the people interviewed is attached as Appendix A.

The interview results were analysed in terms of 5 key characteristics that relate to the main objectives of the report. A summary of the interview results are presented in two appendices. Appendix B provides a summary of the challenges faced, and Appendix C provides the recommendations to facilitate the empowerment of marginalized communities. In addition, given that the mineral/energy complex is currently the cornerstone of our economy and that rural communities are regarded as particularly marginalized, it was felt that the use of a narrative case

study that detailed current environmental Management practice in these circumstances might be useful. A narrative case study using the Wild Coast/Mining development is attached in Appendix D.

Legislation, guidelines and other relevant literature were reviewed. The analysis focused on drawing out the key barriers to participation in environmental management, EIA in particular and recommendations as to how to address them. Recommendations are developed for each strategic outcome, and some comment is also given on the implications of implementing or failing to implement the recommendations.

While it is acknowledged that this report is part of a strategic response to an identified problem, rather than detailed procedures and measures, it was felt that it would be useful to provide a best practice example that is easily implementable and might assist in facilitating empowerment in the short term. This best practice example is drawn from the conclusions of the analysis.

In order to facilitate the integration of this subtheme results into the project as a whole, other subthemes where there could be synergy or duplication are identified. Extracts from this report that summarise the key points of intersection are presented under the relevant sub-theme headings in order to assist with alignment.

After the workshop of March 28th -1st April, informal communication between the specialists will be attempted to improve alignment.

Limitations:

The time period available over which to conduct the research, analyse the results and to write up this report was extremely limited – a total of 4 ½ weeks, instead of the envisaged 3 ½ months. Of necessity, the study relied on literature and a limited number of engagements with marginalized community representatives. These were then analysed, drawing on the professional experience of research team to derive the recommendations.

Within the timeframe, it was not possible to conduct in depth interviews with a large number of participants, and the recommendations were therefore “tested” with a small focus group of marginalized youth as a further step to ensure that the recommendations were appropriate.

6. Status quo and analysis

6.1 Legislative review

This section provides a short summary of some of the legal context for the empowerment of marginalized communities. Further detail is provided in Appendix E.

The National Environmental Management Act (NEMA) chapter 1 section 2, has the following principles that are legally binding on all EIAs or other environmental management processes. Principles relating specifically to the empowerment of marginalized communities are given below.

2 Principles

(1) The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and-

(a) shall apply alongside all other appropriate and relevant considerations, including the State's responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;

(c) Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.

(d) Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.

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

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

(h) Community wellbeing and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.

This Act came into force in 1998, and it is clear that the intention of the law was to ensure the participation of all citizens, particularly vulnerable and disadvantaged individuals.

In the South African context, the majority of the population was historically disadvantaged, for example, only gaining the vote in 1994. The majority of South Africa's poor and vulnerable population is still "black" (under the old apartheid classification), with "black" women being particularly affected, and there is a wealth of literature to support this.

The EIA regulations (2010 amendments) do not distinguish between capacitated or empowered citizens and those that are marginal, except in section 6.2.(e) which covers the advertising of the EIA, where 'reasonable alternative methods, as agreed to by the competent authority' may be approved for illiterate people, or those with disabilities. There is a catch-all clause that states "any other disadvantage" but it is not clear how this might be interpreted.

The DEA (formerly DEAT) guideline on Public Participation (Guideline 3 in the series) does not distinguish between empowered IAPs or disempowered IAPs within an EIA process. It can be inferred from the above description of the legal context within which EIAs take place that there is a narrow interpretation of the NEMA clauses pertaining to public participation of marginalized communities, namely, those that cannot read or write, or who may be disabled. Although there is a catch-all phrase of "any other disadvantage", there is no guidance on what this might entail and no guidance on how to address this.

The Department of Environmental Affairs and Development Planning (DEADP) in the Western Cape published a guideline on public participation in 2007. The guideline also acknowledges that different levels of public participation might be necessary, and provides some guidance as to when additional effort may be necessary. The guideline provides a set of questions for example:

- "Has very little previous public participation taken place in the area?;

- What is the literacy level of the community in terms of their ability to participate meaningfully within the public participation process?
- Is the area characterised by high social diversity (i.t.o. socio-economic status, language or culture)?
- Were people in the area victims of unfair expropriations or relocation in the past?
- Is there a high level of unemployment in the area?
- Do the Interested and Affected Parties (I&APs) have special needs (e.g. a lack of skills to read or write, disability, etc)”.

The socio-economic impact assessment (SEIA), DEA 2006, guidelines provide some good practice that could be applied to gaining an understanding of community issues and gathering community knowledge that can add value to any environmental management process.

National government has also attempted to provide some guidance to local government in dealing with the poorer communities. In a publication entitled “A pathway to Sustainability – local agenda 21 in South Africa” (2002), there is a small section on “outreach to marginalized groups”. Although there is no detail on how this might be achieved, there is one statement that speaks to the role that marginalized communities can play – *“They may also have the time, skills and willingness to play a key role. This is one way of identifying new issues, new solutions, and potential new leaders”*. This is a positive manner of expressing the wealth of local knowledge and leadership that may abound in communities. It is encouraging to see such sentiment expressed in this publication that was targeted at local government. However, there is little evidence that local government has actively engaged its citizenry with this in mind.

Some examples of positive interaction between citizens in marginalized communities and their local governments have been facilitated through NGOs. The Citizen Voice initiative in KZN [an empowerment project where community representatives and local government officials are provided with capacity building workshops around service delivery issues for example water] and the water leaks project in Cape Town [initiated as a community partnership to train community members to fix leaking pipes and taps], as well as urban agriculture initiatives in various local authorities could be possible implementation models for empowering local communities although

there have been a number of challenges. Given the time constraints of the project, it was not possible to explore all of these initiatives.

Although NEMA provides a legal imperative to ensure that the environmental impact management processes involve the majority of South African citizens in a meaningful way, in practice this seldom happens.

6.2 Literature review

There is a wealth of literature on the problems of public participation in environmental governance, and subtheme 3 would focus on this in depth. Literature suggests that the success of Public participation could be measured by the ability of the people that participate to influence the outcome. At a project level, for example an environmental impact assessment, the level of influence or power might be dependent on ability to have time to attend meetings, ability to review lengthy technical documents, or ability to understand the impacts of the proposed project, or access to the internet, or knowledge of environmental rights.

According to Ghai (1990), such influence and power can be gained through various means including, military, wealth, political influence, knowledge or skill, organizational influence and status (for example in traditional society structures). Literature defines marginalized communities as those without military or political influence, the poor, those without the knowledge of skill, those not organized and those who have no enhanced status within any societal structure.

Within an environmental context, a Southern African EIA analysis (SAIEA 2003) identified some common challenges to participation applicable to South Africa:

- Citizens are limited by lack of education, skills, financial resources and lack of information
- Available information is said to be in the languages of the dominant groups;

The SAIEA report (2003) states that a “Lack of education renders citizens vulnerable not only to exploitation but also to the lack of access to information”. In South Africa, it is common knowledge that unscrupulous development proponents manipulate community involvement in EIAs by

promoting potential job opportunities to economically vulnerable citizens in order to gain support for the project.

In a study that reviewed the application of EIA in Africa, carried out by the Economic Commission for Africa (2005) found the following in relation to public participation:

“ Public participation: Increasingly, countries are enacting legislation that provide for engaging and involving the public throughout the EIA process including the review of the study report.Yet, public participation in the EIA process is, in most cases, inadequate due to many factors such as time, money, literacy, language, public presentation, education, cultural differences, gender, physical remoteness and political/ institutional culture of decision-making. Case studies on public participation in the EIA process have concluded that it is essential and can lead to substantial benefits for both the proponent and affected community. Where it is ignored, it can lead to conflicts and problems for project implementation, acceptability and sustainability”.

In 2000 WESSA carried out an analysis of the public participation in EIAs using case studies and interviews. The study identified a number of problems which are relevant to community empowerment:

- *“Authorities appear to continue to rely unquestioningly on the "independence" of the consultant, and assume that the consultant's report reflects the concerns of all parties equally without their having confirmed this with key I&APs”.*
- *The consultant is not independent and shows bias - e.g. does not accept I&AP concerns as valid unless agreed to by developer*
- *The reports ignore or selectively reflect the real concerns of the public. In some instances, reports are clearly biased in favour of the development*
- *Consultants fail to take the limited capacity of volunteers (ordinary citizens) into account (particularly the time constraints with regard to meetings and reading and commenting on complex documents).*
- *The history of the land, its zoning and place in the mind of people is often ignored.*
- *Specialists insist on using extremely technical language, and appear to ignore the fact that their reports are meant to be reviewed by the general public*

- *"Open days" replace public meetings or only one public meeting is held despite the need for further meetings. This is used by "unethical" consultants to prevent dialogue and discussion amongst I&APs in an open forum*
- *Public Meetings are a necessary part of the process but are often not accessible because of a lack of transport, safety of travel at night, lack of childcare facilities etc.*
- *Public meetings are not characterised by full disclosure of all information.*
- *Public concerns are often "heard" and then ignored.*
- *Public meetings are often used by the developer and the consultant to manipulate the process.*
- *Consultants often pre-judge comments/concerns raised by I&APS, saying a particular comment /concern is not important or relevant or they misinterpret it to reflect to the developer's advantage. I&APS feel intimidated by this and don't want to appear stupid so they are scared to raise or clarify their concerns.*
- *The information documents are often highly technical or there is a lack of information. The document is not easily physically accessible (being placed at a public library where hours are restrictive and there may only be one copy"*

Follow up interviews, carried out as part of this research, with some IAPs who had participated in the earlier analysis of participation in EIAs revealed that the key findings of the research were still valid, particularly for marginalized communities.

The South African Affiliate of the International Association of Impact Assessment conference papers over the last ten years have contained a number of papers that sought to improve the participation of empowered communities in EIAs. A paper presented to IAIA in 2004 suggested that it might be possible to judge the potential opposition to a project "whether the proponent has a reasonable chance of achieving authorization or whether he is buying himself forty years of grief" by looking at public sensitivity of the proposed development. Their studies showed that the level of effort in environmental assessment would depend on the scale of anticipated impacts and the scale of public sensitivity. This paper included socio-economic factors that increase public sensitivity and in terms of those relevant for marginalized communities, included:

- Past expropriations or relocation of people,
- Potential impacts to communal land,

- Recent downscaling and retrenchments
- Relocation of local people
- Lack of compensation for past impacts

The report concludes with a recommendation to consider providing IAPs with the means to appoint their own, independent specialist to review the report, as well as to consider involving concerned stakeholders in a liaison forum should the project be approved (Du Plessis, E, 2004).

The question has been raised as to why many EIA processes end in tears. According to McDaid and Kruger, (2004), research has shown that some of the key problems with public participation are that there is “superficial public participation, with a formulaic approach that alienates stakeholders”; there are raised levels of conflict and disputes over specialist findings; language to technical issues alienate the public and prevent participation. An underlying reason that was highlighted as a key problem was that “the objective of the EIA, from the developer’s point of view, is one of justifying the development to the public, rather than one of development choices. This is because financial resources are often committed to projects ahead of an EIA”

Studies of Environmental Impact Assessment processes both in South Africa and internationally agree that meaningful public participation in environmental management processes remains elusive. With regard to marginalized communities, the paper concludes that at the South African level, legislative provisions for meaningful public participation are undermined by the public’s (particularly marginalized communities) lack of capacity to use these existing legal mechanisms (McDaid,2004).

In a broad overview of environmental policy from 1994 to 2004, Rossouw and Wiseman highlight a number of key challenges that hinder the implementation of policy. Included in the challenges are the following:

- Environmental management has not been effectively integrated with the national priorities of poverty eradication and social transformation
- Initiatives to build the knowledge, capacity of all segments of broader society to understand policy assessment as part of the policy process, have not been introduced (Rossouw and Wiseman, 2004)

Although marginalized communities experience's of environmental management processes have been expressed as extremely negative, it is important to note that some consultants have attempted to find solutions in an ethical, principled manner and have gone the extra mile to make sure that the solution would contribute to sustainable development. However, often these contributions take place out of the public eye, in small ways that take place behind the scenes.

In a narrative description of five case studies, Boer (2004) details some of these experiences:

Participatory rural appraisal research in three villages in KZN was carried out to gain some ideas of how rural communities value their natural environmental resources. The women participants in the study had mostly primary school education with the men mostly having secondary school education. The research demonstrated that the respondents understood the local ecology and were knowledgeable about the indirect use benefits associated with woodlands in their villages. Such benefits included the following:

- Ecological benefits: air purification, climate regulation, nutrient cycling, soil protection, water cycle and watershed protection
- Social benefits: cultural practices, aesthetic value, repelling of lightening, privcy, fresh air, shade, windbreakers and recreation.

The study concluded that the participants in the rural villages were aware of the indirect use benefits and regarded them "as significant to their well being and livelihoods" (Madonsela, 2004).

The Participatory Rural Appraisal (PRA) tool or participatory action research provides an approach whereby vulnerable communities can be empowered to participate in developments that affect them. Externally driven processes often seek for a universal solution and fail to understand the complexities of socio-economic and cultural contexts of local communities. The use of PRA techniques offers a more holistic approach that emphasizes the relationship between people and their environment.

PRA is a step towards a process of consciousness – awakening or conscientization of people through their own analysis of and reflection on the causes of their poverty and on the socio – economic structures and processes, which affect their lives. No development activity can be successful until this process is well underway.

PRA entails groups of local people analyzing their own conditions and choosing their own means of improving them. It is often referred as a community self survey. The community or group of local people may use a variety of tools such as maps, diagram and the support of a trained facilitator.

RRA is often characterized as 'extractive' and relies heavily on outsiders using methods such as focus groups and observation. It is no different from other forms of research as the purpose is to collect or gather data. PRA on the other hand is empowering and the outsider is the facilitator and PRA is used to empower different groups within communities especially women, the poor and the marginalized. In PRA local people are not seen as clients or beneficiaries, but as partners and fully active human beings in the research and development process

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6.3 Fieldwork results

Interviews were held with participants in CBOs and NGOs that work in marginalized communities, drawn from a range of rural, urban contexts, with women, men, and youth. Most of the participants interviewed experienced environmental management processes through EIAs or post EIA project implementation, and most of those experiences were negative. This is unsurprising as this correlates with the Research Problem Statement.

However, in order to derive recommendations, the research team tried to find some literature and case studies that would highlight best practice, and this is then incorporated into the conclusions. The list of interviewees is given in Appendix A.

Appendix B provides a summary of some of the key challenges that participants identified, and Appendix C provides suggestions for addressing these challenges. Given that mining interests are extremely powerful in South Africa, and that rural communities are generally regarded as some of the most marginalized, appendix D provides a short case study of how the community members in

the Eastern Cape experienced EIAs, using the Xolobeni Mining and toll road projects. In the author's opinion, this case epitomizes the value given to community voice – although the development, if approved, would have permanent significant negative impacts on the environment and the local community, both current and future generations who depend on these resources for survival, the community members were only given 30 minutes to voice their concerns.

From the interviews and literature, marginalized communities experience a common set of frustrations within the Environmental Management processes.

The results have therefore been summarized in terms of these common themes as follows.

1. Lack of general environmental awareness/knowledge
2. Lack of funds and other resources to participate
3. EIA process – rights and responsibilities
4. Technical specialists – knowledge and jargon
5. Decision-making - monitoring and compliance

1. Lack of general environmental awareness/knowledge

- Communities felt that there was very little environmental awareness in communities. While, in wealthier areas, schools had environmental clubs, and environmental knowledge was included in the curriculum, marginalized youth did not have any experience of this in the schools in marginalized communities.
- In response to questions about general environmental awareness respondents believed that schools lack any environmental awareness programmes (particularly marginalized community schools). However, two HDI individuals active in the environmental sector stated that they had become involved in the sector due to school activities (in one case an environmental club). For example, Abalimi Bezikhaya has carried out greening project in schools in marginalized communities.

Many respondents felt that general environmental awareness would be more effective at schools.

“Education would be a good start. Environmental awareness is essential in everyone's education.”

“Desperate need for teachers who can guide kids to environmental thinking. Teachers who are sensitive to environmental issues – should be part of teachers training”.

- In vulnerable communities, ordinary people were engaged in survival strategies, those with work commute long hours to their workplaces, and any spare time is spent on household chores, church attendance or with family events (funerals, celebrations etc).
- In communities with very high levels of unemployment, any development that might result in increased jobs is welcome, even if it carries very high environmental or health risks.
- The tensions between job seekers and those concerned about environmental health are exploited during EIAs. Several community members spoke about developers promising jobs in order to gain support for their project, and dividing the community as a way of minimizing opposition.
- Several interviewees expressed distrust in government and would rather seek to empower themselves through working with NGOs than rely on government. Government was seen as promoting development without listening to the concerns of the community, and this was attributed to vested interests having undue influence over decisions.
- Community activists were positive about communities educating themselves through workshops and networking with neighbours and other empowered communities.

The role of NGOs as possible agents of empowerment was highlighted as was the need for EAPs to understand the circumstances of marginalized communities in order to develop appropriate tools for engagement.

2. Lack of funds and other resources to participate

Many community members are functionally illiterate but some are reluctant to admit this. Most Interviewees raised the problem that most meetings are held in English and no translation is provided. Technical jargon used in the reports renders such reports meaningless to most community participants.

Transport is also a major barrier to participation. Rural participants were adamant that transport must be provided and adequate notice given of meetings. Public meetings are often held in “central venues” located outside of marginalized communities. Meetings take place in the evenings, ending when it is dark, but no transport is provided to take community members back to their homes.

Additional issues that make it very difficult for community members, who are concerned about environmental issues, to participate in current EIAMS processes include, lack of spare time to attend meetings, sit in public libraries and read technical documents, no spare cash for transport, airtime or stationery to provide submissions on, no access to the internet, or computers, no background knowledge of the project (no access to mainstream newspapers).

The current “culture” of public meetings is alienating. Community members are told that there is not enough time for questions, their motives may be questioned if they raise their concerns, and EAPs often request community members to submit their comments in writing despite their having raised them at public meetings. Given literacy levels and time constraints, few community members are able to do this and their concerns are therefore almost never heard.

“ Written comment on EIAs is a barrier for people in communities, which is the reason why they do not become involved.”

In conclusion, community members sacrifice time, make the effort to raise their concerns and in general, their concerns are ignored. With such a net loss in terms of the resources communities put into such processes, it is not unexpected that communities often give up on these processes.

However, in circumstances where communities are seriously concerned about an environmental issue, other means are used to express their frustrations. These means are outside the formal process and not captured in terms of formal inputs to an EIA but they form a significant expression of concern and government officials need to take note of such actions when they review the quality of the EIA process. These include protests, marches, handing over of petitions and opposition to the development in the press. Similar issues were also highlighted as a means of engagement within the Electricity Governance Initiative of South Africa (Idasa, 2010).

3. EIA process – rights and responsibilities

A failure to understand environmental rights leads to despondency and apathy in communities where their attempts to participate have been ignored. Citizens who are not aware of their rights think that they have no rights, that their voices will not be heard and withdraw from the process.

Even, relatively well resourced IAPs also complained that the continual amendment of the regulations, and NEMA left them unsure of how their rights might have been impacted.

“communities have to fight for themselves and not just agree to everything. The PBMR was a waste of taxpayer's money. In EIA, the government needs to do a lot of work. Complaints are not taken up. E.g the Medupi issue - not enough EIA work done, eg the ancestral graves. This specific issue has been ignored and the Cultural Rights Commission has not take it up. Have dragged their feet. Huge resources are needed for legal cases. EIAs are not done fairly and people's rights are ignored. People have to be informed of their rights”. (Interviewee, February 2011)

- There is also mistrust between communities and EAPs who, while claiming independence and objectivity, are perceived to be promoting the development.
- The overwhelming majority of people interviewed believed that communities cannot be empowered while the current system of EAPs being directly remunerated by the development applicant exists, stating that EAPs can never be independent.
- The interviewees had no experience of any EAP explaining their environmental rights to them as part of the public participation process, but relied on NGOs who advised them of their environmental rights.
- For example, many community members raised the issue of EAPs being biased but had no knowledge of the specific EIA regulation pertaining to action that government could take if EAPs were shown to be biased.
- Government officials are rarely involved in public meetings, and the only source of information that community members have initially regarding a development proposal, is the EAP's interpretation of the process, provided at public open days and meetings.

In conclusion, the experience on the ground suggests that EAPs that explain and build the capacity of marginalized communities so that they can participate are rare indeed. Given the current system of payment for EAPs, it appears that they may not be the most appropriate people to undertake capacity building of the marginalized communities.

One EAP put it like this:

In practice, consultants draw up their EIA quotes for the applicants without putting a specific amount aside for pro-active capacity building of IAPs, and in a sense, as applicants would generally choose the lowest quote, the system works against additional activities such as empowering marginalized communities.

It might also be difficult to motivate to an applicant for an added expenses that could result in those IAPs opposed to the development, becoming sufficiently knowledgeable to strengthen their opposition, resulting in increased conflict and potentially increasing the risk of not getting a positive authorisation.

4. Technical specialists – knowledge and jargon

- The literature and results of the interviews provide a clear indication that community members are not provided with relevant information (both positive and negative) in a transparent manner that would enable them to understand and provide meaningful inputs. Marginalized communities are therefore both unaware of any potential negative impacts but also unable to determine their rights in this situation.
- Community specialists who volunteer to help communities or specialist advisors, provided by NGOs that are funded to provide such a service, play a key role. They are mostly trusted by the communities, have the technical knowledge to understand the complex jargon and are also able to interpret the information in a way that enables communities to understand and respond meaningfully.
- One of the reasons put forward by EAPs in recent years for using public open days was that individuals who had questions could approach specialists in order to gain an understanding of the issues. However, for marginalized communities, this is a complete failure.
- There was unanimous distrust of open days, some of these comments are captured in the summary in Appendices B and C.

From the interviews, it is clear that public meetings can play a capacity building role. For marginalized communities to hear the exchange of views from better informed IAPs, and hear the questions and answers provided, enables them to understand some of the issues better. To see that their issue is also shared by other community members, provides confidence to raise their voices, and the presence of knowledgeable NGO representatives or community specialists enables

other community members to identify them and approach them afterwards to ask for clarity about issues they did not understand.

There is a problem with technical information. Communities not in a position to understand. More the technical language in documents. Getting technical info translated in other languages is a big problem. EIA consultants don't consider all these issues. Open days versus public meetings = open days are a propaganda exercise. With meetings there are questions and answers. There should be interaction with consultants in a informed way - government must allow an expert to talk to the communities at their level before meetings in order for the communities/CBOs to understand (interviews 2011).

Successful interventions may be subject specific courses or workshops that focus on the needs of a particular groups. These are generally reactive in their nature, interest in the issues has been kindled due to a proposed development, and such interventions are quite different to pro-active capacity-building.

The use of English as the dominant language of communication has also been raised as a major barrier in earlier sections. However, it was pointed out that highly complex technical concepts do not easily translate into other local languages and the literal translation of reams of technical documents will therefore not necessarily help with local understanding. However, public meetings can be facilitated in the local language with the use of accessible language, visual media etc in order to convey complex technical concepts.

The present system is not sustainable - communities have little access to experts. Wessa / Goundwork provide a bit of access. Present system totally unequal - not sustainable. There are people at university who can assist, get the experts to communities. Government must be prepared to fund an expert nominated to the communities.

One EAP, Bolandenviro, based in Worcester, shared their approach to one EIA project – a community centre for poor rural communities. The meeting was held in Afrikaans, the facilitator came from a rural background (part of the challenges for rural communities is that EAPs are often from the larger Cape Town metropole, and less au fait with local rural issues). The public meeting provided photos of the site, showing views off to the west, north, south and east, with landmarks

pointed out so participants could easily orientate themselves. The EAP took some steps to ensure that local community participants could easily contribute to the process. (Interviewee, 2011)

5. Decision-making, monitoring and compliance

Decision-making in EIAs is supposed to be based on assessment of alternatives, and the ranking of the impacts in terms of high, medium significance, etc.. It is assumed that conditions of approval would mitigate any potential negative impacts, therefore protecting the community from harm. Interviewees raised the problematic nature of the rankings, for example, despite water scarcity being acknowledged as a critical issue, the development goes ahead.

For community members, the decision, and any conditions of approval are provided via a letter (mostly in English) and there is no feedback meeting to enable community members to understand the implications of the decision. In some cases, the community members perceive that the decision has been made before the EIA even began and that the EIA is simply a means to rubber-stamp the development. As the original government decision was made without their participation, there seems little likelihood of their issues receiving attention during the EIA.

Conditions of approval are given that are not feasible – for example, pollution levels are assumed to never exceed standards, in effect, the development approval becomes a tacit permission to break the law. Communities do raise complaints but these are not addressed, and conditions of approval are therefore not enforced.

Communities do not have the technical knowledge or skills to monitor compliance themselves. Again, specialist NGOs have played a role in assisting communities to do their own research in order to try to force the authorities to take action.

To conclude, the experience in the field and the experience reported in the literature regrettably leads to the conclusion that, with a few exceptions, marginalized communities have not been meaningfully engaged in environmental impact assessment processes.

7. Synthesis and Recommendations:

The previous section of the report focused on elaborating on the challenges experienced by communities. This section of the report draws on the suggestions made by community members, draws on best practice from the literature and highlights existing initiatives that could be built on in order to ensure meaningful participation by marginalized communities.

Given that a large proportion of South Africa's citizens would fall into the marginalized category, with for example, in 2007, about 7% of South African households had access to the internet¹, while about 9 million adults are functionally illiterate² (approximately a third of the adult population), it would seem that all participation processes that government embarks on need to be adjusted to ensure that the communication methodology, the mechanisms of consultation are appropriate for the majority of South Africans, not, as is currently the case, that such communication and consultation processes are only suitable for a small wealthy elite.

If such an approach was adopted, this would mean that **all** participation processes would enable marginalized communities to participate. In other words, the standard public participation process would be suitable for marginalized communities, and special methods would be available for the elite who wished to participate via the internet for example. Such an approach would not be static, but would then be adjusted as the levels of internet access, computer access and general environmental knowledge across the population increased. Monitoring such progress would then form part of the state of the environment report, for example.

Case study: high tech meets community

Trackers in the Kgalagadi have tools that enable them to monitor the location of various animals and plant species by reporting their location using GPS technology. Some of the most highly skilled trackers in Africa cannot read or write: "To overcome this problem, the Cyber-Tracker was developed with an icon-based user interface that enabled expert non-literate trackers to record complex geo-referenced observations on animal behaviour."³

¹ Statistics South Africa (Stats SA) 2007 community survey <http://emergingminds.org/South-Africa-s-Population-Increases-by-8-Million-Despite-Dooms-Day-HIV/AIDS-Reports.html>

² <http://www.southafrica.info/about/education/education.htm>

³ <http://www.cybertracker.org/ftp/Kalahari/2011%20WKCC%20Report.pdf>

Mobilizing the Marginalised

In circumstances of reacting to a proposed development that is perceived to have negative impacts on the communities, community based organisations have embarked on their own programmes of mobilization. There have been two approaches:

1. Acknowledging that ecological resources are being depleted, community groups have become engaged with process of restoring ecological services. This can be in the form of river clean-ups, community based natural resource management (CBNRM), and projects such as rainwater harvesting, organic gardening etc.
2. The second approach acknowledges the power imbalance that exists between rich and poor and attempts to address this. Community based organisations are seeing that the elite are able to manipulate decision-making processes and even the justice system, and are mobilizing communities and advocating that citizens stand up against injustice. According to the interviewees, the challenge of the second approach is that funding to continue the advocacy work is difficult to access and it is challenging to educate illiterate people. Mobilisation methods need to build on the rich cultural heritage of the people and to use creative methods. For example, the COP ART (<http://dontcopoutcopart.blogspot.com/>) project aims to use art and drama to convey messages about climate change and the challenges of international climate negotiations facing the world.

NGOs play a key role in facilitating access to funds for this work. Community organisations also tend to partner with NGOs in the form of coalitions, working together in a particular theme – for example, climate justice network, the energy caucus and the water caucus.(these networks have physical meetings hosted by an organization that has the capacity to do so and rarely have permanent coordinator due to funding constraints).

One of the most effective awareness campaigns around air pollution in the country is Groundwork's " bucket brigade". In 1999, GroundWork, an NGO focused on air pollution, initiated a project in South Durban, a heavily polluted area, that enabled local communities to sample the air they breathed, using a bucket. The bucket sample was then sent to a laboratory for testing and the results were then used by communities to highlight the bad air quality and health risks faced by the local residents. Appendix F provides more detailed information on the bucket brigade.

In other areas, particularly rural agricultural communities, emerging farmers are mobilizing to empower themselves to become involved in decisions that affect them. One route for this is the Catchment management agency establishment, initiated by the Department of Water Affairs.

Case Study: Catchment Management Agency (CMA)– Breede River, Western Cape

In the National Water Act, act 36 of 1998, the Department of Water Affairs envisaged a decentralised system of 19 catchment agencies taking over some of the functions of Water Affairs. The Breede-Overberg (BOCMA) is the second CMA in the country to be established. The CMA board is representative of the various sectors within the area, including emerging farmers and community representatives, as well as established agri-businesses. Its mission is

“The Breede-Overberg CMA exists to manage our water resources responsibly, through continuous engagement with all stakeholders and to devolve decision making to the lowest level for the benefit of all water users in the Breede-Overberg Catchment, including the environment.”

In order to assist the newly appointed board members, WWF ran training with various sector representatives to build their capacity regarding water related environmental issues.

I have gained some valuable experience since being part of BOCMA. With all the training, skills and insight I have obtained, it is my responsibility to ensure that the water needs of black farmers are addressed. It was a great day for me when the first black farmers approached me with their problems and I could then hand them over into the hands of competent BOCMA staff. (Estelle Palmer, BOCMA board member representing black farmers, quoted in the BOCMA newsletter July 2010) <http://www.bocma.co.za>

In order to align the objectives of the study with the recommendations in a structured format, the objectives of the study have been expressed as strategic outcomes with the detailed recommendations discussed under each heading (please note that numerical order of the objectives and the strategic outcomes are different to the terms of reference, as this appeared to be a more logical argument).

The following strategic outcomes are identified:

Strategic outcome 1: To ensure equitable/fair empowerment of marginalised communities in terms of environmental awareness

Strategic outcome 2: to ensure equitable/fair empowerment of marginalized communities in terms of training opportunities

Strategic outcome 3: to ensure equitable/fair empowerment of marginalized communities within the public participation of the EIAMs processes

Strategic outcome 4: to improve equitable/fair access to resources/funding in order to participate meaningfully in pp processes

7.1 Strategic outcome 1: To ensure equitable/fair empowerment of marginalised communities in terms of environmental awareness

The results of the interviews indicate that there is little environmental awareness within marginalized communities and as outlined in the relevant section of the report, the key challenge is how to communicate environmental messages to communities where daily life is stressful and focused on economic survival.

From our interviews, there is no one answer, but a variety of recommendations that aim to enable community members to gain environmental information without having to make major sacrifices of time or money.

Capacity building around specific technical project related issues is likely to be of interest to motivated individuals who are part of an EIA or other environmental management process, and the report covers this in strategic outcome 3. The recommendations below focus on broad public environmental awareness as opposed to specific technical environmental information:

- Use existing educational models for marginalized communities
- To focus on special interest groups that already exist within communities and provide additional relevant information regarding sustainable development (e.g. FSE has expertise in Acid Mine Drainage and nuclear related environmental concerns and is working with affected communities)
- To use facilitators (experts in the field of environmental education and sustainable development) advisors that are trusted by community members

- Resources must be provided to enable marginalized community groups to take the information they learn and to share it with other community members (Train the trainers model).

Different methods will work in different circumstances. Human society is arranged in a variety of ways in South Africa and the important point is that community empowerment mechanisms must fit with community needs, not the other way around.

In rural agricultural areas:

Community meetings where communities can participate in discussions and debates were raised as a preferred means of communication. These imbizos are called by traditional authorities or local councilors or other local leadership. Support for the meeting will depend on whether it is convened by credible people “known” to the community.

Notice of the meeting can be distributed neighbor to neighbor or possibly using modern mobile phone technology where possible. (Mobile phone usage may be limited in areas without electricity to charge the mobile phones or funds for airtime, or limited reception)

Sufficient notice must be given in order for farming families to make arrangements for someone to stay behind while one representative goes to the meeting. Transport must be provided to enable participants to attend the meeting. The workshop must be conducted in the local language of the community. Any workshop materials must be accessible in terms of language, lack of jargon.

Example 1: - Target – rural women

In rural areas, there is little access to electricity, therefore there is no tv – radio is there

Transport is a critical problem and the best method is to draw people to one area, pay for the transport so that all interested people can come to the meeting.

Providing sufficient notice is given of the meeting – families will make arrangements to ensure that one family member attends the meeting.

How to contact people – neighbours are a reliable network so important to make local contact with a few key individuals in the area who can then spread the message. (interviews, 2011)

The Department of Water Affairs, ran the Integrated Water Resource management (IWRM) capacity building projects in rural areas over a number of years. Workshops were held at the community level, focused on practical assistance that emerging farmers identified that they needed. A field worker /mentor was appointed who assisted with capacity building, followed up to see how implementation was going, also conducting monitoring and evaluation of all of the various projects.

The role of schools:

School environmental clubs enable school-going youth to learn about environmental issues in addition to their curriculum knowledge. – existing NGO school based programmes such as WESSA eco-schools and project 90x2030 programmes could be extended to more schools. This would address the perception that there is no environmental awareness taking place at schools. Government funding (for example through Ndalo Yethu) could be channeled to existing working programmes rather than initiating something new. School children then teach their parents and care givers.

The role of faith communities:

Faith communities generally have a regular meeting place where they gather. Environmental messages can be given to faith leaders to distribute at these gatherings.

For example, a Muslim faith leader, prepared an environmental awareness presentation and then went to about 30 mosques – visiting them one after the other, on a Friday – in this way, approximately 4000 people received information about environmental issues in a context that they could relate to.

The Southern African Faith Communities Environmental Institute (SAFCEI) is a multi-faith initiative dedicated to building environmental awareness amongst faith communities. Their eco-congregation programme provides environmental information in context of faiths. Using special environmental days as a way to integrate environmental responsibility into the daily lives of faith communities.

Faith communities could possibly partner with government, for example, Ndalo Yethu partnered with SAFCEI to hold a multi-faith conference on the environment.

Workers at work:

Local radio stations often play in small shops and factories. Domestic workers often listen to the radio while they work. Community radio programmes are always looking for news, information and current affairs. Short environmental mini-programmes can be recorded and given to these radio stations to play during the day.

Workers who are unionized are also provided with workshops about current issues and this could include environmental information. For example, one trade union brought some of its regional leadership together to build awareness about the government's electricity plan. The trade union brought in an NGO specialist in order to provide the information.

Workers en route to and from work:

Public Transport:

Short environmental mini-programmes can be compiled (interspersed with current music) to be broadcast over the train sound systems or played in taxi's.

Long distance travel:

Long distance buses often have videos playing movies for their passengers. Short Edu-tainment style movies could be developed for the bus companies to use.

In order to test the feasibility of such strategies, the research team informally tested the idea with taxi and bus companies, and received a positive response.

Example 2: Target – youth

Interviews with school environmental projects revealed that music was a key method for communicating environmental messages. Obviously, the type of music depends on the background of the youth but rap appears to play a significant role in marginalised youth. From a teacher: "They live in a poor community, gang fights rife. They have problems with reading. With all

these challenges it is extremely difficult to still teach them environmental issues. However, the only way is through rap music, which is what they know and do best”.

Another way that was effective was through outings, taking children to environmentally sensitive areas, for example, nearby wetlands, as part of educational outings.

Women:

Women who were interviewed spoke of their many responsibilities, for example, having jobs and also carrying the majority of household tasks, for example food preparation, child care and shopping. Women who were keen to be involved in environmental management issues, needed support to enable them to participate successfully but did not identify any specific methodology that might be aimed at women. It is therefore concluded that women’s participation in environmental issues can be enhanced by creating an enabling environment that addresses their particular challenges.

Successful environmental awareness initiatives have targeted women in relation to a particular environmental issue. For example, Gauteng’s gender and climate change networks have run workshops specifically for women about how climate change would impact on women. These community women have, under guidance and mentorship from NGO leaders, gone on to present their case at parliamentary and national government hearings.

It is important to ensure that environmental education programmes are designed in a manner that encourages women to participate

Recommendations:

- Use existing educational models for marginalized communities
- To focus on special interest groups that already exist within communities and provide additional relevant information regarding sustainable development
- To use facilitators (experts in the field of environmental education and sustainable development) advisors that are trusted by community members
- Resources must be provided to enable marginalized community groups to take the information they learn and to share it with other community members (Train the trainers model).
- Use methods specific to needs of particular groups:

- **Rural:** credible organiser, transport, neighbours to communicate
- **Schools:** extend eco-schools, 90x2030 clubs etc
- **Faith:** use existing partnerships, SAFCEI, Ndalo Yethu
- **Workers:** radio, trade union education, Taxi, bus, train education
- **Youth:** music, Enviro clubs
- **Women:** women focused education, role models, address challenges – transport, childcare, security

7.2 Strategic outcome 2: To ensure equitable/fair empowerment of marginalized communities in terms of training opportunities

Many NGOs have environmental education courses/workshops to assist community members to understand the impacts of proposed developments, to understand their environmental rights and to broaden their environmental awareness. This outreach endeavours to build capacity within communities, hopefully in the longer term, reducing their dependence on outside experts.

The table below provides a list of environmental courses and workshops that were mentioned by interviewees. We have also included two organisations that host successful internships to empower local environmental activists from marginalized communities. This is not meant to be an exhaustive list but an indication of the capacity building programmes that are known to marginalized communities. There are no doubt a number of other successful initiatives and courses taking place in various parts of the country. In additions, appendix F provides a list of courses, mostly accredited within the NQF, held at various institutions as provided by WESSA.

Course	Lead organisation	Target participants	Awareness/accredited
EIA empowerment workshops	GroundWork	South Durban community activists	Awareness
Climate Change communication campaign	Green Connection	Rural communities in Northern and Western Cape	Awareness

Fishing for the future	WWF/ Responsible Fisheries alliance	Crew and skippers of fishing vessels	Accredited – 2 day
Intern	WESSA	Community members	
intern	EMG	Community activists	8 months

Organisations like Earthlife Africa- Johburg, GroundWork, WESSA, Pelindaba Working Group, hold reactive empowerment workshops in order to address a current issue. The strength of the workshops is that they are held in the affected communities, mostly hosted by community organisations with help from specialists brought in by NGOs or communities.

The language and design of the workshops is aligned to community needs, and the aim of the workshops is that community members are then empowered to teach their neighbours.

In response to a question about the skills needed to participate in EIAs, one of the interviewees gave the following comment:

“ All the above (GIS, engineering, technical knowledge, computer skills...) as well as negotiation skills, analytical skills, networking, land use planning, strategic environmental assessment (looking at whole landscape – space allocation, etc), scenario building skills.”

Two examples of education initiatives that provided technical knowledge in an accessible manner are as follows:

WWF responsible fisheries programme: This accredited course provides training workshops for crew and skipper of fishing boats to encourage fishers to mitigate the ecosystem harm of fishing. Such workshops use the fishers local knowledge of the marine ecosystem to explain scientific reasons for their observations and enlist their help in designing measures to further reduce the ecological impact of fishing.

The Conservation International funded Green Connection climate change communication project is another example. In this case, rural communities that were predicted to be significantly affected by climate change were targeted and a series of stakeholder workshops held in order to assist communities to interpret the environmental changes they are experiencing in the context of climate

change and to provide some knowledge about the possible measures that they could use to build resilience.

In both cases, the tools developed were appropriate to literacy and knowledge levels of the communities and were developed as a result of a need identified by the stakeholders. Both used innovative audio-visual media to convey complex technical concepts, and both enabled the participants to integrate their new found knowledge into their daily activities.

Short courses/workshops: The capacity building courses can be provided by NGOs (assisted by issue based specialists) in order to empower community activists who will then take the knowledge and further empower other activists. Sustaining the Wild Coast (SWC), Masifundise, Earthlife Africa, Groundwork models have all been successful.

Such NGOs could be funded to design and implement further courses specifically focused on EIAMs.

One particular project that is included here is the Abalimi Bezikhaya urban agriculture project. This project started in 1994. It is an urban agriculture (UA) and environmental action (EA) association operating in the socio-economically neglected townships of Khayelitsha, Nyanga and surrounding areas on the Cape Flats near Cape Town, South Africa. The project empowers individuals, and community groups to initiate and maintain organic vegetable gardens for their own use, to contribute to food security, and to improve the environment, and has also been part of greening schools in marginalized areas. Through partnerships (South African Institute of Entrepreneurship, the Business Place Phillipi and Raymond Ackerman Foundation), a more recent initiative started in 2008, enables the growers to sell their produce – the Harvest of Hope initiative. The project provides practical training, and assists with marketing of the vegetable produce.

The majority of interviewees felt that they would like further training opportunities. One interviewee referred to a model of mentoring that had apparently been funded by government in the 1990's/1980's. This allowed older, retired specialists to be paid to mentor young environmentalists.

One innovative proposal was in response to the lack of benefits that marginalized communities received in general, while having to bear the burden of the negative impacts of industrial developments:

Local communities are often promised jobs during the assessment phase of the project, such jobs then tend to be temporary construction jobs, after which community members are left unemployed once again. As part of their contribution to the community, it was proposed that the construction phase of the project be used to skill many more workers than are needed for the construction phase and that this training should empower the community members to be able to run their own micro-businesses and earn a sustainable income, once the construction phase is over. Included in the training that the workers receive, would be general environmental awareness training. In this way, communities would have opportunities to uplift themselves and could become empowered to guide development decisions.

Interns: Community activists from marginalized communities can also be brought into existing capacitated organisations as interns. Interns are then able to attend courses to gain knowledge and to gain experience working in the organization, mentored by experienced NGO environmental professionals. This knowledge can then be taken directly back into the community.

Interviewees also cited role models and mentors as reasons to become active in the environmental sector. In response to a question about the value of role models, particularly black female role models: "It is important. Direct and indirectly transfer of skills and information." And this from a seasoned activist in response to whether her work was fulfilling: "yes. Assisted many people to understand the issues and instilled confidence. Passion is helping to empower more women."

Training institutions, working with NGOs and affected communities can design and implement short courses that are accredited through the South African Qualifications Authority (SAQA), thereby enabling community participants to gain qualifications that recognize their local community knowledge.

Courses/workshops can be combined with practical training to provide knowledge and application to enable communities to empower themselves and build environmental sustainability into their existing day to day activities. For example, a short course for rural communities on climate change included a demonstration on how to use a fuel-saving stove.

As part of empowering marginalized communities, there is a need for existing EAPs and other specialist consultants to undergo training. This training should enable EAPS to gain skills in:

- providing technical information in an accessible jargon-free format;
- gaining an understanding and sensitivity to the needs of marginalized communities that is then applied to the design of the EIA process; eg transport to meetings, language of information, timing of engagement etc.
- Gaining an understanding of the value of local knowledge and how to work within marginalized communities to ensure that this essential knowledge is incorporated into the project where appropriate.
- All EAPs should have conflict management training

In addition, a guideline that details specific mechanisms that should be followed when dealing with marginalized communities should be prepared by DEA.

Local government was also seen as needing capacity building around EIAs. This was raised through the PSC and in some of the interviews. No specific recommendation to address this is made in this report as it is assumed that government training would be addressed in subtheme 8.

Recommendations:

- Continue and extend existing short courses on sustainable development – using existing NGOs and tertiary institutions
- Implementation of careers guidance and bursaries/ in service training focused on poorer communities – the use of FET institutions to be maximized
- Existing intern programmes at NGOs can be extended and combined with a programme of mentors.
- Design and implement a specific course/guideline for EAPs, government officials and local authorities on empowering communities

7.3 Strategic outcome 3: To ensure equitable/fair empowerment of marginalized communities within the public participation of the EIAMs processes

The strategy and guidelines that follow are put forward to directly address these identified barriers in the assumption that addressing these barriers would go some way to ensuring meaningful participation by marginalized and vulnerable IAPs.

There are a number of overarching recommendations followed by some detailed description of how empowerment could take place within the current public participation process.

General Recommendations:

- Communication must take place in the local language of the project development site. If it is national project, it must ensure communication in the major language groupings of the country.
- Information must be conveyed in a manner that is accessible, that enables all IAPs to grasp the main proponents of the development proposal, and its implications (positive and negative) – such an accessible manner should follow good practice for low levels of literacy.
- Specialist advisers that are chosen by affected communities must be appointed to assist communities to understand the Technical data pertaining to the project.
- Public meetings must be mandatory – the exchange of views between proponents, EAPs and more capacitated EAPs provides a learning opportunity for less capacitated IAPs. Open days are least helpful, and should be halted, unless combined with a public meeting.
- Venues and times for meetings must be chosen to ensure that community activities are least affected - with particular attention to activities that are traditionally performed by women such as food preparation and child care.
- EAPs should familiarize themselves with customs and cultural norms that could inhibit participation and adjust the participation process accordingly eg women may be less communicative in the presence of men; youth in the presence of adults etc.
- Meeting venues and times should ensure that physical constraints such as public transport, safety etc are not a barrier to participation.

- Government Departments should consider the holding of a public hearing in EIAs pertaining to significant projects in order to ensure that they have “ heard” the issues of marginalized communities whose written inputs may be limited due to language, literacy and other factors.

Specific detailed recommendations:

The recommendations have been presented in the form of an example of best practice, drawn from the literature and interviews. As marginalized communities’ experience of environmental management is often the negative impacts after the development is approved, a number of suggestions have been put forward to empower marginalized communities to participate in this phase of environmental management.

Drawing from the findings of the study, we identify four main barriers to participation of marginalized communities:

1. Poverty – lack of resources

This manifests in community members having little spare time or funds to participate meaningfully. Before the formal EIA process begins, EAPs should engage communities, using an social impact assessment (SIA) or PRA approach in order to gain an understanding of the needs of communities. Such needs should then be used to inform the design of the EIA public participation process. These engagements could, for example, inform the place, time and form of public meetings, as well as the languages for printed materials, the provision of interpreters, the need for capacity building workshops etc.

EAPs should engage communities through credible leadership structures/ environmental CBOs within the targeted communities.

2. Lack of understanding of the EIA process and the rights and responsibilities of IAPs.

The interviewees do not trust EIA processes, EAPs, and feel powerless to be heard in EIAs. One suggested way of allowing community participants to know the track record of an EAP, and therefore understand whether the EAP might be truly independent or “ trustworthy” would be to apply some sort of rating system. For example, a grading system such as used in the National

Occupational Health and Safety Standards, or the tourism industry – i.e. a star rating) could be applied to developers and to EAPs. Such a star grading system would enable IAPs to determine the track record of the EAP and the developer and this would then be important information that would inform their acceptance or rejection of the EAP and their support or lack of support for the project. In principle, such a rating system might serve to balance the status quo, where EAPs are perceived to promote the development because they are paid by the developer, and there is a strong perception that their careers would be determined by whether they can get the developers proposals approved, rather than their commitment to sustainable development. The grading proposal was not supported unanimously at the PSC workshop and some investigation will be made to see how the concerns of marginalized communities can be addressed possibly through subtheme 5.

Where marginalized communities are to participate, the communities should be provided with an opportunity to understand their rights within the EIA process, particularly regulation 17,18 of EIA 2010 regulations (dealing with action to be taken if EAP fails to act in an independent manner).

Workshops should be provided, and cover the entire EIAMs process, from planning, scoping, Environmental Impact Report (EIR) and the appeal procedures. No EIA process should reduce its public participation process to an open day. Open days are not an acceptable mechanism for public participation within marginalized communities (or any other communities either). These workshops should be provided by NGOs that have credibility within the community.

A similar capacity building process can be applied to integrated development plans (IDPs), environmental management frameworks (EMFs), strategic environmental assessments (SEA) or other environmental management tools.

Timeframes for consultation would need to be adjusted to ensure that meaningful participation takes place – this does not necessarily mean extending timelines but would mean that commenting deadlines may need to be aligned with community organization meeting dates to ensure sufficient time for consultation and mandated decision-making.

3. Lack of understanding of the specific technical aspects of a particular proposed development.

A particular community may face a variety of EIAs for a number of projects. For example, a community may participate in an EIA about a proposed oil pipeline and in that process gain an understanding of their rights and responsibilities in terms of EIAs. The next project proposal is a hazardous waste site – a completely different animal technically.

Community action groups or resident associations may want to contract a specialist that they trust in order to advise them. Such organized community groups should be encouraged to do so, or NGOs working in that marginalized community that have credibility might offer to identify and provide a relevant specialist to assist.

In order to contribute to the transformation of the sector, it is recommended that NGOs with professional EIA specialists that work with communities, aim to assist communities to prepare their own EIA submissions, rather than preparing the submission on their behalf.

4. Monitoring and Enforcement

Community members who are in close proximity to potential environmental hazards/dangers such as heavy industrial plants, slimes dams, as well as those in conservation areas, are well placed to monitor any environmental conditions of approval, and to report any breaches to the relevant law enforcement officer. The capacity building described for the EIA process should include a detailed understanding of an environmental management plan (EMP) and the technical aspects of how any impacts would be monitored.

Community members should be incorporated onto environmental monitoring committees. The use of a “commitment index” could provide some guidance as to appropriate committed community members to sit on such monitoring committees [The commitment index is a tool developed by a private company that enables monitoring of stakeholder involvement in the specific issue, and is

therefore useful in assisting stakeholder groups to choose a representative that has demonstrated commitment to the process or issue at hand⁴].

Marginalised communities should have a say in the appointment of Environmental control officers. The monitoring results should be provided to the community in specific regular community meetings to feedback monitoring results and to be accountable to the communities for any breaches. Community members can be trained to provide some of the technical data collection that is necessary to monitor the development.

Local communities must know who the relevant Government enforcement officers (green scorpions) are. The enforcement officers should become familiar with the relevant community leaders and must respond to the complaint lodged by a community member.

One of the conditions of EIA approval should be it is mandatory for developers to report on their monitoring results to the affected marginalized communities on a regular basis.

The recommendations listed in the four areas discussed above can be largely applied within the existing regulatory regime and do not require any substantial legal amendment. However, if the recommendations could be drafted into a best practice obligatory guideline, and government could enforce such practice, then it might be possible that the principles in section 2 of NEMA could be complied with.

Summary of specific recommendations:

1. Poverty – lack of resources

- Plan for needs of communities

2. Lack of understanding of the EIA process and the rights and responsibilities of IAPs

- Grading system or equivalent
- Specific outreach re rights education – CER or other NGO

3. Lack of understanding of the specific technical aspects of a particular proposed development.

⁴ Boland-enviro have developed the commitment index as part of stakeholder process in a catchment management forum

- Specialist NGOs or specialist advisors appointed by communities

4. Monitoring and Enforcement

- approve ECO, receive reports, whistle-blow,
- Mandatory reporting by developer

7.4 Strategic outcome 4: to improve equitable/fair access to resources/funding in order to participate meaningfully in public participation processes

The capacity building mechanisms outlined in the section above need to be funded as part of the EIA process. Part of the EIA study costs should be the provision of funds by the developer to an NGO or CBO that works with the marginalized communities. This fund is then used by the NGO or CBOs to contract in specialist expertise to advise them. Such a specialist is directly accountable to the CBO/NGO and the developer has no say over this appointment.

Government should also contribute to the fund to ensure that marginalized communities are able to buy in the expertise they require. IAIA and other professional bodies could contribute to this empowerment through providing a database of consultants and specialists that could potentially be drawn from by marginalized communities. A tracking system would be invaluable in this instance to enable communities to understand the track record of consultants and specialists in other EIAs. Such a system should also be used so that affected communities could obtain “references” from other marginalized community representatives that could vouch for their integrity.

Most interviewees felt that funding for community empowerment should come from government but there was also a distrust of authorities who it was perceived, were going to approve the development any way.

The EIAMs outreach proposal presented at the PSC that seeks to empower stakeholders could play a role as a section 21 body that could provide funding for capacity building of communities. The Centre for Environmental Rights could be supported by government to design and implement a programme of capacity building for marginalized communities on the issues of their

environmental rights (a short course that enables marginalized communities to understand the EIA process).

However, it is important to note that there are a number of non-governmental organisations that provide expert advice to marginalized communities and the relevant NGO that is identified by the community could be supported to extend their outreach work in order to fulfill the Government responsibility of adhering to NEMA.

Summary of Recommendations:

- Use organisation regarded as credible in local community, for capacity building regarding environmental rights e.g. CER or specialist info e.g. groundwork, FSE etc.
- Govt to fund rights education via CER or other body
- Applicant to fund technical specialist
- Grading system / IAIA database (cross reference subtheme 5 and 3)
- The funding for the above support should be without strings – i.e. the funder has no control of the choice of appointees for communities

8. RISKS

There are a number of perceived risks to the empowerment of communities:

1. The shift from the current elitist method of consultation to a more empowering method that would suit marginalized communities may be perceived as “going backwards”. The implementation of empowerment measures is likely to increase the cost of engagement and consultation.
2. The EIAM process could be delayed due to the involvement of IAPs that may require additional time in order to participate meaningfully. From the literature, re-active responses to a failure to build capacity is likely to result in delays to the process while pro-active capacity building planned as integral to the process would not do so.
3. The development may not be approved as IAPs are then empowered to submit information about the negative impacts and this influences the decision-maker to not issue the authorisation.

Positive benefits that outweigh any perceived risks:

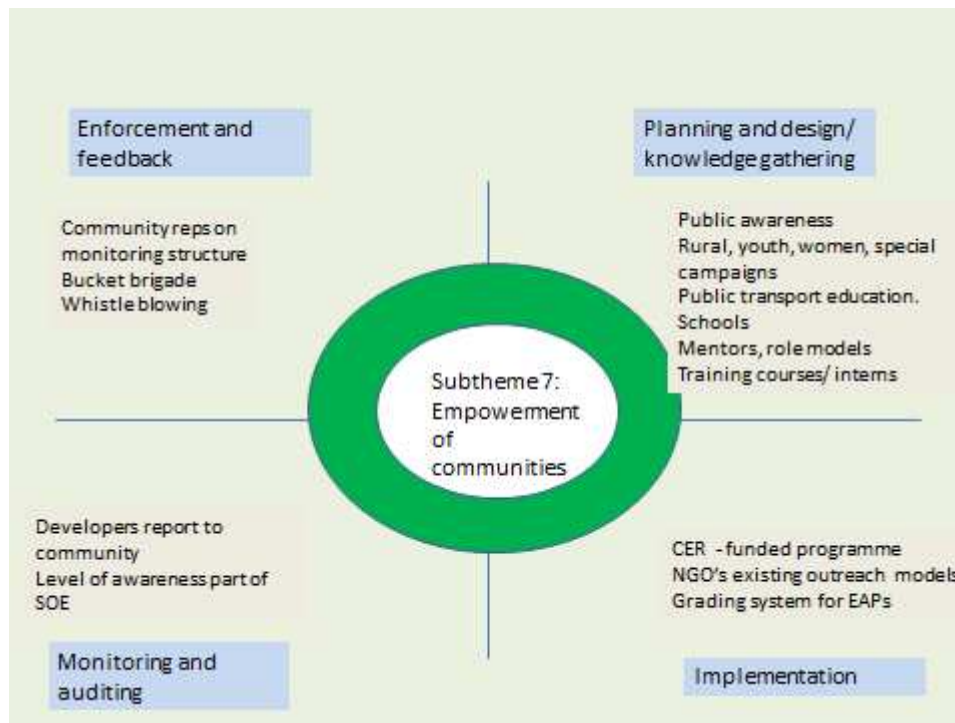
1. The implementation of the measures proposed is likely to increase the involvement of local communities in decisions that affect them. This means that EIAMs processes will now meet the requirements of NEMA section 2.
2. Drawing on the knowledge and experience of local communities is likely to add value to the EIA or EMF and therefore result in better informed and higher quality decision-making.
3. Delays in EIAs processes are unlikely to occur if pro-active capacity building takes place ahead of the start of the formal EIA public participation process.
4. Developments that pose significant environmental risks are less likely to be approved, thereby reducing the negative impacts on the receiving environment
5. The involvement of community members in monitoring and enforcement will strengthen the compliance with conditions of approval, thereby contributing positively to improving the quality of the environment.

9. CONCLUSION

Environmental governance can only be strengthened through the involvement of a broader range of views and local expertise in EIA and other environmental management processes.

The implementation of these guidelines, that take into account the needs of the majority of the population are appropriate for a developing country and can lead to empowered citizenry that is motivated to conserve and look after our natural resources for current and future generations.

It is not possible to regulate for every possible combination of community circumstances and consultation methodology. The important factor is to ensure that the methodology is suitable to the affected marginalized communities and that the final outcome is meaningful public participation by marginalised communities.



10. Cross cutting themes

1. Subtheme 8: Skills of EAPs and Government Officials

As part of empowering marginalized communities, there is a need for existing EAPs and other specialist consultants to undergo training. This training should enable EAPs to gain skills in:

- providing technical information in an accessible jargon-free format;
- gaining an understanding and sensitivity to the needs of marginalized communities that is then applied to the design of the EIA process; eg transport to meetings, language of information, timing of engagement etc.
- Gaining an understanding of the value of local knowledge and how to work within marginalized communities to ensure that this essential knowledge is addressed/incorporated into the project where appropriate.
- All EAPs should have conflict management training

2. Subtheme 6: Representivity within Sector

With an environmentally enlightened citizenry, as would arise, over time, through meaningful public participation in environmental processes, it could be anticipated that marginalized community

members would become increasingly capacitated, and thereby improve demographic representivity in the environmental sector.

3. Subtheme 5 : Independence of EAPs

IAIA and other professional bodies could contribute to this empowerment through providing a database of consultants and specialists that could potentially be drawn from by marginalized communities. A grading system would be invaluable in this instance to enable communities to understand their track record in other EIAs. Such a grading system should also include references from other marginalized community representatives that can vouch for their integrity.

4. Subtheme 4: Monitoring and Enforcement

Marginalised communities should have a say in the appointment of Environmental control officers
The monitoring results should be provided to the community in specific regular community meetings to feedback monitoring results and to be accountable to the communities for any breaches. Community members can be trained to provide some of the technical data collection that is necessary to monitor the development.

Local communities must know who the relevant Government enforcement officers (green scorpions) are. The enforcement officers should become familiar with the relevant community leaders and must respond to the complaint lodged by a community member.

One of the conditions of EIA approval should be it is mandatory for developers to report on their monitoring results to the affected marginalized communities on a regular basis.

5. Subtheme 3: Public Participation

No need to explain the connection here.

6. Subtheme 2: Knowledge and Information

Undoubtedly knowledge and information needs to be made available in a diverse array of formats. Audio-visual materials and materials available through mobile phone technology need to be developed to raise environmental awareness across society.

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Addendum: Post March PSC workshop amendment -

Due to the short time frames, the final recommendations from other relevant subthemes were not available at the time of finalizing this report.

At the workshop, PSC members raised issues regarding the involvement of marginalized communities in monitoring and compliance and the need to ensure that the involvement of marginalized communities was integrated into all aspects of the project cycle (as per diagram on page 45).

In order to ensure that this is done, the recommendations from this subtheme need to be integrated into the other subthemes. For example, the independence of EAPs was raised as a key concern from marginalized communities. It will be necessary to assess how subtheme 5 has dealt with this in order to ascertain if this concern has been addressed.

A similar approach will be necessary for institutional and procedural arrangements, the public participation process generally and the compliance and enforcement subtheme.

Some small amendments have been made to this report in response to some of the comments made at the workshop and during the review period, alignment with other relevant subtheme reports will be attempted.

Some thoughts on drawing on some cooperative governance under other environmental laws are provided at the end of this section.

Key questions for reviewers to think about include:

How to ensure that marginalized communities can contribute to monitoring and compliance of conditions of approval?

How to ensure that marginalized communities representatives have sufficient resources to participate in long term cooperative governance structures such as environmental monitoring committees. Such resources need to cover attendance at meetings in addition to enabling feedback to constituent communities. Should applicants or government be asked to pay?

The participation of marginalized communities requires additional time and capacity building processes in order for them to participate in EIAM processes. Should such capacity building be mandatory part of EIA processes and should decision-making authorities reject applications that do not fulfill these obligations?

Extracts from subtheme 10 are included below for consideration:

Cooperative governance – involvement of stakeholders other than government.

Various other pieces of legislation contain cooperative arrangements that could be drawn on to formulate guidelines or regulations to improve cooperative governance arrangements that include stakeholders outside of government.

The Air Quality Act (AQA – Act 39 of 2004) provides for the establishment of priority areas and each priority area must then develop a management plan. A committee of role players must be established who will be responsible for the implementation of the plan (AQA section 19.6.c).

The use of section NEMA section 35 provisions could possibly be used to provide that such a committee could be involved in monitoring and auditing broader environmental outcomes such as the conditions of a ROD of an EIA.

The Waste Act (Act 59 of 2008) provides that part of the license may include the establishment of committees “ for the participation of interested and affected parties” (section 51.2.r).

Section 64 of the MPDRA (act 28 of 2002) provides for the establishment of REMDECs and the formation of ad hoc working committees or sub committees of the MPRD board. These committees are able to have members that are outside the usual membership of the board or REMDECs.

(2) The Board may establish such other permanent or ad hoc committee as it deems necessary to assist it in the performance of its functions, and any such committee may include members who are not members of the Board.
(section 64.2 of MPRDA)

NEMA and EIA regulations provide that EMPs can be revised and amended.

The recommendations from a cooperative structure such as outlined above, could be fed into a environmental department review process in order to ensure that the EMP remains appropriate for the context of the project.

The use of NWA, LAAC type cooperative governance arrangements should be accommodated within NEMA. Section xx of NWA sets out the range of stakeholders to be involved and the scope of the committee’s responsibilities. The arrangement enables both government and non-government stakeholders to be involved from a planning stage through to the operational stage of

the activity. (see appendix 7 for an example of LAAC in KZN) [note to reader, this will be finalized during the review period]

Compensation for contributions at cooperative governance structures.

The value of community representatives on cooperative governance structures is clear and an issue has been raised of the need to compensate such volunteers for their contributions at such meetings. The MPRDA contains a clause that applies to advisory committees that include stakeholders outside of government.

Remuneration of members of Board, committees and working groups

4

66. A member of the Board, a committee or working group, except a member who is a full-time employee of the State, must be appointed on such conditions, including conditions relating to the payment of remuneration and allowances, as the Minister may determine with the concurrence of the Minister of Finance.

(Section 66 of MPRDA)

The National Nuclear Regulator board also has representatives from civil society on the board and such members receive some financial honorarium to compensate them for the time and efforts at board level. Similar financial arrangements could be adopted for EMCs.

The illustrative examples above require institutional change and possibly law reform. Specific legal and institutional recommendations are beyond the scope of this subtheme and would be taken up within the ambit of subtheme 1 or the DEA law reform process. Their inclusion here is to reflect the possibilities that have arisen as a result of discussion during the review of this report.