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## A Participatory Water Management?

### The South African Policy of Local Water Management



#### Maud Orne-Gliemann

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The notion of participation has been central to discourses on development, good governance and sustainable environmental management. At each level of intervention, users, citizens and stakeholders of all types have been encouraged to invest and organise themselves to take part collectively in the development of their communities and the management of their resources. This movement is justified by economic logic, efficiency but also a principle of democratisation and the sharing of decision-making power between the government and the users, citizens and/or stakeholders with varying positions of power.

The 1998 South African water reform is a good example of an attempt to democratize water resource management. It created new decentralised water management bodies and openly called for the participation of all individual water users (1). Yet, if the reform and discourses of the time unequivocally declared the intentions of the South African water law, the conditions surrounding the implementation of the reform left many grey areas in the materialisation of active user participation objectives, almost fifteen years after their adoption (2). The case of the small-scale irrigation schemes developed in the country's former Bantustans is particularly worrying (3).

#### 1. The 1998 National Water Act: a democratisation on paper of the South African Water Management System

After four years of the Department of Water Affairs and Forestry (DWAF)<sup>1</sup> reviewing the current legislation, assessing needs and resources, and elaborating a national water resource management project, the South African Parliament adopted a new water law on August 26<sup>th</sup>, 1998. As such, the National Water Act (NWA) replaced the 1956 Water Act which symbolised the segregationist policy of the *grand apartheid*<sup>d</sup>. The management principles conveyed by the NWA were “nothing short of a quiet revolution”, asserted Kader Asmal, then Minister of Water Affairs and Forestry, during their conception in 1996 (DWAF, 1996). Nationalising resources,

introducing usage rights, separating land from water issues, setting water fees, decentralising and democratising water resource management, protecting the environment, establishing a minimum guaranteed universal access: South African politicians sought “*do it all' at once rather than move by piecemeal reform*” (Muller, 2009: 184), an attitude which had been made possible by the window of opportunity (Muller, 2001a: 10) that the double context of political revolution and constraints on the resources was at the end of the 1990s.

Since its adoption, the NWA has been constantly lauded by the international community and praised by the actors of the South African water sector. The Act is indeed considered as one of the most advanced piece of legislation on water in the world, taking fully into account the international recommendations of the time as regards 'good' management. The influence of the integrated water resource management principles (IWRM) (see insert p.9), is unquestionable and multifaceted: (a) introducing the catchment basin as the new referent in the territorial division of management; (b) introducing the notion of economic efficiency and recognition of water as an economic good; (c) recognising access to water as a *basic human need*; and finally (d) opening water resource management to user participation.

The Act of 1998 provides for the decentralisation of water resource management for the first time in the South African national water system. The new legislation establishes a three-level institutional system of management. In addition to DWAF, the NWA provides for the creation of two new types of management bodies: the Catchment Management Agencies (CMA) established at the level of each of the nineteen Water Management Areas (WMA; see Figure 1), and the Water User Associations (WUA) established at the local level.

According to the NWA, CMAs and WUAs are established after public consultation, the formers on the initiative of the relevant communities and stakeholders, the latter on the initiative of the users, or in both cases, on the initiative of the

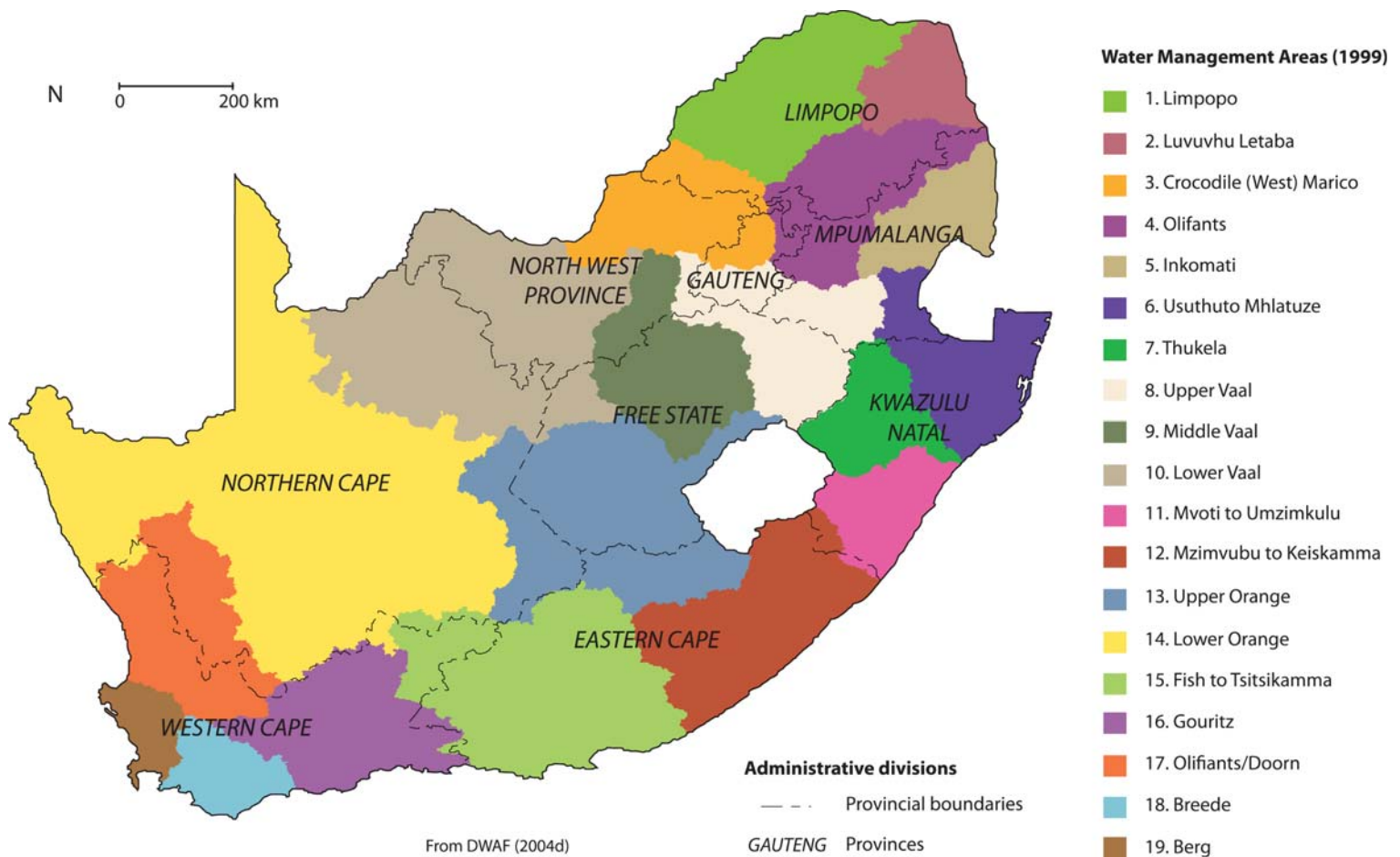


Figure 1. The division of the South African territory into nineteen water management areas (1999)

Minister of Water Affairs and Forestry. The main functions of the CMAs are: (a) to gather information and advise users; (b) to elaborate a management strategy for the WMA for which it is responsible; (c) to co-ordinate users and other water management organisations in the management area; and finally, (d) to promote community participation in water resource management in the WMA (Article 80 of NWA). WUAs “[...] operate at a restricted localised level, and are in effect co-operative associations of individual water users who wish to undertake water-related activities for their mutual benefit”, declared the NWA (RSA, 1998). The primary functions of WUAs are varied. The Act proposes in its annexes a constitution model for their creation, and also provides the possibility for the Department or the CMAs to delegate certain water resource management functions to WUAs.

As representatives of local water users, WUAs are key instruments in opening the decision-making process to the South African population as a whole; they are key instruments for democratising the country's water management processes; finally, they are a key element for righting past inequalities and constructing a new South Africa. More than a technical breakthrough or the successful adaptation of international principles of good management, the NWA is a true tool for national redemption following the end of apartheid.

“The chief importance [of the Act] [...] goes much deeper than a technical policy. It goes to the heart of our society. It is the moral demand that the voiceless and the impoverished make on us. It is the need to invest people with dignity. It is the call to roll back the awful iniquities of the past” (Asmal, 1995b). The 1998 water reform is to give rise to the country's reunification and to the reintroduction of the former homelands in the national territory. It must lead to the simplification of the institutional arsenal and the unification of water legislation which, at the time, was scattered in over sixty different pieces of legislation (Asmal, 1996). For the first time in the national water management strategy, it must lead to taking into account the needs of former homeland populations still poorly documented at the time. Finally, it must take part in rallying the South African people around shared values of equality and democracy.

As such, a major objective of the institutional water management reform is to remedy past access, advantages and participation inequalities resulting from the apartheid regime. Today the idea is to guarantee water management for all and by all. The government must no longer be the only one to guide the water legislation review and implementation process. A large movement of national consultation was actually organised between 1994 and 1997, through which

South African citizens were called upon to comment, assess and improve working documents and political programmes distributed by the DWAF as part of the reform process (Backeberg, 2005; De Coning, 2006). This habit of consultation endured after 1998 for the elaboration of following policies and through the participative creation processes of the WUAs and CMAs.

But while the processes of democratisation and decentralisation of water management were so clearly defined in 1998, their implementation was toned down by practice: the evolution of ideas, the slowness of the establishment processes, users running out of steam or disagreeing, and/or the persistence of inequalities inherited from apartheid transformed the format of decentralised institutions, and kept the decision-making power away from South African users and citizens.

## **2. Water User Associations: The 'Local' Participative Water Management Institution**

*“The National Water Act was purposefully formulated as a framework Act, to minimise the complexity of technical details and to achieve economy of drafting time and effort”* (Pegram and Mazibuko, 2003:1). This format gave the DWAF and other actors involved in the implementation of the reform a certain margin of interpretation. As a result, the Department and 'its' consultants resorted to a set of guidelines published after 1998 to clarify the Department's position, and spell out the role of each new institution or new action model in the national water management system: guidelines on the establishment of the WUAs as well as on the transformation of Irrigation Boards<sup>iii</sup>, the establishment of CMAs, the participative processes or, still, the contribution of the water reform to the empowerment of the poorest.

The NWA defines WUAs clearly: WUAs are “co-operative associations of individual water users” operating at the local level. Yet, this seeming clarity exposes the absence of tangible ideas in 1998 on what WUAs, which had been created on paper, were going to become in practice. This discovery was made progressively, by trial and error, through the different guidelines published by the Department. As such, the implementation of the WUAs evolved during the various creations and transformations, to which the Department reacted by modifying the specification requirements of future associations, one at a time: creation procedures, form of consultative process, representation quotas etc. This creation by trial and error, applied to a South African landscape still strongly marked by segregation and socially diverse, has led to the establishment of a disparate corpus of associations with modes of existence and operation strongly marked by their location and year of creation.

The Department conventionally distinguishes between three types of WUAs according to the identity of the main users involved: (a) WUAs stemming from the transformation of one or several former Irrigation Boards (IB) made up essentially of large commercial farmers; (b) WUAs stemming from the transfer of Government Water Schemes<sup>iv</sup> (GWS) to farmers;

and finally (c) WUAs bringing together historically disadvantaged individuals (HDI) such as small-scale irrigation schemes' farmers (DWAF, 2002a; DWAF, 2007). Yet, this typology is incomplete in that it does not take into consideration the differences in the scales of action, does not account for the diversity of situations within a category of associations, and omits the new WUAs bringing together middle size commercial farmers (and not just disadvantaged populations). Lastly, it does not account for the evolution of the policy and practice of WUA establishment which, since 2004, favour multi-sectorial associations established at a scale which is becoming increasingly larger.

The case of WUAs for Small-Scale Irrigation Schemes (SSIS) is a good illustration of this evolution. The idea of generations of WUAs is implicit in the political discourses which easily oppose the very first associations created for SSIS, to the following projects. As such, three generations of WUAs for SSIS can be distinguished: a first generation of single WUAs emanating from the rehabilitation programmes of SSIS between 1998 and 2000; a second generation of cluster WUAs organised around a cluster of irrigation schemes since 2004-2005; and finally, a third and currently evolving generation of widened WUAs which resemble more mini-CMAs than localised water management institutions (Figure 2). Cluster WUAs result from the economic rationalisation of local modes of participation. Widened WUAs are still in the early stages. Introduced by a revision project of the national water management policy, i.e. the 2008 Institutional Realignment Project (DWAF, 2008a), they are to solve the problem of the increasing number of institutions under the control of the DWAF, the problem of financial and personnel capacity, and the problem of governance and possible co-operation between a large number of institutional organisations<sup>v</sup>.

As a result, WUAs lose their 'restricted local' character as described in the NWA, and progressively move away from the main concerns of SSIS farmers. This tendency in fact limits the participation capacity of small farmers, and ultimately calls into question the slogan of the water reform: 'Management *for* all, management *by* all'.

## **3. Management by All? How Small-Scale Irrigation Schemes are Affected by Progressive Changes in the Interpretation of the Role of WUAs**

Changes to the South African model of WUAs give insight into how the thinking of the DWAF regarding local water management has evolved. As mentioned above, the framework format of the NWA gave much room for interpretation to the Department which, as guidelines were being drawn up, was able to match the format of institutions with the progress of the reform and its own operational needs.

As early as 1998, the NWA's definition of Water User Associations contained two visions: on the one hand they were to be 'co-operative associations of individual water users', and on the other a third-tier institution under the control of the Department of Water Affairs and Forestry (Article 95 of

the NWA). While these two visions rely on very different approaches as far as the creation and existence of institutions are concerned, they are not for all that irreconcilable. Their tension is indeed inherent to the IWRM principles, calling on the one hand for an increased decentralisation and public participation, i.e. promoting the interests and strategies of citizens, and on the other pushing comprehensive and 'integrated' water management objectives, i.e. safeguarding and promoting the interests of the State (Miller and Hirsch, 2003). Balancing this tension is a major stake in the implementation of IWRM by national public policies (*Ibid.*). However, in South Africa, the relative and theoretical balance contained in the NWA began to dwindle less than one year after the adoption of the reform. What the NWA presented as a 'possibility' as regards WUAs in the more or less near future, i.e. taking on integrated management functions and conforming to the general interest – became, throughout guidelines and implementation practice, an imposed requirement from the very creation of the associations. This evolution was not a sudden but a progressive change. It is expressed in the increasingly pressing assertion of the political role of WUAs, and the increasingly systematic intervention of the Department in the creation of associations, to a point where the idea of a simple revocation of the voluntary nature of WUA creation and the obligation for users to become members of their respective WUA has been voiced by certain agents of the Department in the last years.

Thus, the co-operative nature of these associations and the interests of the users disappear behind a stronger assertion of State interests, the 'common good' and the necessity of making sacrifices for the completion of national development and reconstruction objectives. This progressive change results from an ideological positioning of DWAF officers confronted with national redemption requirements following years of exclusion and segregation during apartheid; it is also the result of a structural delay in the creation of decentralised water management institutions (only 3 CMAs out of the 19 planned initially are established and operational to date). Indeed, the slowness with which CMAs are created has led to an institutional vacuum which resulted in an increased dependency of the DWAF on WUAs, in the quasi-systematic delegation of catchment management functions to WUAs (DWAF, 2008b), and in the perception of the potential role of WUAs in the implementation of the national water management policy as being all the more promising and

central (DWAF, 2007).

The additional responsibilities delegated to WUAs and the widening of their scope of action are presented by DWAF officers as a means to further empower users and revolutionize power relations. Yet, in reality things are quite different. Indeed, widening participation runs the risk of distorting the political process of empowerment of users and other people of modest means. Participation spaces and scales influence people's capacity of action (Kesby, 2003). They determine the strength and relevance of knowledge. They determine also the objects of negotiation around which power relations between actors are established.

Lastly, they are the settings of people's and groups' political competence (Whitehead and Gray-Molina, 1999). Thus, it appears that the widening process of WUAs, undertaken by the Department of Water Affairs and Forestry since 2002, has been carried out to the detriment of the capacity of action, participation and influence of small-scale irrigation scheme farmers on water management decisions.

What is more, changes in the models or in the generation of associations correspond to changes in the creation approach. The case of WUAs for SSIS is once more a good illustration of such processes. Until 2002, the first concern of the DWAF as regards local water management was the transformation of the former Irrigation Boards, and not the creation of new institutions (DWAF, 2004b). This lack of intervention and the vagueness

surrounding the definition of WUAs resulted in the Department of Agriculture being able to appropriate for a while the format of WUAs for the implementation of its strategy, for the transfer of SSIS management to farmers. While an agricultural logic had motivated first generation WUAs, the DWAF – by reassuming the responsibility for creating WUAs for SSIS – has progressively emphasized a hydrological approach at the expense of any other (economic, political or social) foundation for the creation of associations. The advent of second generation WUAs has also coincided with an ever decreasing acknowledgment and integrating of previously existing management institutions within SSIS, such as the management committees created at the level of each scheme well before the agricultural revitalisation programmes and which, for most, still benefit today from a strong legitimacy with farmers.

On the ground, these evolutions result in the multiplication of paper-WUAs, i.e. institutions which are created officially,

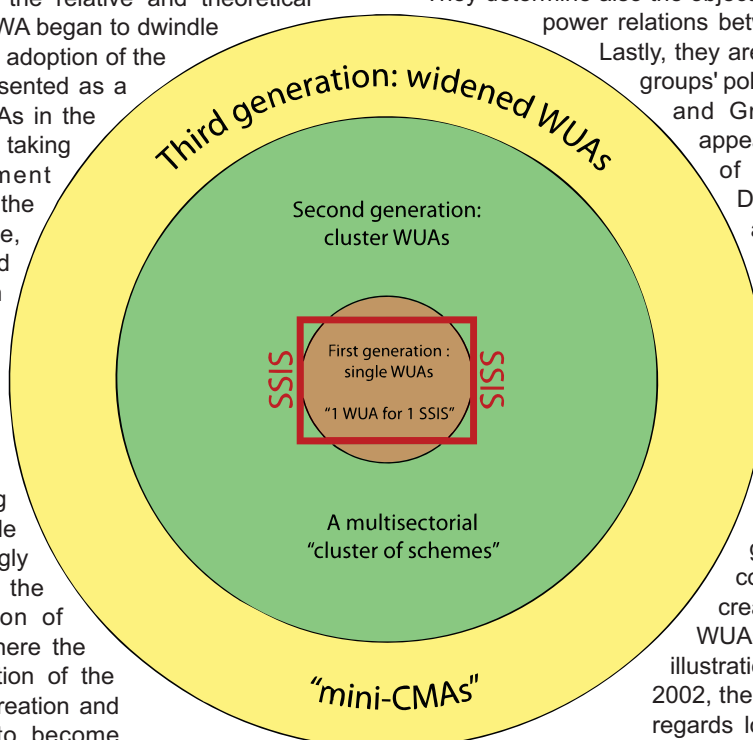


Figure 2. Three generations of water user associations for small-scale irrigation schemes

with constitutions recognised by the DWAF, but which offer no concrete and operational reality to their members. In addition, and more worryingly, they also result in a feeling of powerlessness by SSIS farmers, a lack of control over water management and the creation process of WUAs. *"I am the Chairperson. I just don't know what I am the Chairperson of"*, deplored the Chairman of the Sekhukhune WUA in 2008, a few months only after the creation of this association.

### Conclusion

Close to fifteen years of NWA implementation have led to changes in the definition of WUAs, addressing in the process the difficulties with which the reform has been implemented as well as the political and operational needs of the Department of Water Affairs. However, these evolutions took place to the detriment of the participation of the most disadvantaged users and of the democratisation of water management despite it appearing prominently among the reform's objectives.

*"The [South African] model [of water user associations (WUA)] is more drawn politically than from the needs on the ground"*, explained one of the resource-persons interviewed in 2007<sup>4</sup>, and it is precisely this characteristic of the institutional water reform in South Africa which puts the democratisation project and active participation of users in a difficult position. Users, citizens and stakeholders of all kinds are encouraged

to become involved and organise themselves to take part collectively in the management of their resources, but according to formats and within instances which are imposed upon them, which do not take into account their past collaborative experiences (even informal experiences) and which disregard their original co-operation dynamics.

In this regard, Green (2000) notes that *"as genuine 'development' [genuine 'governance, or genuine 'management' as defined by outside actors] refers only to certain types of transformation [of interaction or action], [...] [people's] agency can only be accomplished through imported structures for participation, structures that are imposed and are outside of people's control"* (Ibid.: 70). As such there is a real paradox in the participation of local actors as recommended these days by development programmes, principles of good governance or more generally still, public management policies. The participation of local actors must enable them to take control of their lives, their decisions, but without them being free to define, on their own, the tools and form of such participation. The South African water sector is not an exception to this tendency but is, on the contrary, a striking and worrying example of an increasing influence of the State on the establishment of local democratic and participative structures.

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- i. In 2009, the Department of Water Affairs and Forestry (DWAF) became the Department of Water Affairs after the Minister of DWAF became the Minister of Water and Environmental Affairs.
  - ii. The expression 'grand apartheid' refers to the period, from the 1960s onwards, when racial laws (territorial, social, economic or political) and the repression of resistance movements were radicalised by the National Party government, in power since 1948.
  - iii. Irrigation Boards are co-operation structures for the management of irrigation water which were established by the 1956 Water Act. Their responsibilities were (and still are for some) variable, going from operation and maintenance of infrastructures to their development and the monitoring of watercourse flow rate and quality. They were powerful – and often wealthy – authorities of control of water resources, supply infrastructures and distribution infrastructures in many areas of the country. The National Water Act of 1998 provides for their abolition and transformation into WUAs.
  - iv. The Government Water Schemes are monitoring areas of the government introduced by the Water Act of 1956 with a view to ensuring, for the benefit of the general public, the national management of water resources (Blanchon, 2009).
  - v. Following a logic of reduction in the number of decentralised water management institutions, the Institutional Realignment Project provides for the grouping of the 19 CMAs (created or under creation) into 9 institutions (DWAF, 2008a). However, to date, the project which has been officially accepted has not yet been implemented.
  - vi. Conventionally in research, a resource person is a person who has key information on the situation under study, the history of its evolution and the identity of the persons involved.

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