



IUCN – The World Conservation Union

Water Law Series – Issue 3

Basin Management and Devolution of Authority

The governance challenges

The WSSD Plan of Implementation incorporated several approaches to advancing implementation of Agenda 21 that present significant governance challenges for the reasons touched upon below. These include the references made within the Plan to:

- Taking an ecosystem based approach;
- Managing water resources at the river basin level;
- Managing surface and ground water in an integrated fashion;
- Integrated management of land, water and living resources;
- Extending property rights over natural resources and land;
- Incorporating traditional knowledge and management into natural resource management;
- Taking community based approaches;
- Promoting public/private partnerships for the delivery of services, and
- Achieving transparency and accountability, and the active participation of civil society, in decision making.

The challenge is how these approaches, individually and collectively, actually find expression in institutions and legislative and policy frameworks. No one model fits all situations and the challenge is to work with governments and stakeholders to effectively adapt and apply these principles in practice recognising the reality of vastly different political, economic, environmental and social conditions.

This requires a knowledge of the essential principles of “good governance”, a sensitivity to local politics and an ability to find realistic ways forward. *Applied governance* is what is needed.

Determining the scale are you working at

The internationally endorsed approach is to seek to manage water resources in an integrated fashion at the basin level. It is essential to have the necessary legislative and institutional frameworks in place for without this all else will fail. Hence this should be the first focus of attention. Many examples are available to draw upon.

There is inevitably a tension between managing at a scale that allows one to ensure basin wide benefits are achieved, including for down stream users, and the impact of collective actions on different regions and communities throughout the basin. The framework

established for each basin will need to be robust enough to facilitate the resolution of these tensions, including addressing the issue of trade offs.

River basin organisations

River basin organisations can follow many different models. They can be organisations that have the power to regulate the allocation of water and/or the control of pollution, or they can be organisations with no power other than to seek to co-ordinate actions within the basin through a planning process, or anything in between. There is no 'right' model. There is only the 'best' model in the context of the existing political, social, economic and environmental circumstances.

Successful basin organisations are founded on International principles of equitable and reasonable utilisation, no significant harm and prior information. Amongst other matters, they require high level political engagement, a well structured and institutionalised means for ensuring on going dialogue (supported by agreement/treaty/legislation), a credible and trusted source of technical information (supported by stable sources of funding), a clear mandate (supported by agreement/treaty/legislation), a means of implementing decisions (either itself or through partner institutions) and strong community participation.

These principles apply equally to sub national basins.

Applying the subsidiarity principle

The principle of subsidiarity, which in its simplest sense is about dealing with issues at the lowest appropriate level capable of handling them, should be applied to the management of water resources. This often involves difficult political choices of the level at which particular decisions are taken and enforced, and how and where financial resources are raised and expended. Devolution of authority needs to be matched with the ability to access the necessary funds to carry out the devolved tasks and the capacity to carry them out.

Major policy decisions and the development of agreements/treaties/legislative frameworks must be taken at the highest possible level. 'On the ground' implementation will often involve day to day decisions being taken at the sub-national and local levels.

Are there any examples of this?

Yes. There are many examples that can be drawn upon from all regions of the world. Such examples are valuable and they can and should be drawn upon. There is however no option other than to go through the hard grind of working with local people to arrive at locally acceptable solutions, country by country, basin by basin.

Where do I go for further assistance?

The IUCN Environmental Law Programme: see below for contact details.

IUCN Environmental Law Centre for the IUCN Environmental Law Programme

Contact the IUCN Environmental Law Centre at: waterlaw@elc.iucn.org

Visit the IUCN Environmental Law Programme Website at: www.iucn.org/themes/law