

How to Make IAs More Democratic

8.1 HIGHLIGHTS

This chapter describes a process where IA is “closer to the people” and people take the lead in IA process management. The decision-making role of the people and communities most directly affected by the proposed action is enhanced. Groups, segments of society, and perspectives, commonly excluded from or underrepresented in IA processes, are more prominently featured.

- The analysis begins in Section 8.2 with three applied anecdotes. The stories describe applied experiences associated with efforts to make IA practice more democratic.
- The analysis in Section 8.3 then defines the problem. The problem, from the perspective of many public “participants” in the IA process, is that the IA process is too far removed and the public’s decision-making role is too often nonexistent to negligible. Frequently, members of the public are, or believe themselves to be, powerless in decisions that greatly influence their lives. The direction is bringing IA closer to the people and enhancing the decision-making role of the public, especially those most directly affected and most vulnerable to change.
- In Section 8.4 we provide an overview of democratic concepts and methods. We explore how (1) the decision-making role of the public can be enhanced, (2) the decision-making role of people affected by proposed actions can be enlarged, and (3) power imbalances in the IA process can be rectified.
- In Section 8.5 we apply the insights, distinctions, and lessons identified in Section 8.4. We describe the properties of a democratic IA process at both the regulatory and applied levels. In Section 8.5.1 we explore how IA requirements and guidelines could be more democratic. In Section 8.5.2 we demonstrate how a democratic IA process could be expressed at the applied level. In Section 8.5.3 we provide an overview of how democratic IA practice is expressed for various IA types (SA, SEA, EIA, EcIA, SIA, and HIA).

- In Section 8.6 we address the contemporary challenge of multijurisdictional IA. We identify key conceptual distinctions and suggest a range of good practice measures.
- In Section 8.7 we highlight the major insights and lessons derived from the analysis.

8.2 INSIGHTS FROM PRACTICE

8.2.1 The A4 Highway Extension and the “Dent in Democracy”

In the 1990s and 2000s, a series of EIAs were carried out to investigate the environmental and social impacts associated with a second traffic connection between The Hague and Rotterdam in the Netherlands. To be completed by 2015, the connection comprises an extension of roughly 7 km of the A4 highway to link the existing infrastructure around these two cities. It was premised that a second highway would significantly mitigate traffic congestion and road safety on the other highway, the A13, thereby making the Port of Rotterdam more accessible for transport over land and improving the Amsterdam/Antwerp connection. The proposed project, however, entailed probable adverse impacts related to soil, water, and air quality, biodiversity, archaeological value potential, nature recreation, and something as intangible as the “cultural–historic character” of the impact area. Economic, social, and ecological interests were pitted against one another.

The A4 highway extension has provoked a high level of public contestation ever since its first appearance on the political agenda in 1965. Stakeholders that opposed the project in recent years deployed two protest strategies: contra-expertise and environmental advocacy. Consistent with the legal requirement to scope the impacts for traffic flow associated with large infrastructural projects, the necessity of the extension in terms of congestion mitigation has been challenged by prominent leaders in the oppositional movement. A salient point for discussion has revolved around the state-induced notion of an “autonomous growth of traffic” in the impact area in decades to come. On the basis of probabilistic evidence of traffic growth, decision-makers

estimated that a second connection was necessary and therefore justified. Public stakeholders, however, contradicted this scenario, arguing that a multitude of measures in the realms of public transport and congestion pricing are well equipped to harness traffic capacity. The second strategy pertained to emphasizing the critical socioecological function of the impact area. It was stated that the area is host to meadow birds, bats, and other small mammals; that it preserves large stocks of flora and fauna; and that it provides refuge for people that live and recreate there. The highway extension would provoke an irreversible loss of natural capital as it cuts through wetlands, fens, and ditches.

In the Netherlands, highways are planned, constructed, and maintained by the state. The practical consequences of decision outcomes in these domains are nonetheless borne by entities other than the central administration. The extension of the A4 has been planned in the province of South Holland and connects a number of municipalities. Highways, therefore, not only dissect the landscape, but also travel through different layers of democratic decision making. This could offer increased opportunities for public stakeholders to find institutional access and exert influence. In the case of the A4 highway extension, however, the Dutch government had enacted the Crisis and Recovery Law in March 2010 to speed up large infrastructural projects. The new legislation is meant to clear procedural barriers that hinder the progress of a project. It also accommodates procedures that emanate from certain legal domains, including EIA. As a consequence of this, subnational bodies have been prevented from engaging with the democratic decision making of projects that are planned in their jurisdictions. Public stakeholders have been furthermore curtailed in finding opportunities to collaborate with decision makers.

At the national level, the executive agency of the Ministry of Infrastructure and Environment, *Rijkswaterstaat*, has been responsible for the highway extension. *Rijkswaterstaat* is a technocratic agency that implements rather than deliberates a decision once it is mandated to do so. While the Netherlands has been repeatedly praised for its approach to concerted decision making with the civil society (*polderen*), public stakeholders involved in the extension have felt dismayed about the lack of democratic virtues in its procedure. They have been referred to *Rijkswaterstaat* as a “state within a state,” a fourth branch of government that turns a deaf ear to citizen preferences and societal demands. It has been asserted that the agency embellished its own estimations, ignored or obstructed counter-impact assessment, and presented assumptions as facts, among others. Worst of all, *Rijkswaterstaat* has been accused of not reciprocating norms of good democratic practice. This has propelled the more radical public stakeholders to conclude that they were only involved to legitimate a decision already made.

The construction of the A4 highway extension was approved in July 2011. Albeit partly tunneled to mitigate its impact, a concession made to the opposition, the interest to invest in the mobility of the impact area has prevailed over

ecological considerations. Some public stakeholders that coordinated action to stop this from happening have lamented the role that *Rijkswaterstaat*, under the aegis of the Dutch state, has played. Others have furthermore argued that EIA in its current form is too weak a decision-support tool to protect the environment. It may be safe to argue that the process has proved a Pyrrhic victory for democracy writ large. One particularly disgruntled stakeholder has reported a low level of confidence in extant opportunities for political participation and argued that poor decision making in the highway extension has led to a “dent in democracy.”

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8.2.2 Setting the Stage for Project EA Through Higher Tier Planning

In 2005, the province of Nova Scotia began to be approached by a number of developers of tidal energy about the possibility of testing and commercially developing a number of new tidal technologies in the Bay of Fundy, a marine bay along the western coast of Nova Scotia that boasts of the highest tides in the world. In response, the province of Nova Scotia first reviewed the existing regulatory system at the federal and provincial levels to determine how it would apply to tidal energy in the Bay of Fundy, where the current regulatory system was effective and efficient, and whether there were any gaps in the system in place.

One of the outcomes of this regulatory review was a recommendation that decisions about potential tidal pilots or commercial scale projects should not be made in a vacuum. Rather, ideally, they should take place in the context of an integrated regional plan, integrated regional management, and a strategic environmental assessment to consider how tidal energy might interact with other existing and potential future uses of the Bay of Fundy.

In 2007, the province of Nova Scotia decided to proceed with a strategic environmental assessment of offshore renewable energy with a focus on tidal energy in the Bay of Fundy. The SEA was carried out in cooperation with the province of New Brunswick, and in consultation with the federal government, as both jurisdictions clearly have some role to play in regulating activities such as tidal energy projects in the Bay of Fundy. In this sense, it is an example of interjurisdictional cooperation, particularly between the provinces.

Nova Scotia and New Brunswick cooperated in the gathering of background information to inform their respective processes. Each jurisdiction then conducted its own process and made its own separate decisions. The role of the federal government in the SEA could have been much stronger, particularly given its important regulatory role with respect to fisheries and transportation in the Bay of Fundy. It essentially played an observer role, even though it

was requested by the provinces to become more actively involved.

The Nova Scotia process was placed in the hands of an independent organization, the Ocean Energy Environmental Research Association. The Association designed a process that consisted of the following key components:

- An interactive web site to provide information and seek input throughout the SEA (www.bayoffundyseas.ca).
- A newsletter published regularly throughout the SEA process and posted on the SEA web site.
- Regular meetings of the SEA steering committee to guide the process.
- A consultant hired to serve as the “process-lead” for the SEA process, including chairing public meetings and writing the final report under the direction of the OEER subcommittee.
- Six community forums held in August 2007 in affected communities in Nova Scotia.
- Two rounds of participant support funding for community-based research and to provide opportunities for community groups to meet and discuss their perspectives about the potential arrival of this new industry in the Bay of Fundy.
- A background report prepared by an environmental consulting firm on the current state of knowledge of the various proposed technologies and the receiving environment, and the potential socioeconomic impacts of renewable energy development in the Bay of Fundy.
- A round table of about 25 interested stakeholders that met with members of the subcommittee approximately once a month between October 2007 and April 2008.

Early efforts to engage Nova Scotians were designed primarily to identify key issues to be addressed through the SEA process. The SEA SC decided that the scope of the SEA would be limited geographically to the Bay of Fundy and substantively to ocean renewable energy. The process remained open throughout to any issue relevant to informing decisions about whether, where, and under what conditions offshore renewable energy should be permitted and encouraged in the Bay of Fundy. The main purpose of the various efforts early in the process to engage affected communities and key stakeholders was to identify what issues the SEA should focus on, while leaving it open to participants throughout the process to raise new issues and to bring up new concerns.

The outcome of the SEA process was a consensus report of the stakeholder round table. The consensus was possible in spite of the short time frame because all of the participants shared full control over the scope of the SEA, the process, and the outcome. The process was assisted by the fact that there was a general recognition by all participants that while tidal energy posed risks to existing uses and natural systems

in the Bay of Fundy, it offered the potential to provide a long-term sustainable supply of energy to Nova Scotians.

The focus of the SEA process and of the final report was on how to better understand and minimize negative impacts, how to determine whether it would offer net long-term benefits to the province, and how to ensure a fair distribution of impacts, benefits, risks, and uncertainties. The report concluded that the development of a tidal industry in the Bay of Fundy should be guided by a number of sustainability principles developed specifically for the Bay of Fundy context. A key principle was that the development of the tidal energy industry should only proceed incrementally, and that key issues had to be addressed at each step before deciding whether to proceed to the next level of development.

As a starting point, the SEA concluded that pilot projects could be tested in the Bay of Fundy under specified conditions. Key among the conditions was that pilots be used to fill information gaps in understanding the interaction between tidal turbines and the receiving environment in the Bay of Fundy. A second key condition was that turbines tested at this stage could not remain in the water for more than two years.

For more information on the process, see www.bayoffundyseas.ca. For an assessment, see Doelle (2009).

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8.2.3 Integrating SEA and Planning

When I was a doctoral student working on my dissertation, my research focused on integrating the principles of Strategic Environmental Assessment (SEA) into local land use comprehensive plans. The study area for my research was California, USA, which has a well-developed planning system and very strict environmental regulations at the state level. I, therefore, thought that I might receive very positive results for my hypotheses. I had hypothesized that the principles of SEA had been thoroughly integrated into local land use plans. However, after I reviewed the data, I found that this was not the case! Many jurisdictions' general plans had not been updated for many years. A few general plans were even older than me! I was shocked by these findings. I then sought to determine the factors influencing the limited integration of SEA and local plans.

The extent to which SEA and local comprehensive plans are integrated tends to depend on three factors: (1) *Motivation*: local decision makers have varying levels of motivation regarding sustainable development, economic development, environmental quality, and social equity. Most of the time immediate economic development and related job increases are a higher priority for local land use planning decision making than long-term, strategic, cross-boundary environmental decisions. (2) *Power and authority*: do local planners possess the power and authority to incorporate strategic

environmental considerations into their local planning frameworks? The answer is yes! They have the power and authority to address uncertain, long term, regional environmental concerns. They have leadership, regulatory, spending–taxation, acquisition, and coordination powers, which enable them to fully participate in decisions relating to strategic environmental issues. (3) *Barriers and constraints*: local planners operate within a real and complex political decision system, characterized by numerous decision-making barriers and constraints. Local planners may not be adequately aware of or sufficiently knowledgeable about some strategic environmental issues, such as climate change. In some cases, the interests of planners may clash with those of other agency decision makers. In addition, planning for uncertainty is a major challenge for local planners when thinking about strategic environmental problems. Institutional constraints derive from spatial, temporal, and organizational challenges. Decision makers may deny planners' recommendations for such reasons as "not in my yard," "not in my term," or "not my business." Lastly planners are faced with technical, personnel, and budgetary challenges. With limited numbers, planners tend to focus on the most urgent, necessary, and immediate environmental challenges rather than uncertain, remote, and strategic environmental issues.

What kinds of strategies could be used to improve the integration of SEA and local land use planning decisions? A good departure point would be to: (1) improve planners' awareness of strategic environmental issues (biodiversity, ecosystem, climate change, etc.); (2) update local comprehensive plans regularly; (3) provide more technical assistance (e.g., GIS); (4) collaborate with other stakeholders; and (4) promote citizen involvement. This book may provide additional solutions.

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8.3 DEFINING THE PROBLEM AND DECIDING ON A DIRECTION

The three stories presented in the preceding section, approach the question of democracy in contrasting ways. The first story describes how a project-level EIA was democratically ineffective in influencing decision making in favor of more environmentally sound choices. The second story provides an example of how collaborative, consensus-based, and democratic higher level planning can help direct and bound planning and decision making at the project EIA level. The third story illustrates how the integration of SEA and planning is a more complex, and sometimes constrained, endeavor than it is often assumed or understood. The stories provide an initial and partial sense of how democratic values should and should not be approached in IA process design and management.

The value of public participation in the IA process is widely acknowledged. Public participation leads to better-designed projects, an enhanced understanding of environmental conditions, more accurate predictions, a more focused IA process (on stakeholder issues and reasonable alternatives), and more effective impact management (Barrow, 1997; Bisset, 1996; Hughes, 1998; Lee, 2000). Public participation clears up misunderstandings and resolves conflicts (Barrow, 1997; Lee, 2000). The public is more likely to accept and support projects when there is high degree of public involvement in the IA process (Barrow, 1997). Approval is expedited. Proponents are more likely to achieve their objectives (Lee, 2000). Decisions are viewed as more legitimate, both by regulators and by the public (Barrow, 1997; Hughes, 1998). The public is better informed about the project. Public issues and concerns are more likely to be addressed (Hughes, 1998). Public participation skills are enhanced (Barrow, 1997). Decision making becomes more open, transparent, and less susceptible to lobbying by vested interests (Hyman et al., 1988). Everybody benefits.

This apparent consensus is more apparent than real. Participation can be defined in many ways. Perspectives vary greatly regarding the types and degrees of participation, which are necessary and appropriate. Suspicions concerning motivations abound. A seemingly shared interest in participation often masks deep ceded value and interest differences. Absolute positions, not conducive to consensus building or conflict resolution, are commonplace. The positions and perspectives of other parties are often misunderstood and overstated. The major parties frequently differ dramatically in their assessments of the effectiveness of the participation measures applied in IA practice.

Proponents, Politicians, and Public Officials have a tendency to be wary of public participation. They often see it as costly and time consuming (Kreske, 1996). They commonly are concerned that it will raise their profile, impede their relationships with authorities, and exacerbate rather than resolve conflicts (Bisset, 1996; Morgan, 1998; Thomas and Elliott, 2005). Many engage in public participation when it seems necessary for regulatory compliance and when it facilitates proposal approval and implementation. They are often adamant that they cannot share decision-making authority (UNEP, 1997). They shy away from conflict (Lee, 2000). They tend to be more comfortable with closed processes, or at least processes that are not opened up until major decisions have been made (Glasson et al., 1999). They generally give greater weight to technical analyses (Morgan, 1998). They sometimes characterize public inputs as subjective and inconclusive (Morgan, 1998). Some are quick to label concerned groups and individuals as ill informed, unrepresentative, and selfish (i.e., "Not In-My-Backyard," NIMBY) adversaries (Canter, 1996). Such proponents see the role of public participation as educating the public, neutralizing the opponents, and legitimating the process (Gerrard, 1995). They frequently

are skeptical of collaboration. They tend to favor lobbying (of both regulators and politicians) and coercive measures (such as expropriation) for obtaining approvals (Gerrard, 1995).

Regulators often encourage participation, albeit within tightly circumscribed limits. Government agencies in many jurisdictions have a tradition of administrative discretion, secrecy, and limited public involvement (Glasson et al., 1999). Political interest groups often lobby government agencies and sometimes have considerable influence (Hyman et al., 1988). Public decision making is becoming more open and transparent, in part, because of IA requirements and procedures (US CEQ, 1997a). But many regulators remain reluctant to more fully open up policy and decision-making procedures. They also tend to have a limited understanding of the roles that SEA, in particular, can and should play in decision making (Noble, 2009b). Government agencies are commonly segmented and mission oriented. IA responsibilities are often secondary functions. Government officials, with IA review responsibilities, rarely have the time to address matters not immediately relevant to administering regulatory requirements. Personal advancement is much more closely tied to meeting the desires and requirements of senior government officials and politicians than to satisfying the concerns of interested and affected members of the public. Sometimes societal goals are displaced by internal organizational goals such as organizational survival or expansion (Hyman et al., 1988). Government agencies often display a propensity toward centralized control, resulting in an inherent tension with the decentralizing tendencies of public involvement (Canter, 1996). Regulators tend to be comfortable with technical knowledge and less comfortable with conflict and confrontation (Canter, 1996). Regulators, in common with proponents, often preclude any possibility of shared or delegated decision making (Kreske, 1996).

IA Practitioners are often placed in the unenviable position of attempting to meet regulatory requirements, operating within time and budget constraints, and not offending proponents (March, 1998). At the same time, they attempt to adhere to good practice standards, including those related to the role of public participation in the IA process. In the ongoing effort to “juggle” these competing demands, they have a tendency to “control” the process, at least to the extent necessary to adequately perform their responsibilities (Maynes, 1989). They may be reluctant to apply “unproven” methods or to engage in open-ended processes where outcomes are difficult to predict or manage (Solomon et al., 1997). They have a tendency to view public participation as the proficient application of the appropriate suite of methods. They are generally in favor of public participation. They often support the use of or perform the role of mediators, facilitators, and similar procedural specialists to address conflicts as they emerge (Bisset, 1996; Fischer, 2007b). They tend to view local control as unrealistic, except in a very limited range of circumstances

(e.g., local community infrastructure) (Morgan, 1998). As technical specialists, they usually favor technical over non-technical knowledge (Canter, 1996). They continue to embrace technical–scientific rationality as the ideal rather than acknowledging that they operate in a world of contested rationality (Richardson, 2005). They tend to assume and favor a rational planning IA model. IA practitioners tend to neglect the political aspects of IA, and often are naive regarding the exercise of power in IA practice (Cashmore et al., 2010; Kørnøv and Dalkmann, 2011). They tend to give too little a consideration to their potential role in facilitating democratic effectiveness (Stoeglehner et al., 2009). Instead, they depoliticize political contests, which can reinforce existing power relationships (Cashmore et al., 2010).

The *public* generally acknowledges that public participation in the IA process can be beneficial. But they often are highly skeptical about whether and how often those benefits are realized in practice. They seldom see major differences among proponents, regulators, and practitioners. All are frequently seen as arrogant, patronizing, manipulative, and unworthy of trust or support (Arnstein, 1969; Gerrard, 1995; Parenteau, 1988). Proponents often are seen as relentlessly pursuing the implementation of predetermined proposals, regardless of environmental and local community consequences. Regulators are viewed as consumed with administrative matters and as highly susceptible to lobbying by vested interests (Maynes, 1989). Practitioners are seen as expeditors who work on behalf of proponents to meet minimal regulatory requirements. None of these parties is expected to seriously consider public concerns.

The public often sees itself as powerless or, at best, fulfilling a marginal role in the IA process (US CEQ, 1997a). They note that they are commonly treated as adversaries (US CEQ, 1997a). Decisions have generally been made before they are involved. They often have only a vague notion of the nature and role of SEA (Fischer, 2007b). They see communications as one way (US CEQ, 1997a). They often see their role in the process as tokenism and the IA process as a diversion away from where the real action is (Thomas and Elliott, 2005). They argue that the time allocated for their participation and the resources provided (if any) to facilitate their participation are so limited as to preclude even the semblance of “meaningful participation” (Thomas and Elliott, 2005). Frequently, they believe that they have no control over either the process or its outcomes. Occasionally, they hope that the IA process can be a tool for defending themselves against aggression and a means of redistributing power (Torgerson, 1980). But power is so concentrated in existing structures that the changes wrought through IA are usually seen as minimal (Torgerson, 1980). Sometimes they insist that they are being manipulated or co-opted. Often, they expect that, by the end of the process, power will be even more centralized in distant authorities. They often assume that agencies collude with proponents in subverting the intention of IA requirements (Burdge, 2004). The IA process, they commonly assert, does not prevent the

approval of environmentally unsound projects (Mittelstaedt et al., 1997). Often the outcome, they point out, is the unfair distribution of facilities and services. Frequently, they conclude, it is the most vulnerable who bear the greatest burden and receive the least benefits (Gerrard, 1995).

Commentators on IA practice echo many of the concerns raised by the public. Some suggest that IA practice is increasingly open and collaborative. Others argue that IA requirements and practices are becoming less democratic (Ayre and Calloway, 2005). They acknowledge the many benefits that have accrued from increased participation by interested and affected parties in the IA process. But they also suggest that participation typically occurs too late in the process, is too infrequent, and is too narrowly defined (Devlin and Yap, 2008; Morgan, 1998). They suggest that IA processes, all too frequently, are shaped and sometimes corrupted by narrow political interests (Rickson et al., 1990a; Smith, 1993). Public participation in IA tends to reflect rather than alter the social distribution of power (Devlin and Yap, 2008). They argue that IA is too loosely connected to decision making. Consequently, all too often, the information and knowledge provided by IA is not used by those with real power who make decisions (Deelstra et al., 2003). They point to the disconnect between environmental and economic governance (Ayre and Calloway, 2005). IA practitioners are characterized as, at worst, compromised and at best, naïve regarding IA politics (Craig, 1990). They suggest that IA practitioners can contribute to making IA less transparent and less democratic by emphasizing the primacy of technical–scientific knowledge and methods (Binder et al., 2010; Persson, 2006). Social, cultural, and procedural issues, they argue, receive too little attention. Community power implications, they maintain, are neglected (Devlin and Yap, 2008; Thompson and Williams, 1992). Technical and quantitative concerns and methods are, they assert, overstressed (Solomon et al., 1997). Stakeholders’ interests and conflicts are, they suggest, obscured (Persson, 2006). As a consequence of the neglect of politics and decision-making influence in IA practice, they conclude, IA findings tend to be marginalized in favor of nonenvironmental objectives and political considerations (Morrison-Saunders and Sadler, 2010; Jay et al., 2007).

Excessive reliance, they point out, is placed on a narrow range of public consultation techniques (Solomon et al., 1997). Insufficient attention, they argue, is paid to interactions among different forms of participation (O’Faircheallaigh, 2010). Too little consideration is devoted, they assert, to the role of IA (especially SEA) in questioning alternative value systems (Bonifazi et al., 2011). Public involvement guidance is, they conclude, highly variable, too general, and often unclear (Hughes, 1998). IA regulators, as reflected in IA requirements and guidelines, are admonished for not offering sufficient practical and up-to-date public involvement guidance and for not consistently and proactively supporting public participation (Hughes, 1998). IA practice commentators tend to be especially critical of the persistent use of

coercive and reactionary (i.e., decide, announce, defend) involvement and implementation methods (Armour, 1990b; Halstead et al. 1984; Rabe, 1994). They point to the repeated failure of such approaches (Solomon et al., 1997). They describe NIMBY as a natural, reasonable, valid, and often constructive reaction to (1) a major threat to individuals and communities, (2) autocratic decision making, (3) a fundamental imbalance in the distribution of costs and benefits, (4) a legacy of poor communications, biased analysis, and inept management, (5) a failure to adequately address social impact, uncertainty, dread, stigma, and perceived risk concerns, and (6) belated, partial, and unduly restricted efforts to involve interested and affected parties (Mazmanian and Morell, 1994).

The commentators note (or, at least, hope) that, on a broader political front, the trend is toward more transparent, democratic, decentralized, and accountable decision making; greater access to information; more explicit and understandable documentation; earlier, more continuous, more learning oriented, and more collaborative public involvement, and the more direct involvement of nongovernmental organizations (NGOs) (Ayre and Calloway, 2005; Bisset, 1996; Glasson et al., 1999; Lee, 2000; Wood, 1995). IA, they argue, should be at the forefront rather than lagging behind such trends (IAIA and IEA, undated; Interorganizational Committee, 1994). Less clear are the unresolved issues of the appropriate roles of power and influence in IA practice (Hanna, 2005) (see Chapter 3).

IA practice commentators have devoted particular attention to the positive and negative experiences associated with siting locally unwanted land uses (LULUs) (see Chapter 4). Although the issues are complex and the experiences mixed, they point out that there have been several notable “successes” when siting processes have been built around a blending of local control, social equity, and shared management (Gerrard, 1995; Rabe, 1994; Seley, 1983). They contrast these experiences with the more uniformly negative experiences associated with autocratic, technical, top-down, and coercive siting approaches (Binder et al., 2010; Halstead et al., 1984; Solomon et al., 1997; Wolsink, 2010).

The conclusions of IA commentators are reinforced by the results of IA effectiveness reviews. These reviews consistently conclude that public involvement occurs too late and too infrequently in the IA process (Sadler, 1996; US CEQ, 1997a). Institutional provisions for public participation are highly variable. They are rated as excellent to good less than half the time (Sadler, 1996). More creative outreach is needed (US CEQ, 1997a). The performance of public involvement is as bad as often as it is good (Sadler, 1996). Public involvement has a significant influence on decision making only about one quarter of the time (Sadler, 1996). Clearly, the treatment of public involvement in the IA process, from a practitioners’ perspective, is falling well short of its potential.

How best to determine the direction in light of these differing perspectives on the problem? One approach is to decide that there is no problem (i.e., the IA process is already

sufficiently democratic). Many proponents would likely favor this approach on the grounds that they are already “bending over backwards” to facilitate public consultation. They also might argue that the appropriate form of public involvement is highly dependent on the situation. Flexibility is, therefore, essential. Practitioners and regulators, as illustrated by the IA effectiveness reviews, would suggest that there remains considerable room for improvement. The public and IA commentators would likely maintain that the status quo is more than inadequate—it is unacceptable. Overall, the case for no change in current practices seems highly dubious.

A second approach is to decide that all that is required is “polishing” and refining current practice. There should be more and earlier opportunities for public involvement. Requirements and guidelines should be clarified and should offer more practical advice. A wider range of involvement methods should be applied. Regulators should proactively support public participation. Public involvement methods should be used more effectively. Most regulators and practitioners would likely favor this approach. The public and commentators would probably see this approach as necessary but far from sufficient. They would argue that such changes would not instill trust or alter the peripheral decision-making role of the public. The public would continue to have limited influence over the process or its outcomes. It would not be able to adequately defend its interests or to ensure that its concerns are properly addressed. Others would decide its fate in processes where democratic decision making is more illusionary than real. This approach is not likely to appreciably narrow the gulf between the public and other participants in the IA process.

Assuming that the first two approaches are, respectively, unacceptable and insufficient, only two possibilities remain. One is to identify the problem as an undemocratic IA process. The only appropriate response is to delegate or share decision-making authority with the public. Delegating or sharing decision-making authority with the public is the heart of the IA process presented in this chapter. The second possibility is to accept that refining current public involvement practices is not enough but also to expect that there will be few situations where decision-making authority can be delegated to or shared with the public. The appropriate response is, therefore, a collaborative IA process. The public is an active and ongoing participant in a collaborative IA process. But final decision-making authority continues to reside with proponents and regulators. A collaborative IA process is presented in Chapter 9.

8.4 SELECTING THE MOST APPROPRIATE ROUTE

8.4.1 Definitions and Distinctions

Democracy is rule by the people, either directly and/or indirectly through periodically elected representatives. It

is both a system of government and a political theory. It is a collective, social, and political (i.e., concerned with the exercise of power) endeavor (Nagel, 1987). It presumes or at least aspires toward such values and ethical principles as freedom of speech and assembly, equality of opportunity, minority rights, and majority rule. Democratic theory presumes that all citizens are or can participate equally in decision making and can be equally influential in the political system. Where this is not the case, democracy has a responsibility to correct power imbalances. Power is the ability of a person or group to know about, mobilize, and influence decision making (Burdge, 2004). Direct democracy is the ideal but is not always practical. Representative democracy is a compromise where there is a large population base and specialized roles. This does not mean that direct democratic principles, such as involving those affected by decisions, continuity of involvement, consensus building, discussion, action, and community need be abandoned (Nagel, 1987; Pateman, 1970). Instead, IA practitioners should actively seek to ensure that direct democratic principles are expressed and, wherever practical, fulfilled. The onus should be on those seeking to circumscribe the application of direct democratic principles to demonstrate why such limitations are essential to good and effective governance.

Figure 8.1 is a highly simplified illustration of key democratic participants and interactions. The ultimate source of authority, for the courts, politicians, and government officials, is the people. The courts, politicians, and government officials should all be responsive and responsible to the people. Ideally, they should share and delegate authority back to the people. Practical opportunities for direct democracy should be considered. The public should be fully informed of and involved in all decisions likely to affect them.

These ideals are commonly transgressed in practice. Politicians and government officials are often reluctant to inform, much less involve, share or delegate decision-making authority back to the people. Frequently, a tension develops between democracy and bureaucracy (the world of government officials) and between politicians (who believe that they are in charge once elected) and the public (who wish a continuing say in matters that affect them between elections). Increasingly, democracy is now seen as a continuous and dynamic process where even if governments retain the final authority, close public scrutiny is essential (Gilpin, 1995). Arguably, the trend is toward (or should be) a more participatory form of democracy. In a participatory democracy particular attention is devoted to the relationships between individuals and authority structures (Pateman, 1970). Public involvement is a right (Lee, 2000). The public fully understands the problems being addressed and the means proposed for addressing the problems (Canter, 1996). Public involvement occurs earlier. It is more frequent. It is sometimes continuous. The public has a direct and acknowledged role in decision making (Lee, 2000). It

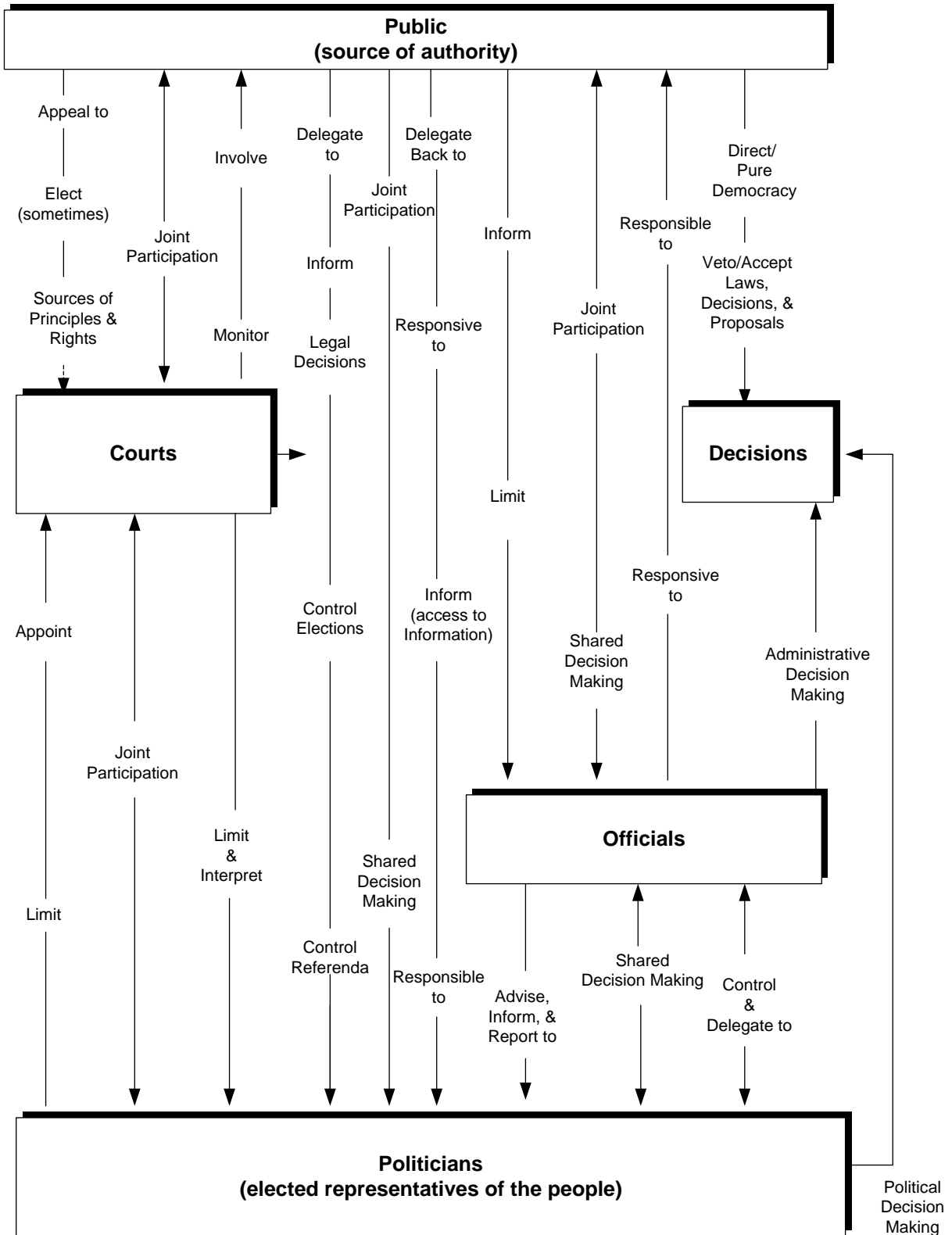


Figure 8.1 Examples of democratic participants and interactions.

The public has influence and, where practical, control over the decisions that affect them (Nagel, 1987).

Democratic IA practice should be viewed as a microcosm of participatory democracy (i.e., IA as a relational and pluralist construct) (Bonifazi et al., 2011). It should emphasize the right of people to participate in formulating, implementing, and evaluating actions that might affect their lives (Kemmer and Parry, 2004b). There should be frequent, preferably continuous, public involvement provisions, full access to information, the right of appeal to an independent third party, the full involvement of interested and affected parties, and an explicit decision-making role for the public. IA is inherently political, involving value judgments about the relative importance of competing environmental receptors (Nilsson and Dalkmann, 2010). Arguably, IA practice has a responsibility to expand and extend democratic participatory tenets. It should contribute to political awareness, competence, and the capacity to influence decision making (Bonifazi et al., 2011). The protection of the environment is a critical democratic responsibility. Proposals, subject to IA requirements, invariably directly affect the environment and peoples' day-to-day lives. Thus, there is a democratic responsibility to ensure that people have a major say in the decisions that affect them. Impacts tend to occur at a site-specific and community-scale level. A community scale is often conducive to applying direct democratic principles and methods. Power and influence are seldom equally distributed among IA process participants. Therefore, power inequities must be offset. Environmental costs and benefits are rarely equally distributed. A proactive effort is required to ameliorate environmental inequities.

The IA process should be an expression of participatory democracy. It should emphasize issues of power and dominance (McCluskey and João, 2011). It should draw upon, adapt, and contribute to democratic theories (Bonifazi et al., 2011). It should be explicitly engaged with decision making and ensure influential decision-oriented IA (Nilsson et al., 2009). As illustrated in Figure 8.2, it should be built on a foundation of participatory democratic concepts. It should integrate democratic principles, methods, and decision rules. The public should have a major say over process activities, inputs, outputs, and events. The people should shape and guide the process. Particular attention should be devoted to the decision-making role of affected people and communities. Steps should be taken to prevent and ameliorate power imbalances. Every aspect of the process should be conducted within the boundaries of participatory democratic limits and requirements.

8.4.2 The People Decide

Letting the people decide is a simple concept. Implementing the concept is more complex. Do the people decide directly or indirectly through their representatives? Which people decide? Are the people's representatives members of community associations and other nongovernmental

organizations or are they elected representatives? What are the roles of different levels of elected representatives? Where do nonelected government officials fit in? If the goal is to retain decision-making control as close to local people as practical in an IA process, as illustrated in Figure 8.3, members of the public most directly affected by the proposed action take the lead with the active participation of locally elected politicians. Alternatively, a team of ordinary citizens could take the lead. If the plan or agreement reached by the team receives broad public support, it is likely that political support will follow (Todd, 2002). As one moves down the ladder, decision-making control becomes progressively less direct and increasingly less subject to the control and influence of the local public and their representatives. The argument will be made that there are broader constituency interests represented by senior-level politicians and specialized areas of expertise only possessed by senior government officials. However, if the ideal is "rule by the people," it must be demonstrated why it is necessary to move down the ladder. Senior governments are also obliged to contribute to local capacity building (to facilitate local control), to ensure that the actions of regulatory officials are subject to local scrutiny and appeal, and to decentralize government operations wherever practical (to maximize local contact).

Letting the people decide also entails determining how decisions are to be made. Should they be made directly through referenda (e.g., local veto or acceptance)? Who sits on committees? Should decisions be made based on majority rule or is a consensus preferable? Should decision-making authority be delegated to an independent third party (e.g., an arbitrator, an environmental court, a public inquiry) (Westman, 1985; Halstead et al., 1984)? Should an advocate, a public defender, or peer reviewers assist the public (Kasperson et al., 1984)? Should alternative dispute resolution (e.g., mediator, facilitator) aid decision making? Should the local people decide by themselves or should decisions be made jointly with other parties?

Decisions must also be made regarding which IA process choices will be made by or shared with the public. Figure 8.4 identifies examples of potential choices. The potential choices encompass the major decisions leading up to approval and postapproval choices. It is necessary to determine for each decision when a community has decided (e.g., majority rule, more than majority rule, majority rule for more than one geographic sub-area, consensus among representatives). It also is necessary to decide if the range of choices available to the public should be bounded. The public, for example, could be permitted to choose among a set of alternatives all considered to be environmentally, technically, and financially acceptable. Alternatively, choices by the public could be subject to acceptability confirmation. Sometimes public choices are limited to certain project types (e.g., local community infrastructure) or to predefined geographic areas. The goal should be a consensus among the major parties concerning the public control "rules and boundaries."

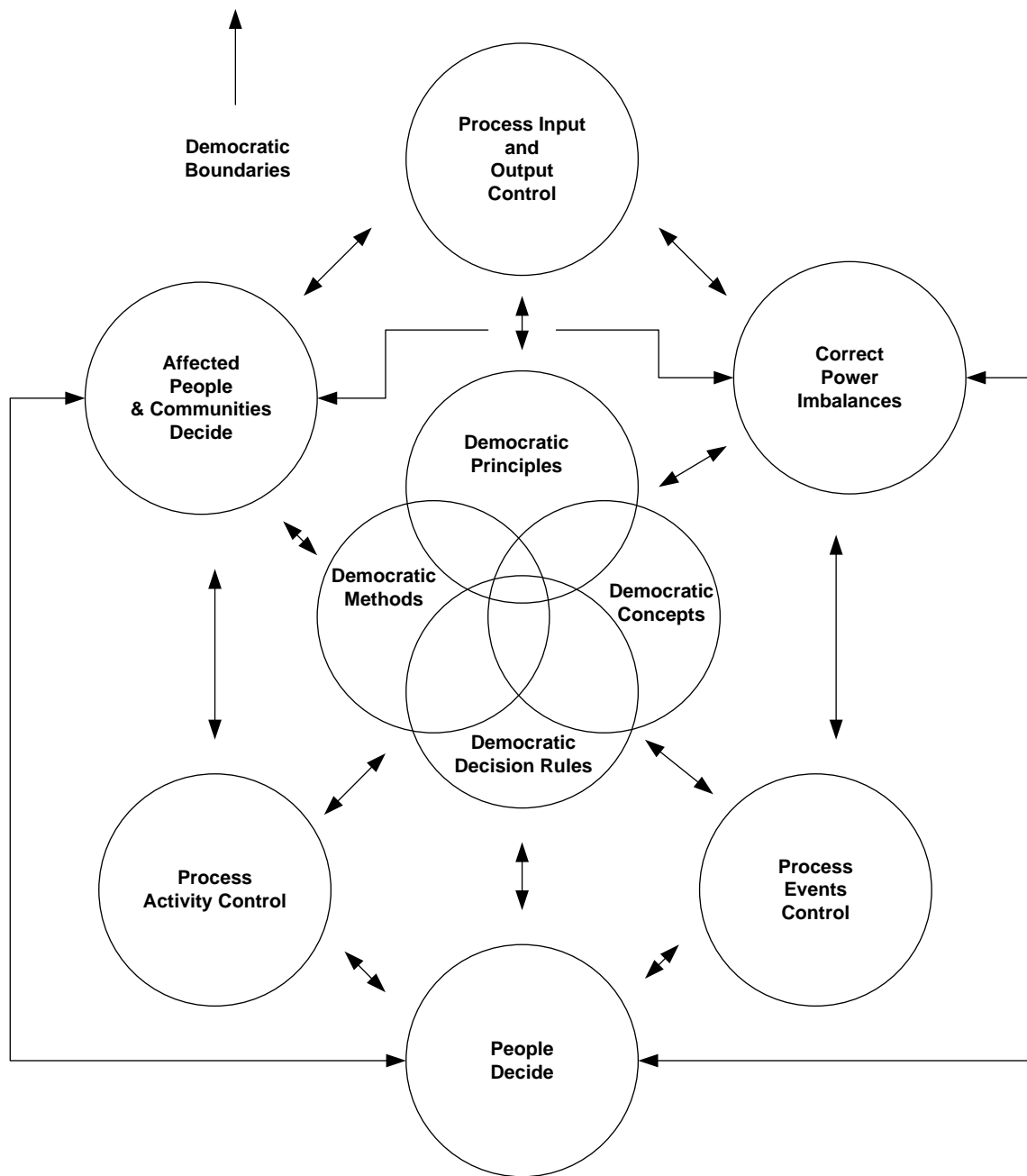


Figure 8.2 Democracy and the IA process.

The distinction between local and shared public control has been addressed in natural resource management. Community-based natural resource management occurs when the community is allocated ownership or authority (a form of delegated decision making) for natural resource management. Local populations arguably have a greater interest in sustainable resource use than do distant government officials. Co-management runs the spectrum from almost complete self-management to almost total state management. It has been widely applied in forest, fisheries, and wildlife management, especially with indigenous peoples. The parties make trade-offs among themselves and may

adopt a legal agreement, which shares the legal authority for resource management (Harvey and Usher, 1996). Provision is made for funding, training, and staffing to support the partnership (Mittelstaedt et al., 1997). Co-management tends to work best when there is community consensus, a credible lead agency, a clear mission for the partnership, meaningful delegation, meaningful tenure, revenue autonomy, meaningful inclusion of interests, and reliance on existing structures (Harvey and Usher, 1996). Lessons and insights from both community-based resource management and resource co-management could greatly assist the design and management of democratic IA processes (Todd, 2002).

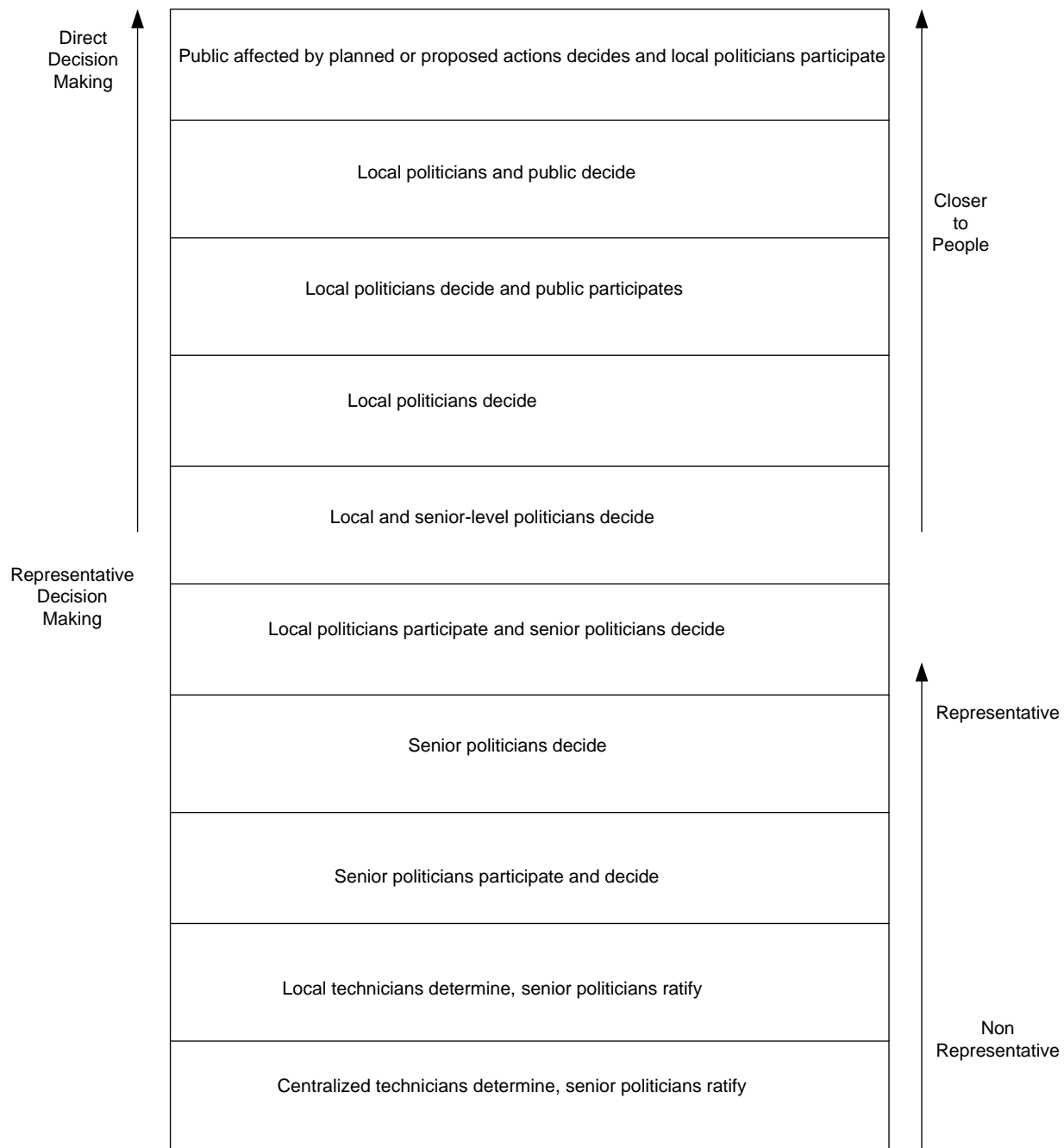


Figure 8.3 Ladder of democratic control.

Democratic, community-based IA processes are sometimes applied (Sinclair et al., 2009). Citizens are centrally located in the process (Armour, 1990b). The public is a partner with other parties (Lee, 2000). IA practitioners act as facilitators and collaborators (Armour 1990b). The parties jointly solve problems, control the process, conduct analyses, and reach decisions (preferably a consensus) (Lee, 2000; UNEP, 1997; Westman, 1985). The collaboration often extends through design and implementation (Lee, 2000). Continuous (e.g., committees) and interactive (e.g., workshops, conferences) techniques are applied in an ongoing

effort to reach and retain consensus and to maintain contact with and support from broader constituencies.

Democratic IA processes have been fully developed and tested in the voluntary siting of LULUs (see Chapter 5, Section 5.6).

8.4.3 The People and Communities Affected by the Proposed Action Decide

A democratic IA process assumes that people and communities affected by proposed actions are willing and able to

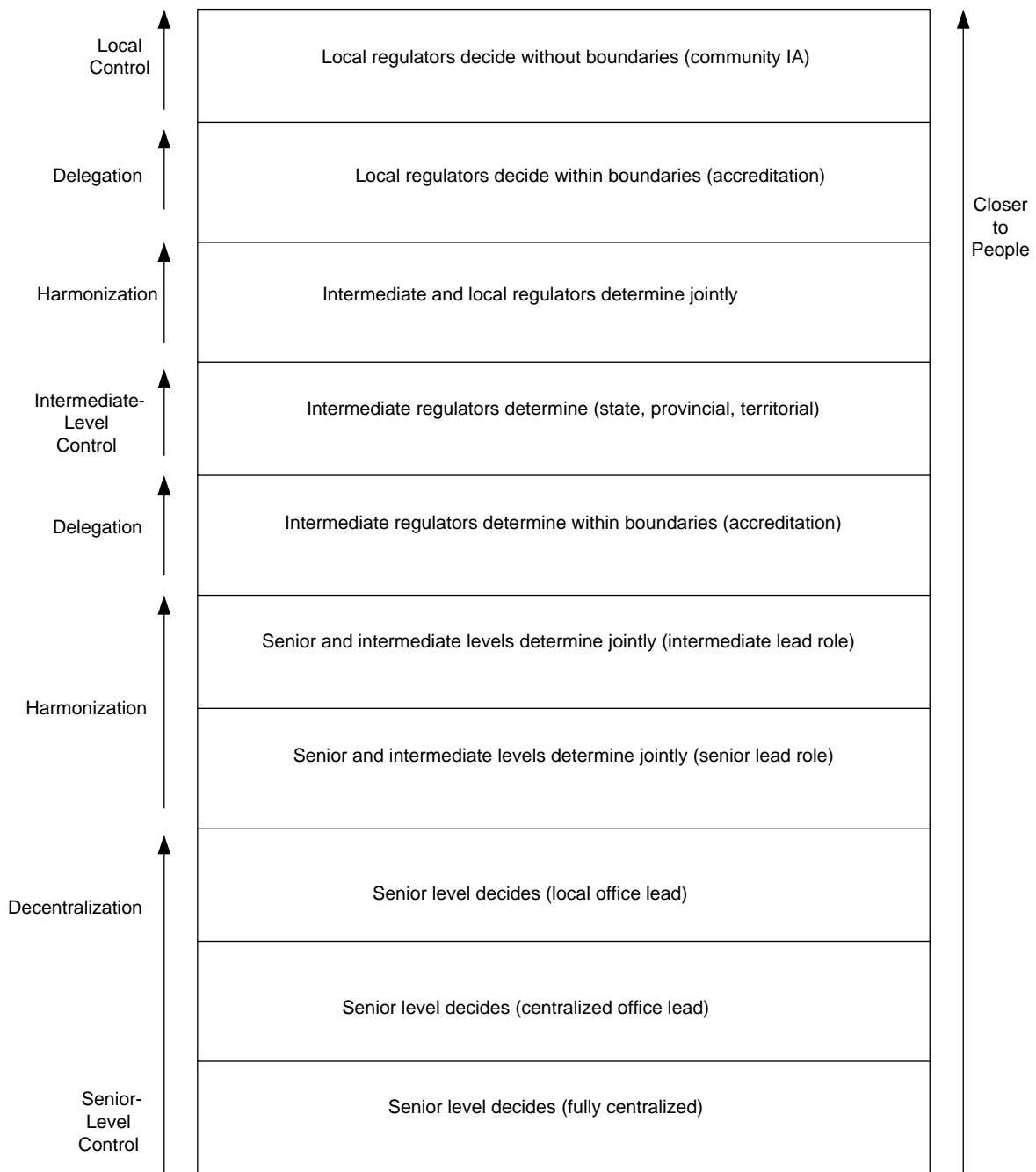


Figure 8.4 Ladder of regulatory control.

make the key decisions, alone or in a partnership arrangement. Some might argue that this is not a realistic or appropriate assumption. Table 8.1 highlights key characteristics of several concepts related to how people and communities can become more autonomous and thereby better able to make decisions.

Bioregionalism and communitarian approaches provide visions, principles, and strategies for more autonomous communities. IA practitioners (at both the regulatory and applied levels) can work with the public and communities in developing, refining, and applying the lessons and insights

from such concepts. “Bottom-up” approaches to community autonomy, such as empowerment, community development, and mobilization, can be instructive to community and environmental activists and organizers. IA practitioners can encourage, support, and facilitate such efforts. Community-based IA illustrates how key parties in the community can collectively collaborate, in consensus building forums, to critically reflect on complex issues and reach consensus-based decisions. Concepts such as traditional knowledge and lay science, contribute to a community-oriented knowledge base—a knowledge base conducive to community

Table 8.1 Example of Potentially Relevant Local Autonomy Concepts

Bioregionalism	<p>Focuses on developing self-reliant economic, social, and political systems</p> <p>Seeks to develop a territory's fullest potential through reliance on systems of production that draw on local resources, do not degrade the ecosphere, and require consideration of long-term implications as compared with short-term gains</p> <p>Requires basic changes in beliefs, attitudes, and values concerning human–natural environmental interactions</p> <p>Political power most effective at local level; leads to personal and community empowerment</p> <p>Stresses value of interdisciplinary analysis, experiential knowledge, and social learning</p> <p>Proposals viewed as catalysts for positive community and regional change</p> <p>Built around ecological principles; creates sustainable systems of production</p>
Empowerment	<p>People planning for themselves (self-respect, reliance, and determination); builds on community knowledge and capacity to organize and act; planning as a social struggle</p> <p>A multidirectional effort by grassroots groups to secure influence and control over procedures that affect their lives; challenges conventional power relationships; involves appropriating, extending, exercising, negotiating, and mobilizing popular support</p> <p>Participation leads to community empowerment and community improvement</p> <p>Ladder of empowerment (bottom to top): atomistic (individual unit), embedded individual (individual within larger settings or structures), mediated empowerment (in context of relationship between expert and client), sociopolitical empowerment (links individual to community through collective social action and challenging of oppressive institutional arrangements), and political empowerment (community or group the locus of change, operationalized through policy changes and access to community resources)</p> <p>Appropriates IA (especially SIA) to community priorities; facilitates community participation and control; extends into less formal settings where community influence is greater; negotiated participation in territorial campaigns for more acceptable local outcomes and mobilization of popular support</p> <p>Role of practitioner to establish mechanisms that allow for true participation and influence; responsibility shifted to affected people and community; planning collaborative and political; guided by ethic of empowerment</p>
Community-based IA	<p>Participatory and structured approach to EIA and SEA</p> <p>Use of workshops to reduce power differentials among participants</p> <p>Example techniques within workshops—visioning, brainstorming, and critical reflection</p> <p>Adapts approach to context</p> <p>Approach contributes to critical reflection and helps build democratic capacity in community and national institutions</p> <p>Benefits—meaningful engagement of community members in decision making, individual and social learning, and facilitates transition to sustainability</p>
Community development	<p>Process in which people in a community define their wants and devise means to satisfy them</p> <p>Concerned with process and outcomes</p> <p>Community building carried out by activists and community-based organizations</p> <p>Builds on local distinctiveness, escapes constrictions of local traditions, draws in outside opportunities, and limits potential for domination and exploitation</p> <p>Opposes dominating forces, reflects on experiences, overcomes barriers, and builds coalitions of support</p> <p>Reshapes boundaries and prevailing models; value-laden and political decision-making process</p> <p>Emphasizes social utility</p>
Mobilization	<p>Argues that people can be mobilized for political activities or special interest associations</p> <p>People plan and develop own projects</p> <p>People learn from own and other experiences, develop contacts with external institutions for resources and technical advice, but control how resources are used</p> <p>Counters efforts by industry and government to use IA to achieve scientific and technical legitimacy; raises questions about scientific legitimacy and environmental rationality</p> <p>IA as a catalyst for political mobilization; at the core of political debate and decision making</p>
Communitarian	<p>IA a microcosm of a more democratic, culturally diverse and litigious society; IA a forum for democratic debate</p> <p>Focuses on self-management practices of small communities; stresses the social side of human nature</p> <p>Belief that the human community is the best form of human organization for respecting human dignity, for safeguarding human decency, and for facilitating a way of life open to self-revision and shared deliberation</p> <p>Stresses individual human dignity and increased social responsibility</p> <p>Each community develops own agenda; not majoritarian but strongly democratic</p> <p>Seeks to make government more representative, participative, and responsive to all members of communities</p> <p>Supracommunity—a community of communities (the community of humankind)</p> <p>Actively maintains institutions of a civil society; communities and polities have a duty to be responsive to their members and to foster participation and deliberation in social and political life</p>

(continued)

Table 8.1 (Continued)

Traditional knowledge	<p>Generally refers to environmental knowledge possessed by indigenous peoples; more a way of life than a knowledge base; knowledge inseparable from people</p> <p>Integrates social, ethical, cultural, technical, scientific, and historical in a single process (within own context)</p> <p>IA should accommodate traditional knowledge based on trust, respect, equity, and empowerment</p> <p>Holistic; spiritual at the core</p> <p>Goal is co-existence rather than integration</p> <p>Different for each situation; flexible and fluid</p> <p>Often misunderstood and misapplied when viewed outside of indigenous contexts</p>
Lay science	<p>Interpretation considered a social act; cannot be separated from social context</p> <p>Lay research and discovery as an antidote to industry-dominated science</p> <p>Environmental professionals realize that there must be interaction between scientist and community; professionals help community volunteers participate in data acquisition and interpretation</p> <p>Lay participation in science (e.g., monitoring); basic training provided; residents and workers able to test and defend their own common sense</p> <p>Empowers community groups to take part in science and technology policy decisions</p> <p>Helps reduce public fears, increases public understanding, and contributes to better science</p>
Analysis of power structure	<p>Part of a political approach to IA and SIA</p> <p>Recognizes that proposed actions affect community power structures and stratification systems</p> <p>Analyzes effects on local autonomy, power of various factions, vertical linkages, local leadership structure, and processes of distributive politics</p> <p>Emphasizes issues of power and dominance</p> <p>Presumes political rationality (nonsequential, multiple interdependencies, extensive negotiations, and compromise)</p> <p>Identifies how power is exercised (e.g., social order, systems bias, systems of thought, tacit knowledge, reification, discipline, coercion)</p> <p>Considers degree roles, institutions, and values transformed and continuing success in providing structure and meaning to community life</p> <p>Outcomes complex and dependent on history and context</p> <p>Analysis can support management actions</p> <p>If community vitality and cohesion undermined could inhibit ability to cope with and manage change; if enhanced, communities in a better position to bargain with proponents and regulators and to control own fate</p>
Conflict theory	<p>Oriented toward the existence and identification of interest groups</p> <p>Concerned with how conflict affects decision making; a key test the ability to control the agenda</p> <p>Focuses on the exercise of power—the ability of a person or group to know about, mobilize, and influence decision making</p> <p>Identifies and analyzes conflict causes (root, proximate, triggers), stages, and management opportunities</p> <p>Draws upon concepts and methods developed from the study of conflict, controversies, contentious politics, and dispute intractability</p> <p>Addresses the distributional effects on community</p> <p>Helps identify strategies for alleviating concerns and tensions among community groups or across communities</p> <p>Also concerned with the capacity of locals to mobilize and respond effectively to outside pressure from government or industry</p> <p>Considers the glue holding groups and communities together</p>
Capacity building	<p>Long-term voluntary process of increasing ability of communities (and countries) to identify and solve own problems and risks and to maximize opportunities; aim is self-sufficiency</p> <p>Can involve developing and implementing educational and research programs and strengthening educational and research institutions</p> <p>Community level involves building up place-based institutional capacity; importance of openness to new relationships, knowledge flow from a wide range of sources, and enhancement of adaptive capability</p> <p>Role of IA and SIA as a learning process that contributes to the ability of communities and societies to change</p> <p>With IA can include developing a library of IA reports, maintaining databases, establishing practitioner networks, collecting examples of good practice, undertaking demonstration projects, producing newsletters, and inviting guest speakers</p> <p>Importance of linking IA to development planning, programming, and licensing</p>

Sources: Barrow (2010), Bonifazi et al. (2011), Bredariol and Marini (2003), Burdge (2004), Campbell (2003), Cashmore et al. (2010), Craig (1990), Devlin and Yap (2008), Diffenderfer and Birch (1997), Etzioni (1993, 1995), Gagnon et al. (1993), Harris-Roxas and Harris (2011), Healey (1997), Heiman (1997), Kolkman et al. (2007), Lee (2000), McClendon (1993), McCluskey and João (2011), Novek (1995), Peltonen and Sairinen (2010), Rickson et al. (1990a), Rocha (1997), Thompson and Williams (1992), UNEP (1997), Weaver and Cunningham (1985), Welles (1997).

participation and empowerment. IA practitioners can support the development and accommodation of community knowledge. They can conduct, with public guidance and support, community power structure analyses. They can obtain relevant insights through the application of conflict theory. Community autonomy can be maintained and enhanced by such analyses. IA capacity building provides skills, knowledge, resources, and institutional reforms needed to further community autonomy objectives.

Each concept starts from the premise that communities should increasingly control their own affairs. Knowledge and control flows upward from individuals and communities rather than downward from experts and government. The local community takes on a larger share of the roles and responsibilities conventionally assigned to technical specialists, politicians, and government officials. Specialist, politicians, and government officials actively assist and support this reorientation. The existing distribution of power is challenged. Assumptions regarding scientific and political legitimacy are tested. The primacy of technical, scientific, and rational knowledge and methods is replaced by a far greater emphasis on the knowledge, experiences, and perspectives of local individuals, groups, and organizations. Disciplinary and other conventional categories are crossed and transcended.

Planning and decision-making processes become more social, political, adaptive, informal, subjective, participative, and context-dependent. The public is at the center of rather than peripheral to the process. The process is guided by community values and aspirations. Proposed actions are evaluated as catalysts for or against the satisfaction of

community needs and aspirations. The process is broadened to encompass the political roles and activities of community activists and nongovernmental organizations. Governments and practitioners actively foster participation, local empowerment, community self-reliance, and the realization of community goals. Both the IA process and IA capacity building are guided by the ethic of community empowerment. IA becomes a tool for furthering community development. The potential community power and structure implications of proposed actions are analyzed. Communities are assisted, when requested, in their efforts to cope with and manage change, consistent with community ends.

8.4.4 Correcting Power Imbalances

Direct and participative democratic theory presumes that people have equal access to power. Such, of course, is rarely the case. Invariably, there are inequities in access to power among groups and segments of society. There also are perspectives conventionally underrepresented in the IA process. Table 8.2 highlights key characteristics of several concepts aimed at correcting power imbalances.

IA practitioners can help offset power imbalances. They can prepare alternative IA documents, interpretations, and analyses, consistent with advocacy theory. They can integrate social and environmental justice concerns into IA requirements, processes, and documents. They can, working within government, undertake and support social and environmental equity and progressive planning. They can advance concepts such as accountability, legitimacy, and governance, and tools such as discourse analysis, which

Table 8.2 Examples of Potentially Relevant Concepts for Correcting Power Imbalances

Accountability	<p>About holding public bodies to account and/or making them responsible for their actions</p> <p>Requires justification of activities relative to other people's values (recognizes other potentially valid perspectives on decisions)</p> <p>Forms include democratic (political and bureaucratic), corporate, and professional</p> <p>Important role of formal procedures in delivering democratic governance</p> <p>Operates at legislative (provides accountability requirements) and implementation levels (where individuals, organizations, and authorities held to account for actions)</p> <p>Potential role for IA as a lever for increasing accountability of proponents and decision makers</p> <p>Could provide focus around which NGOs and public could coalesce and hold decision makers and public officials accountable</p> <p>Accountability perspective could help reframe IA from purely information and procedural instrument to one that proactively promotes accountability and sustainability at all levels</p>
Advocacy	<p>Argues that planning documents (such as IAs) reflect the existing distribution of power in society</p> <p>Promotes the preparation of alternative plans that reflect the interests and perspectives of underrepresented and vulnerable groups; assumes a pluralistic society and adversarial relationships; envisioned as a means of promoting democratic pluralism</p> <p>Practitioner an advocate; advocacy a bridge between political and professional</p> <p>Could result in multiple IAs, shared data but separate interpretation documents, single IA but client not proponent, or single IAs but separate peer reviews for each interest group</p> <p>Decisions might have to be made by an arbitrator or by means of a quasijudicial procedure</p> <p>Many variations (e.g., multiple advocacy: encompasses all major perspectives, ideological advocacy: advocate represents a perspective rather than a client, environmental advocacy: focuses on the development of a consciousness of a shared destiny)</p>

(continued)

Table 8.2 (Continued)

Equity and progressive planning	<p>Government-sponsored progressive planning; information a source of power</p> <p>Seeks to redistribute power, resources, and participation away from elites and toward poor and racial and ethnic minorities</p> <p>Planning based on substantive, political redistribution goals; aimed at reducing negative social conditions caused by disparities; aims to create justice, fairness, and equity</p> <p>Seeks to constrain and modify dominant power sources in process; promotes collaborative governance</p> <p>Faces challenge of growing ethnic and racial diversity; seeks coexistent viability of ethnic and racial groups</p> <p>Emphasis on citizen participation, power sharing, decentralization, and social self-determination</p>
Legitimacy	<p>Linked to justification of power and authority; creates political obligations; linked to moral justification</p> <p>Encompasses both procedural (e.g., public reason, democratic approval) and substantive (e.g., sustainability, distributive justice)</p> <p>Sources: tradition, faith in rulers, trust in rule of law, consent, democratic decision making, and beneficial consequences</p> <p>Sometimes defined as a criterion of minimal justice</p> <p>Public participation a critical variable in terms of civil legitimacy</p> <p>Potential role of IA (positively or negatively) in contributing to civil legitimacy of decisions</p>
Governance	<p>Shift from government to governance</p> <p>Network of governance: government only first among equals in designing and implementing public policy</p> <p>Social movements and NGOs represented more prominently through network settings in governance; can more easily oppose or rebut official government policy</p> <p>Encompasses policy regime, public and private agency collaboration, democratization of environmental governance and equitable allocation of funds, resources, and values</p> <p>Involves coalition of public and private actors, without necessary involvement of state</p> <p>Uses a nonstructured agenda to identify areas and issues for actor involvement</p> <p>IA a subset of environmental governance; a decision support tool for environmentally better decision outcomes</p> <p>Strengthened by democratic principles and by concepts of procedural and distributive justice</p> <p>Crucial role of participation in IA governance</p> <p>Necessitates being sensitive to IA bias and proactive effort to overcome institutional, technical, and cultural barriers to participation</p>
Political–economic mobilization	<p>Structural (class-based) analysis of inequities in the distribution of resources and power</p> <p>Practitioners said to legitimize the existing distribution of power and resources and to perpetuate inattention to incompatibility of democratic political processes with capitalist political economies</p> <p>Alternative role for practitioners to identify how inequities created and to define means of facilitating social control</p> <p>Equity considerations substituted for efficiency; requires state backing; linked to politics of empowerment, redistribution, and community</p> <p>Mobilization is all forms of political action that fall short of revolution; informed by political–economic structural (e.g., class) analysis</p>
Social and environmental movements	<p>Emergent action groups that seek social and environmental transformation; depends on successfully mobilizing social collectivities; relies heavily on the concept of power in numbers</p> <p>A source of political energy; a major role in encouraging citizen participation and in keeping issues on political agenda</p> <p>Underpinned by perceptions of common purpose and shared grievances; action-oriented</p> <p>May opt out of process and resort to protests, civil disobedience, demonstrations, boycotts, and so on</p> <p>Can assume an effective role in monitoring decisions and in acting as an ethical watchdog</p>
Social and environmental justice	<p>Refers to the fair treatment and meaningful involvement of all people, regardless of race, color, national origin, or income concerning the development, implementation, and enforcement of laws</p> <p>Minority, low income, and indigenous people should not bear a disproportionate share of negative impacts of government actions</p> <p>Analysis determines whether and to what extent injustices occur; may require measures to prevent, reduce, and offset</p> <p>Requires a demographic analysis, an impact assessment, and community involvement</p> <p>Can pertain to both procedural and substantive injustices; draws on theories of justice</p> <p>Seeks equal opportunity, affirmative action, and cultural inclusion; looks to examples of democratic citizenship in resisting injustices and in making the boundaries of community life more inclusive; inspiration from citizen activism</p>
Critical social science and theory	<p>Communications seen as political; process reflects systematic patterning of communications—influences community organization, citizen participation, and autonomous citizen action</p> <p>Critique of distribution of power in society and how reflected in practice; research is action-oriented; informs practical action; more complex than class—ecological, alienation, and interrelationships crises</p> <p>Practice as communicative action; importance of communications in the search for consensus</p> <p>Practice should seek to correct communications distortions and to institute communications enabling rules (e.g., speak comprehensively, sincerely, legitimately, the truth); ideal speech situation</p> <p>Seeks to reveal underlying sources of social relations and to empower people, especially the less powerful</p>

Table 8.2 (Continued)

Deep ecology and ecological politics	<p>Asserts that humans are but one species among many; no less valuable in own right than humans</p> <p>Biocentrism and self-realization at core; identification beyond humanity; favors noninterference with nonhuman parts of biosphere; concerned with quality of human life and health</p> <p>Committed to a decentralized and democratic ideology; generally allied with left (only way to give full expression to ecological demands); long-term perspective; driven by a sense of urgency</p> <p>Stresses harmony with nature, intrinsic worth of nature, simple material needs, global perspective, and natural limits</p> <p>Sometimes a political party; more often direct political action (e.g., protests, boycotts); linked to environmental movements; long-term goal of reestablishment of human society on a sustainable basis</p> <p>Some success in transforming traditional decision-making systems, in altering agenda, and in stimulating debate; expanded society's conscious; generally faces major obstacles</p> <p>Environmentalists: many differences but share core values; many political approaches; usually campaigns involve a coalition of groups; political action based on belief that it is necessary to sway public opinion to move politicians</p> <p>Environmental lobby groups: large multiissue groups, smaller, more focused groups, education, research, and policy development centers, law and science groups, and land conservation groups</p>
Political SIA	<p>Community conflict the focal point of practice; IAs engender conflict and are undertaken where there is conflict</p> <p>Major social process is one of conflict over resources; interests are the basic elements of social life</p> <p>Social order based on manipulation and control by dominant groups; seeks a more humane society</p> <p>Central role of conflict analysis and conflict management; stresses openness, participation, empowerment, community development; tendency to be holistic and subjective</p> <p>Consistent with critical theory; based on understanding of processes and structures of change</p>
Feminism and eco-feminism	<p>Assumes that women are exploited, oppressed, and devalued by society</p> <p>Interest in changing the conditions of women's lives; seeks extension of women's rights</p> <p>Importance of gender analysis in impact assessment (different roles, knowledge, and values)</p> <p>Eco-feminism: addresses links between androcentrism and environmental destruction; based on similar attitudes</p> <p>Seeks ethics-based environmental planning (grounded in responsibility and carrying reciprocity)</p> <p>Requires an interactive, face-to-face, democratic decision-making process needed to counteract the problem of internalized patriarchal structures and values</p>
Institutional advisory groups	<p>Formed on a permanent or ad hoc basis; offers guidance on a range of issues and activities including policy making</p> <p>Legitimacy depends on degree represents and is supported by interest community; since appointed no mandate from interest community; legitimacy determined by source and quality of advice</p> <p>Roles: means of testing public reaction, forum for expressing public opinion, places controversial issues into objective opinion arena, involves expert critics in decision process</p> <p>Role in IA includes panels for reviewing IA documents and providing advice to government</p> <p>Can bring valuable insight and criticism into decision-making process; offers analysis and alternative viewpoints at modest expense; in recent years broadened to extend representation (e.g., gender, language, region, sector)</p> <p>Dangers: used to placate opposition, co-opt opponents, offer symbolic response to problem, delay action, persuade opponents and provide publicity and patronage instrument</p> <p>Increasingly environmental nongovernmental organizations have developed capability of offering equally high caliber advice; sometimes with financial assistance</p>
Discourse analysis	<p>Discourses: the frames through which groups of actors give meaning to aspects of issues and decisions</p> <p>Goal to stimulate decision makers and stakeholders to critically reflect on and reconsider their discourse</p> <p>Environmental information inconsistent with dominant discourse runs the risk of being ignored</p> <p>IA a potential means of impacting the dominant discourse</p> <p>Discourse analysis allows enhanced understanding of arguments considered or not considered legitimate</p> <p>Takes into account stakeholders and context dimensions</p> <p>Facilitates strategies to enhance decision-making contribution and influence</p> <p>Promotes discourse reflection among stakeholders and on the part of IA practitioners</p>
Participant and intervener funding	<p>Can be provided for participation in review and approvals (e.g., mediation, panel reviews)</p> <p>Sometimes provided for participation in earlier stages of IA process</p> <p>Usually based on criteria</p> <p>Applied to such costs as peer review, legal services, administration, coordination, and travel</p>
Impact management and benefits agreements	<p>Legally binding agreement between a proponent and community</p> <p>Serves to ensure that communities have the capacity and resources to maximize project benefits</p> <p>Initially focused on employment opportunities and investment; more recently includes environmental restrictions, social and cultural programs, dispute resolution, and revenue sharing provisions</p>

Sources: Bass (1998), Barrow (2010), Benveniste (1989), Birkeland (1995), Burdge et al. (1994), Checkoway (1994), Craig (1990), Davidoff (1965, 1978), Day (1997), Devall (1985), Fainstein and Fainstein (1985), Filyk and Côté (1992), Forester (1989), Friedmann (1987), Gorz (1980), Greer-Wooten (1997), Halstead et al. (1984), Healey (1997), Hoch (1993), Maynes (1989), Metzger (1996), Morrone (1992), Neuman, 1997Neuman (1997), Noble and Birk (2011), Peter (2010), Pickvance (1985), Rawls (1971, 2001), Ritzdorf (1996), Rothblatt (1978), Rozema et al. (2012), Runhaar (2009), Runhaar et al. (2010), Sheate (2012), Smith (1993), Vanclay (2003), Wilson (1992).

demonstrate the deficiencies of nondemocratic decision-making practices and illustrate the operation of democratic decision making when power imbalances have been corrected. They can advocate and support decentralization and deconcentration. They can operate outside government as advocates, activists, and community organizers. They can encourage and support ecological political activities and environmental and social movements. They can undertake and accommodate critiques of power imbalances. These critiques could draw, for example, upon political-economic mobilization, critical social science and theory, deep ecology and eco-feminist theories and analyses. They can be open to perspectives and critiques (e.g., deep ecology, eco-feminism) that fall outside the “mainstream” of IA practice.

IA practice, consistent with political SIA, can focus on the analysis and management of community conflict. The IA decision-making process can be broadened to establish, support, and give greater weight to the analyses and suggestions of institutional advisory bodies and nongovernmental organizations. Intervener and participant funding can be provided so that unrepresented and underrepresented segments of society can participate more fully in the IA process. IA capacity building efforts (see Chapter 9) can identify and ameliorate power imbalances. Impact management and benefits agreements can formalize the redistribution of power.

The net result of these “power corrective” actions should be an IA process consistent with direct and participatory democratic principles. The IA process and outcomes also are more likely to be fair, just, and equitable (see Chapter 10).

8.5 INSTITUTING A DEMOCRATIC IA PROCESS

8.5.1 Management at the Regulatory Level

Table 8.3 presents a range of positive and negative examples, derived from the four jurisdictions, pertaining to the role of the regulatory level in making IA practice more democratic. The measures employed encompass a host of initiatives to clarify, harmonize, integrate, delegate, coordinate, share, simplify, and enhance IA requirements among multiple government levels. They also address efforts to enhance the decision-making roles of the public and indigenous populations.

As a general proposition, democratic IA requirements should seek to bring government closer to the people. Power relationships within and among governments, IA levels, and related laws and requirements should be streamlined, structured, clarified, harmonized, substantiated, and coordinated. Senior governments should, wherever practical and appropriate, decentralize and deconcentrate their IA operations. Senior level IA requirements should be delegated to intermediate level governments wherever appropriate and practical. They should be harmonized where delegation is inappropriate. Intermediate and local level IA systems

should be encouraged and supported. Intermediate governments should explore, with local governments, delegation potential and harmonization opportunities. Close and frequent consultation should be maintained with governments closer to the people. Senior levels should justify when delegation is not practical and centralized control is essential. Harmonization and coordination with lower government levels should not be a matter of senior level discretion. All governments should promote and support the early and ongoing involvement and influence of interested and affected parties and communities. Support and encouragement includes measures to ameliorate and rectify imbalances in the distribution of power through, for example, public participation requirements, intervener and participant funding, IA capacity building, and environmental justice requirements.

Considerable care needs to be taken when selecting, combining, and adapting specific measures intended to operationalize democratic IA principles. It should not, for example, be assumed that IA harmonization means modeling the intermediate IA level after the senior IA level, regardless of contextual differences and regardless of the flaws in the senior level. Tiering approaches may be of limited value if they do not explicitly address such matters as triggers, decision procedures, procedures for addressing gaps and overlaps, procedures for addressing cumulative effects, guidance, and applied research. A range of coordination measures does not ensure effective coordination. Such measures should be individually and collectively assessed for effectiveness, from multiple perspectives.

There also has been a heated debate in IA literature and practice regarding whether, and if so, how IA should be centralized at senior governmental levels and head offices or decentralized to intermediate level governments and regional/local offices. On the surface, consistent with democratic IA principles such as subsidiarity and proportionality, there would seem to be a strong argument in favor of relegating IA to the lowest level practical (i.e., closer to the people). However, perspectives vary, and how decentralization is undertaken is crucial in terms of if it is on balance, beneficial, or detrimental to the environment.

Transparency and collaboration are essential to any efforts to facilitate democratic IA practice. Decisions should be substantiated based on explicit, substantiated, and consistently applied standards and criteria. Procedural and substantive outcomes need to be independently audited. The sharing of approaches and experiences among jurisdictions and independent, applied comparative research would be a good place to start.

8.5.2 Management at the Applied Level

Figure 8.5 illustrates an example democratic IA process. The figure and description that follow depict an IA process that fosters the decentralization of power and local autonomy, and maximizes public influence and control, especially by

Table 8.3 Positive and Negative Regulatory Level Democratic Examples

United States	Canada	Europe	Australia
(±) Tiering encouraged as a means of framing and focusing the analysis; limited use of programmatic EISs	(±) Consultation and coordination provisions with other jurisdictions; mentions provinces but not territories	(+) Proposed Project Directive (PPD): provides for coordination and integration of EIA assessment procedures with other EU legislation;	(+) IA harmonization facilitated by clearly identified national environmental priorities (i.e., matters of national environmental significance)
(+) Numerous references to eliminating duplication and resolving conflicts	(+) Federal authority must make information or knowledge available within a specified period	seeks to enhance coherence and synergies with other Union legislation and policies	(+) Cross references to obligations under various international conventions and agreements
(+) Provisions for state agencies, local agencies (with similar qualifications), and tribal governments to act as cooperating agencies, and for joint planning processes, joint environmental research and studies, joint documents, and joint public hearings	(+) Environmental effects include effects outside Canada	(+) PPD provides links to Europe 2020 strategy;	(+) Provides for the accreditation of state/territorial IA processes, in whole or in part, if they adequately address relevant impacts; in response to the recommendations of an independent review of the Australian requirements, the government agreed to the publication of accreditation standards and criteria, an effort to reach agreement with states and territories regarding standards, and the performance auditing of the accreditation process to determine if claimed outcomes are being achieved
(+) Several examples of federal agencies delegating authority to states as a means of expediting the process (in special circumstances) for federally funded projects	(+) If appropriate, Minister must, on request from province, approve the substitution of EA process; only if satisfied that listed factors considered and public access and opportunity to participate	priority: sustainable growth	
(+) Instances where state agency grantees have served as co-lead, have been given the authority to determine NEPA categorical exclusions, and where (in a pilot program) states have assumed federal authority under NEPA (LeBoeuf et al., 2010)	(+) Equivalent assessment provisions: minister must approve substitution or exempt designated project, taking into account implementation of appropriate mitigation measures, whether significant adverse environmental effects, follow-up program, and any other conditions	(+) PPD respects subsidiarity principle: limits to minimum requirements; aims to comply with international conventions; all Member States must take measures to comply with minimum requirements	(+) Government also agreed to improved intergovernmental cooperation measures, investigating national EIA standards, and considering joint assessment panel opportunities
(+) References to notifying, involving, and making documents available to states, local agencies, Indian tribes, and the public	(-) Criteria and who determines basis for substitution or equivalency still very general and no provision for independent audit or review	(+) PPD provides for coordinated or joint procedures when subject to other Union legislation (e.g., SEA, conservation of wild birds, water policy, industrial emissions, conservation of natural habitat, and of wild flora and fauna); 1 EIA	(+) Refers to involving governments, the community, landowners, and indigenous peoples in a cooperative approach to environmental protection and conservation
(+) Federal agencies expected to cooperate with state and local agencies to reduce duplication	(+) Description of designated project includes EA and regulatory requirements of other jurisdictions and references to federal areas of jurisdiction	(+) PPD: provisions do not apply if objectives of Directive met by national legislation; Member States inform application of this provision every 2 years	(+) Notes the role of indigenous people in conservation and in the sustainable use of Australia's biodiversity; promotes the use of indigenous peoples' knowledge of biodiversity and the involvement and cooperation of the owners of the knowledge
(+) Tribal/agency agreements have been used to define IA responsibilities	(±) Narrowing definition of effects to areas of federal jurisdiction will reduce the potential for duplication and overlap with other governments but could result in inconsistencies and inhibit the consideration of sustainability and cumulative effects	(+) PPD scoping provisions include information and knowledge available and obtained at other decision-making levels	
	(+) Panel must consider opportunities for cooperation with other jurisdictions (powers, duties, functions)	(+) PPD: provision for consultation when transboundary effects	
	(+) Provides for agreements with other jurisdictions	(+) Applied research undertaken of links between SEA and EIA Directives (Imperial College London Consultants, 2005); limited experience in operating together	
	(+) Emphasis on importance of coordination and cooperation with aboriginal people, the value of public and aboriginal participation, the respect of aboriginal and treaty rights, the importance of public and aboriginal access, and the critical	(±) Applies the proportionality (only what is necessary to achieve objectives) and subsidiarity (as close to citizens as possible) principles; aims to minimize intrusion on Member	

(continued)

Table 8.3 (Continued)

United States	Canada	Europe	Australia
<p>(+) NEPA guidance refers to government to government relationships with Indian tribes</p> <p>(+) Extensive array of environmental justice requirements and guidance</p> <p>(-) Progress in transboundary IA, as part of North American Agreement on Environmental Cooperation, limited (Garver and Podhora, 2008)</p> <p>(+) Guidance (US CEQ, 2012) to make process more efficient and timely; addresses such matters as early NEPA integration in planning, scoping, intergovernmental (state, local, tribal) coordination, coordinated reviews, and documents under other applicable laws, adoption, incorporation by reference, expediting responses to comments and clear time lines for NEPA reviews)</p>	<p>role of community and traditional knowledge</p> <p>(+) Federally funded projects on reserves subject to EA; potential for variation or exclusion where land claims</p> <p>(+) Considerable applied research regarding aboriginal and public participation</p> <p>(+) Use in practice of environmental agreements to help secure aboriginal participation</p> <p>(+) Agency objects including promoting EA uniformity and harmonization (with potential role in negotiating agreements) and facilitating aboriginal participation</p> <p>(-) Minimal use of tiering</p> <p>(+) Long history of IA harmonization including multilateral and bilateral agreements</p> <p>(+) Some instances of regional studies to address cumulative effects</p> <p>(-) Considerable political/administrative discretion regarding such matters as exemptions, designated projects, project definition, scope, treatment of alternatives and approvals (even if significant adverse environmental effects); a form of centralization</p> <p>(±) Broadened public access/participation once process instituted (including participant funding) but access/participation constrained by a narrow range of effects, options and projects, time restrictions, involvement after planning, no mediation option, and NEB hearing restriction to “interested parties”</p> <p>(±) Canada ratified, in 1998, the ESPOO Convention; still considerable room for refinement and clarification</p> <p>(-) Progress in transboundary IA, as part of North American Agreement on Environmental Cooperation, limited (Garver and Podhora, 2008)</p>	<p>authority; can inhibit the maintenance of good practice standards</p> <p>(+) Required to address cumulative and transboundary effects under both the SEA and the proposed EIA Directives</p> <p>(+) Transboundary impacts addressed through UN ECE Convention on EIA in a Transboundary Context</p> <p>(+) Citizen participation in decision making facilitated by cross references to Aarhus Convention on access to information, participation in decision-making and access to justice on environmental matters</p> <p>(+) Emphasis on consultation with environmental authorities and early involvement of public</p> <p>(+) Balance between local autonomy and good practice facilitated by an extensive array of guidance documents and sponsored applied research</p>	<p>(+) Provides for public notification, public access to assessment documents, and opportunities for public comments; refers to describing the public consultation that occurs, identifying affected parties, and including a statement mentioning any communities that may be affected and describing their views</p> <p>(+) Provides a framework for informing and involving the public; planned, consultation-related initiatives include more generous timing provisions, the greater use of public inquiries and joint assessment panels for major projects, and the development of principles and guidelines for best practice public consultation</p> <p>(+) Seeks to involve indigenous people in biodiversity conservation and enhancement</p> <p>(+) Factor considered when deciding whether or not to approve an action is a person’s environmental history</p> <p>(+) Prepared IA training resource manual for developing countries</p> <p>(-) Could devote more attention to community autonomy, enhanced public influence, and shared decision making</p>

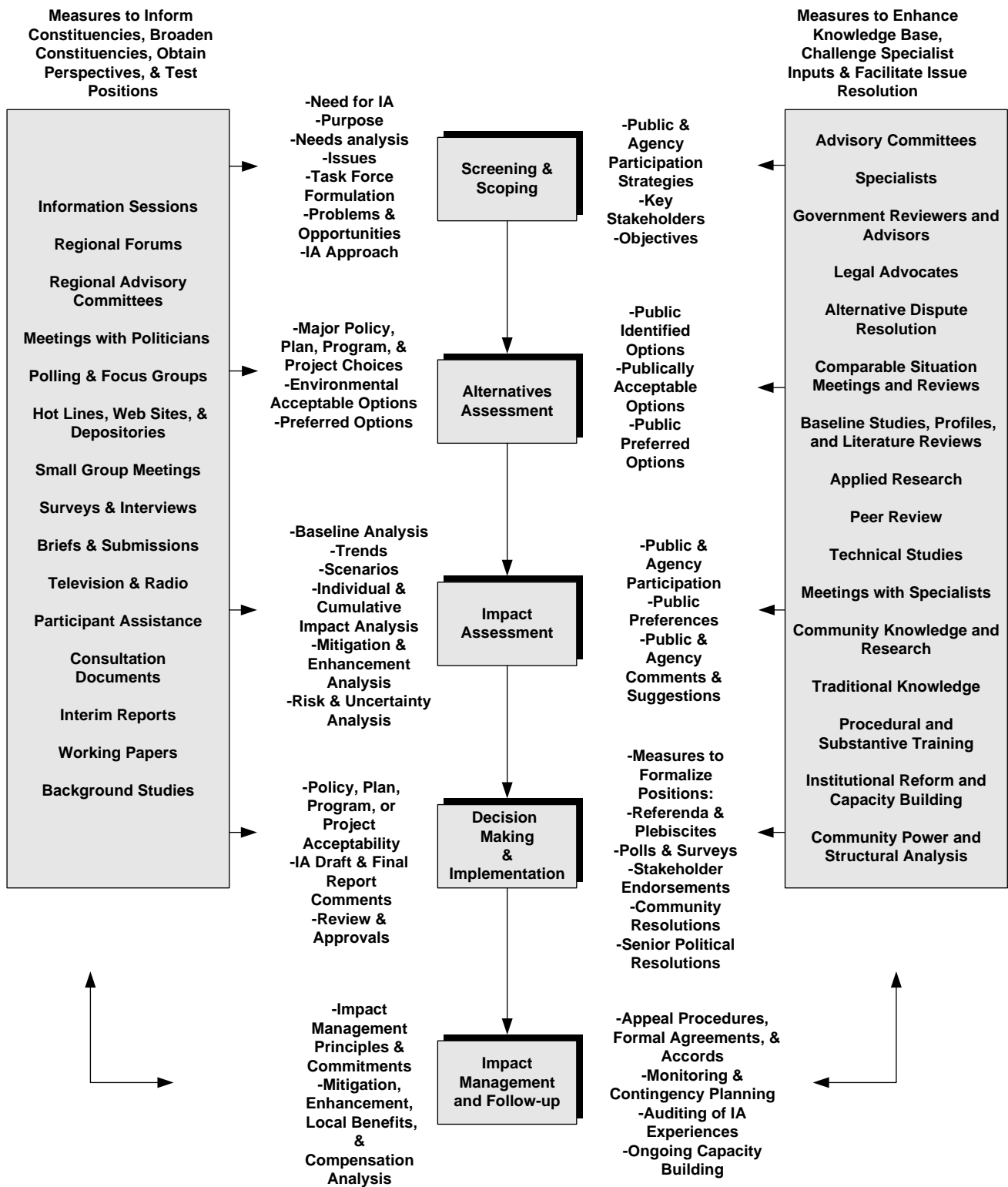


Figure 8.5 Example of a democratic IA process. Adapted from Lawrence (2005b).

individuals, organizations, and communities most directly and severely affected by proposed actions. The democratic IA process is also concerned with identifying and ameliorating power imbalances.

The process is built around the concept of delegated decision making. It is equally well suited to a co-management or shared decision-making approach. The process is an expression and fulfillment of public perspectives. It seeks to build public confidence, trust, and acceptance. Equal and independent parties, with well-defined rights and responsibilities, voluntarily come together to make mutually beneficial decisions. Participants can opt in or out of the process at any time. IA practitioners act as facilitators and collaborators.

Start-Up One or more public task forces guide and manage the IA process. The process begins with meetings or workshops among individuals, groups, and organizations interested in or concerned about a problem, an opportunity, and/or a proposed action(s). These initial meetings identify major issues and perspectives. They also help determine participant expectations. Participants jointly identify potential candidates who are willing and able to be task force members. The members collectively represent a cross section of values, perspectives, and interests relevant to the situation. The parties may include respected and credible independent individuals. Two or more task forces are established if there are major opinion differences regarding task force membership. These task forces operate in parallel. They meet periodically through the process to reach, where possible, common positions.

The major principles, to guide the process and structure the task force operations, are identified. Measures (e.g., participant assistance) are instituted to ameliorate power inequities and to ensure the full and fair participation of all parties. General “ground rules” for operating the task force are established. Major process decisions are identified. Measures, analyses, and procedures to provide a decision-making basis are determined. Procedures for involving and testing the support of the public at large and for involving politicians and government officials are established. These decisions are integrated into an overall IA approach. The approach also addresses resource requirements and schedule. The approach is progressively refined through the IA process. The problem, need, or opportunity to be addressed is thoroughly explored, both within the committee and with potentially affected communities. Key issues and potentially relevant choices are identified. The IA process is scoped to focus on major issues, choices, perspectives, stakeholders, and sensitive and significant environmental components.

Preapproval Decisions The IA process leading up to review and approvals is, like most IA processes, built around a series of decisions. Unlike most IA processes, the public (operating through the task force) assumes the lead role. Specialists, politicians, and government officials are

informed, consulted, and involved, as needed. The public controls the process, inputs to the process, and outputs from the process. The task force guides the analyses and undertakes the interpretations and evaluations associated with each decision.

A proposed action may be “on the table” from the outset. Alternatively, there may simply be a problem (or opportunity) and a general sense of ways for solving the problem or taking advantage of the opportunity. In either case, the major available and reasonable choices are identified, screened, and compared by the task force. The task force seeks a consensus regarding a preferred course of action. General impact management, including compensation and local benefits, principles, and commitments are formulated.

A voluntary siting approach is applied if location is a choice. A broadly acceptable (e.g., appropriate physical, social, and economic conditions) region or area is identified. Mitigation, local benefits, and compensation policies are formulated. Voluntary communities and, in turn, sites are solicited within the acceptable region and area. Communities volunteer based on municipal council resolutions. They can withdraw from the process at any point. Environmental and social justice considerations are integrated into the analysis. The task force is modified to add members from the voluntary communities. Extensive consultation is undertaken within the voluntary communities. Local advisory committees are established in each area. Referenda are undertaken in each voluntary community to determine the level of public support. The preferred community is selected, taking into account the degree of public support, environmental suitability, social equity, and economic constraints. Further analyses are undertaken within the volunteer community to identify potentially environmentally suitable areas and sites. The selected site(s) also are voluntary (e.g., public land or private property from a willing vendor) within the acceptable areas. Environmental suitability and the degree of support from neighbors surrounding the site and along access routes to the site are considered when making the final determination.

An analysis of baseline environmental conditions is undertaken. The community helps identify sensitive and significant environmental components and processes. Practical follow-up alternatives are identified. The task force screens and compares the alternatives. Community preferences and concerns are central when selecting the preferred alternatives. Consideration also is given to environmental effect, uncertainty, and technical and economic differences.

The task force, supported by technical analyses and ongoing community consultation identifies, predicts, and interprets individual and cumulative environmental effects. Ways of preventing and offsetting negative effects and of enhancing benefits are determined. The impact significance interpretations take into account mitigation and enhancement potential. Compensation and local benefits policies and measures are refined, based on local conditions. Calculated and perceived risks and uncertainties and their potential

implications are explored. Uncertainties are reduced by supplementary analyses, where practical. Community preferences regarding risk and uncertainty acceptability and management play a key role. Individual impact management measures are consolidated into an overall impact management strategy. The impact management strategy includes monitoring, contingency measures, compensation, local benefits, and postapproval consultation.

Periodic workshops and meetings are held if there is more than one task force. The task forces compare analyses and attempt to come to common positions. Where practical, sensitivity analyses explore differences. Conciliation, facilitation, and mediation help identify and expedite discussions. An arbitrator, an independent commission, or a review panel may be used when a consensus position cannot be achieved. Referenda are used to determine community positions on the acceptability of the proposed action(s). Polls or surveys in directly affected areas are undertaken. Resolutions, endorsing or opposing the proposed action(s), are sought from elected representatives (at each relevant government level) and from each nongovernmental organization involved in the process.

Knowledge Base The task force draws upon a diverse knowledge base: baseline studies, literature reviews, and applied research. It determines its own research and advice requirements. It has the final say regarding terms of reference and in selecting specialist advisors. Consistent with advocacy theory, it supports analyses from multiple perspectives. Analyses are tested by peer review. Legal advice is provided where appropriate. Support analyses are structured around the knowledge requirements associated with each decision in the IA process. The support analyses include an assessment of community power structure implications.

Heavy reliance is placed on community involvement in baseline analyses, on community knowledge and, where pertinent, on traditional knowledge. The community actively participates in data collection, analysis, and interpretation. Technical training, institutional improvements, and capacity building measures are instituted where needed to facilitate community understanding, involvement, and control.

Technical advisory and government agency review committees are constituted where needed. These committees provide advice regarding the technical soundness of analyses and the likelihood of regulatory compliance. Training in effective group methods is provided to task force members, as needed. A concerted effort is made to minimize communications misinformation, distortions, and barriers.

Validating the Decisions The activities of the task force are only “legitimate” and “accountable” in a democratic IA process when they reflect the perspectives, interests, and preferences of the overall public. The process links task force activities to broader constituencies. Close contact is maintained with elected officials at all pertinent government levels. Ongoing political participation and support is seen as essential to community understanding and acceptance.

The participation activities extend well beyond the conventional meetings, open houses, and other measures commonly employed in IA to inform and to obtain feedback from the public. Techniques such as small group meetings, workshops, forums, and conferences provide a more interactive, personal, and collaborative approach to addressing process related issues and choices. Polling, surveys, interviews, and focus groups are employed to obtain more in-depth and structured feedback. Advisory committees provide continuity of involvement. The extent of involvement is broadened through hotlines, web sites, television, and radio. Referenda are used at key decision points (e.g., whether a community should volunteer, proposal acceptability) to obtain a comprehensive community response. Inputs from groups, organizations, and segments of society, traditionally underrepresented in the IA process, are actively solicited. Participant assistance is provided to facilitate involvement.

Numerous consultation (adjusted to the needs of varying constituencies) documents are prepared and broadly circulated. Interim, background, and working reports are prepared to provide a sound basis for each decision. The public is provided with ample opportunities to comment on draft and final documents. Several community document repositories are established to ensure that documents are widely and readily available. Documents are also available at a proposal web site. Briefs and submissions from individuals and nongovernmental organizations are actively solicited. Responses are provided to all comments and suggestions received.

Approvals and Postapprovals The proposed action only proceeds to review and approve when there is clear community acceptance and preferably support. An appeal is available to an independent review body for participants dissatisfied with the process or its outcomes. Analyses and consultations are detailed in draft and final IA documents. The ongoing involvement of government agencies minimizes the likelihood of unforeseen regulatory concerns. The public, through the task force and an array of consultation procedures, is a full participant in determining approval conditions. If the proposed action is approved, commitments to the community and to neighbors are formalized first in draft accords and then in final agreements. The agreements address such matters as measures to reduce need, local benefits, monitoring, contingency measures, and compensation.

The agreements provide the foundation for continued public influence and control right through implementation. Community representatives have a major say in follow-up planning and management. The experiences associated with the process are documented and made available to others wishing to apply a similarly democratic IA approach.

8.5.3 Variations by IA Type

The treatment of democratic concepts and principles varies by IA type, as illustrated in Table 8.4. This will result in

Table 8.4 Democratic IA Practice by IA Type

Democratic SA Practice	Democratic SEA Practice	Democratic EIA Practice
Uses SA to frame deliberation about policy controversies	Clarifies roles of experts, decision makers, and citizens	Seeks to raise awareness about the political character of EIA (EIA as a political arena)
Clarifies roles of and decision-making rules for each decision-making level	Identifies and clarifies planning issues, constraints, sources of resistance to good governance and SEA, and strategies for overcoming	Learns about the beliefs, values, interests, and aspirations of stakeholders
Identifies sources of unsustainability (often deeply embedded in policy and institutional context)	Uses SEA to contribute to problem definition, helps break down the self-sufficiency of institutions and interest groups, and forces planning and decision making to recognize environmental aspects brought out by SEA	Works with an understanding of power and contested rationality
Requires strong political commitment to SA	SEA is decision oriented and focuses on clarifying planning–decision-making links and role of planners in influencing decisions	Focuses on conflicts as communications starting point
Role for SA in directing decision making toward sustainability	Emphasizes SEA roles in improving planning process and contributing to sustainability rather than only for approval/permitting purposes	Seeks to involve and empower marginalized groups
Focuses on how to design and undertake SA so that it is more influential	Power and interest brokerage central to SEA; effective SEA requires political support and ownership	Seeks to facilitate power sharing and changes to decision-making structures and power relationships
Builds on close link between governance and participatory and representative forms of governance	Requires up-front consideration of politics	Seeks to reframe decision making
Redefines agency mandates to address sources of unsustainable (e.g., pace and scale of development)	SEA can help create cross-sectoral governance networks	Recognizes that the legitimacy of the EIA is a key issue
Is consistent with decentralized decision making	Role in breaking autonomy of planning bureaucracy	Seeks to project international environmental norms into domestic EIA processes
Uses community-based IA approaches to facilitate transition to sustainability	Emphasizes planning and decision-making integration (making a difference)	Favors institutions that enhance collaborative planning
Requires close connection between environmental and economic governance	Considers democratic effectiveness	Seeks to help grassroots movements create and participate in a more democratic way
Emphasizes inter- and intragenerational equity	Role of SEA practitioner as mediator for negotiations	Reinforces decentralization
Is open, inclusive, and participatory	Broadens application to more policies	Focuses EIA on making a positive contribution to democratic decision making
Central role of early discourse and dialogue with stakeholders and affected citizens	Extends to private sector—a form of environmental advocacy	Focuses on interpreting the meaning and implications of plural interpretations of effectiveness
Recognizes danger that SA can contribute to dominance of socioeconomic considerations	Identifies and addresses sources of tension associated with efforts to apply SEA	Accepts the political nature of EIA and views EIA role as facilitating bargaining
Is consistent with bottom-up participation approach and methods; demands greater public involvement in decision making and greater accountability to public	Potential role for SEA in fostering democratization and promoting public participation	Recognizes that social equity cannot be dealt with, without addressing political inequality
Manages development scale and pace to be within regional capacities	Seeks enhanced public control over policy making and participants' empowerment	Focuses on procedural and distributional justice
	Considers implications of ethics from outset	Explores potential role of EIA as an arena for democratic deliberation; experiments with dialogue-based tools
	Enhances competence and capacity in influencing decision making	Assesses effectiveness in terms of opening up opportunities to involve local people in decision making
	Role of SEA in contributing to political pluralism (democratic SEA)	Seeks to shift the balance of power
	Applies community-based SEA approaches	
	Views SEA as a social struggle over problem definition and future choices	
	Recognizes that SEA effectiveness depends on how well fits into planning context; requires analysis of political situation and of context variables such as institutional organization	
	Facilitates SEA capacity building	
	Assesses intended and unintended consequences of SEA	
Democratic EcIA Practice	Democratic SIA Practice	Democratic HIA Practice
Facilitates inclusive approach; involving all societal sectors	Recognizes that SIA inherently and unavoidably political; should demonstrably influence decision making	Seeks to broaden SEA/EIA to include health effects
Ensures intersectoral cooperation	Includes all the values and interests of parties in goals	Treats citizen concern with a health issue as a starting point
Seeks to resolve inconsistent government processes		Ensures adequate provision for external accountability

Table 8.4 (Continued)

Democratic EcIA Practice	Democratic SIA Practice	Democratic HIA Practice
Draws upon deep ecology perspectives (biocentrism, identification beyond humanity, favors noninterference with nonhuman parts of biosphere, concern with quality of human life and health, commitment to a decentralized and democratic ideology)	Starts from the principle that people have the right to be involved in the decision making about planned interventions that affect their lives	Views HIA as a means of advancing a political agenda; assumes political rationality (extensive negotiations and compromise, multiple interdependencies)
Seeks to transform traditional decision-making systems, alter agenda, stimulate debate, and expand society's conscious	Acknowledges that sometimes values incommensurable and compromise impossible	Role for HIA in engaging other sectors to consider health effects
Fosters alliances	Focuses on understanding, mediating, and managing conflict	Seeks evidence that effective in changing decisions and policies, programs and projects
Identifies negative effects of strong centralized control over management	Is closely linked to "rights" and principles	Views HIA as a means of empowerment at the community level
Enhances enforcement	Is consistent with multisectoral integration (tiering)	Can employ community-led HIA approach; building capacity of people to becoming active participants in decisions that affect community well being
Integrates deep ecology and ecological politics—some success in transforming traditional decision-making systems, in altering agenda, and in expanding society's conscious	Mitigation and enhancement measures are culturally appropriate	Fosters indigenous community engagement in HIA research
Integrates eco-feminism perspectives	Analyzes social development needs	Can use HIA as a means of advocacy
Seeks ethics-based environmental planning (grounded in responsibility and reciprocity)	Overcomes tension between the political and the technical	Identifies facilitators and barriers to health integration (e.g., partnerships, management and resources, appraisal processes)
Treats EcIA as a form of environmental advocacy	Serves as a mediator or a forum through which competing knowledge claims, values, and interests can be discussed and linked to options and interventions	Views the HIA as a means of empowerment at the individual level
Requires capacity building	Promotes inclusiveness, community development, and empowerment	Treats full and active stakeholder involvement as an underlying value of HIA
Enhances stakeholder involvement in decision making and co-management	Community-based IA is structured and interactive and empowers community-based forums	Treats community development as HIA building block
Fosters greater use of societal tools and less reliance on regulatory tools	Is consistent with subsidiarity principle (decision-making powers decentralized close to individual citizens)	Fosters community partnerships
Involves environmental lobby groups: large multi-issue groups, smaller, more focused groups, education, research and policy development centers, law and science groups, and land conservation groups	Utilizes community outreach	Facilitates HIA capacity building
Potential role for direct political action (e.g., protests, boycotts)	Seeks local community benefits; local discretion essential—empowerment of beneficiaries	Is based on explicit concern for health and equity
	Seeks shared decision making (through agreements)	Blends indigenous perspectives with public health data
	Seeks to facilitate social consensus and empowerment, enhances marginalized groups, reduces dependency, fosters capacity building, develops social capital, and contributes to community cohesion and greater equity	
	Argues that interventions should be broadly acceptable to the members of the community likely to benefit from or be affected by intervention (public acceptance a decisive consideration) (free, prior, and informed consent)	
	Fully describes and analyzes environmental justice; emphasizes vulnerability of underrepresented and disadvantaged populations	
	Respects community and traditional knowledge	
	Aboriginal control is an essential prerequisite to effective SIA; necessary to end marginalization	
	Stresses equitable sharing of benefits	
	Emphasizes the creation of participatory processes, social learning, and local content	

Sources: Adelle and Weiland (2012), Ayre and Calloway (2005), Banken (2004), Barrow (2010), Bhatia (2007), Binder et al. (2010), Bond and Morrison-Saunders (2011), Bond et al. (2012), Bonifazi et al. (2011), Brown et al. (2003), Burdge (2004), Cameron et al. (2011), Carmichael et al. (2012), Cashmore et al. (2010), Bredariol and Marini (2003), Craik (2008), Esteves and Vanclay (2009), Esteves and Barclay (2011), Esteves et al. (2012), Fischer (2007a), Gibson (2006a, 2011), Harris-Roxas and Harris (2011), Harris-Roxas et al. (2012), Harris et al. (2003), IAIA (undated b), ICPGSIA (2003), Jay (2007), Karjalainen and Järviskoski (2010), Kontić and Kontić (2012), Kørnøvn and Dalkmann (2011), Kemm and Parry (2004b), Kwiatkowski (2011), Kwiatkowski et al. (2009), Lane et al. (2003), Lee (2006), Manou and Papathanasiou (2009), McCarthy and Utley (2004), McLauchlan and João (2012), McCluskey and João (2011), Mindell et al. (2004), Mittelmark et al. (2004), Morgan (2012), Morrison-Saunders and Fischer (2010), Nilsson et al. (2009), O'Faircheallaigh, (2009, 2010), Peltonen and Sairinen (2010), Persson (2006), Pope and Grace (2006), Putters (2005), Richardson (2005), Rowan and Streater (2011), Scott (2011), Shepherd et al. (2008), Stoeglehner et al., (2009), Runhaar (2009), Sheate (2012), Sinclair et al. (2009), Taylor et al. (2003), Tetlow and Hanusch (2012), Thomas and Elliott (2005), Youngkin et al. (2003), Vanclay (2003, 2006), Walker (2003), Wernham (2007), Wikland (2005), Włodarczyk and Tennyson (2003), Wolsink (2010).

some variations in process characteristics between, for example, the SEA and project EIA levels and among substantive IA types (e.g., SA, EcIA, SIA, and HIA).

Democratic SA Practice Democratic SA practice uses sustainability to frame, direct, and represent the critical measure of outcome effectiveness for all decisions. SA, by its nature, requires strong political support, cuts across all decision making and planning levels, and is closely allied to participatory, bottom-up forms of governance. It is generally compatible with and conducive to decentralized decision making, community-based IA approaches, and the systematic consideration of intra- and intergenerational equity. Democratic SA practice challenges the existing institutional arrangements and practices. It is effective only when there is a close connection between economic and environmental forms of governance. Politically ineffective SA can contribute to the dominance of socioeconomic considerations.

Democratic SEA Practice Democratic SEA practice is inherently political and closely linked to (arguably intertwined with) decision making. It is decision oriented. It goes well beyond informing and clarifying decision making. It actively seeks to demonstrably influence decision making toward the realization of more beneficial environmental outcomes. To be effective, it invariably must challenge and reform the prevailing institutional and bureaucratic structures and practices. Power and interest brokerage are central features of democratic SEA practice. SEA is ineffective without strong political support and ownership. The effectiveness of democratic SEA practice is contingent on being able to demonstrate that decision making is more democratic (e.g., more open, transparent, and collaborative, closer to the people). SEA practitioners help identify and resolve tensions and facilitate/mediate negotiations among stakeholders. Democratic SEA practice views strategic planning and decision making as a social struggle. It is community-based, appropriate to the context, and sensitive to procedural and substantive ethical concerns. It fosters democratization, promotes public participation, enhances the potential for public empowerment and control, and facilitates the capacity of the public to influence and reshape decision making at all levels.

Democratic EIA Practice Democratic EIA practice is inherently political and community driven. It focuses on conflicts (contested rationality). It brings to the fore the beliefs, aspirations, values, and interests of stakeholders. It especially emphasizes involving and empowering marginalized groups, and facilitating involvement, bargaining, and dialogue at the community level. While still driven by environmental norms and principles (adapted to the regional and community context), democratic EIA practice actively seeks to decentralize decision making and to make decision making more collaborative, inclusive, equitable, accountable, and legitimate (from multiple perspectives).

Democratic EcIA Practice Democratic EcIA practice draws heavily upon deep ecology, biocentric, and eco-feminist perspectives. It is driven and bounded by environmental ethics and principles. It seeks to transform the value systems, interests, and institutional structures and practices that dominate decision making. It actively encourages the networking of environmental alliances and stakeholder participation (especially among environmental NGOs). It represents a form of environmental advocacy. Where warranted, it supports direct action.

Democratic SIA Practice The need to make decision making and IA practice more overtly political, accessible, collaborative, and democratic is a major theme in SIA theory and practice. Democratic SIA practice is inherently political and, consistent with the subsidiarity principle, decentralized. It favors delegated (i.e., community control) and shared decision making. It insists that decisions be broadly acceptable to the community (i.e., free, prior, and informed decisions). It focuses on understanding, mediating, and managing conflict. It explicitly integrates values, interests, rights, social needs, environmental justice, and ethical principles. It promotes inclusiveness, active participation, community development, empowerment, reduced dependency, social learning, local content, social capacity building, and the enhancement of marginalized groups. It respects community and traditional knowledge. It is community based. It actively seeks local (equitably shared) community benefits, the development of social capital, greater equity, and enhanced community cohesion. It is especially concerned with the implications of potential choices upon underrepresented and disadvantaged populations.

Democratic HIA Practice Democratic HIA practice starts from citizen health issues. HIA is viewed as a means of advancing a political agenda—an agenda focused on building the capacity of people to actively participate in and influence decisions affecting community well-being. Democratic HIA is an advocacy tool for broadened the scope of decision making to more effectively address, from a community perspective, health concerns and effects. It seeks to demonstrably influence health-related decisions and decision making. It helps identify political and institutional facilitators and barriers to health integration. It fosters community-based health partnerships and public and indigenous engagement in HIA health research and health service delivery. It facilitates health-related capacity building, active stakeholder participation, and community empowerment. It is especially concerned with health-related issues pertaining to disadvantaged and marginalized groups, populations, and communities.

8.6 CONTEMPORARY CHALLENGE— MULTIJURISDICTIONAL IA

8.6.1 The Roles of Power in Multijurisdictional IA

The roles of power within a multijurisdictional IA situation, as illustrated in Figure 8.6, are many and varied. It encompasses

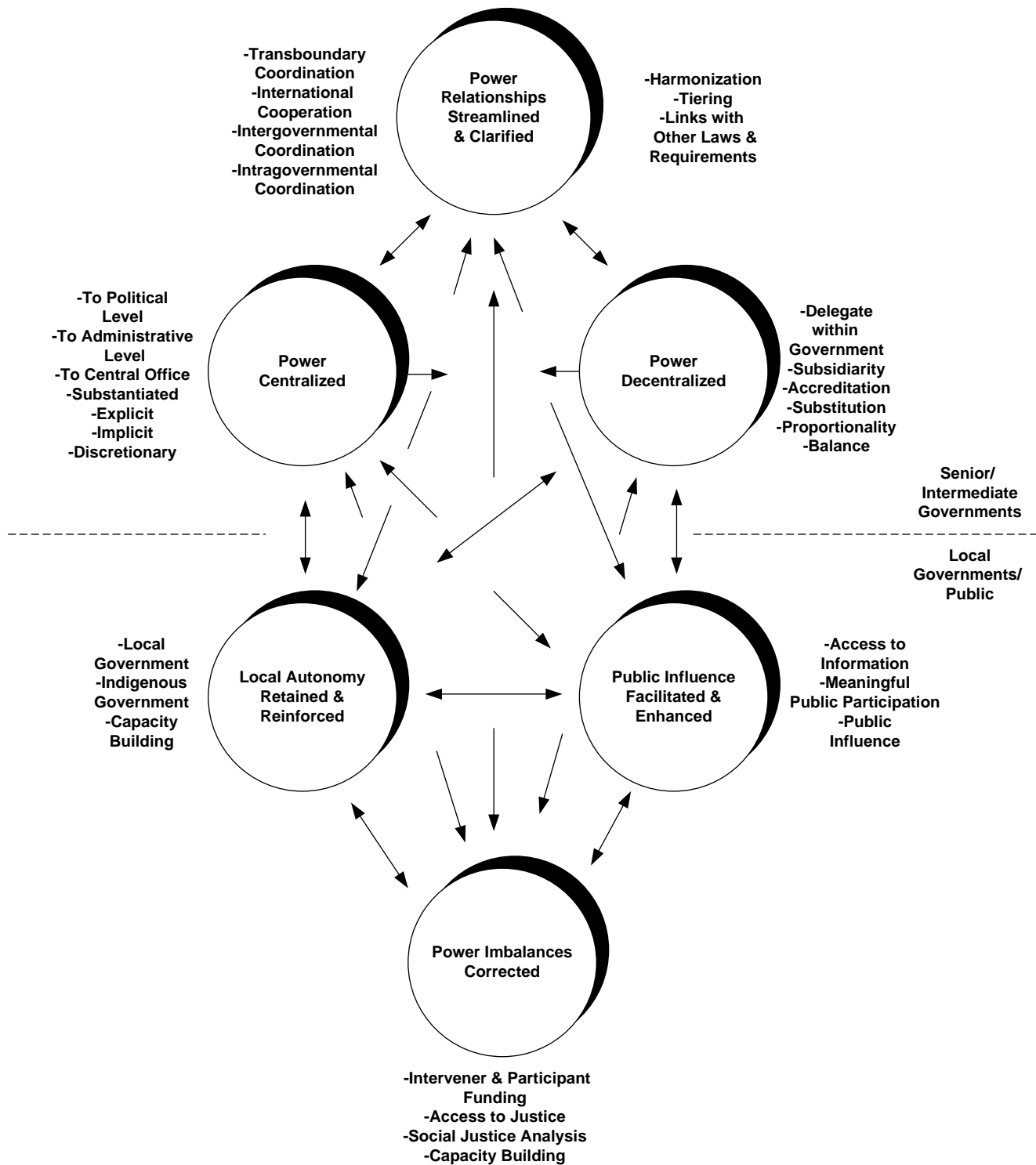


Figure 8.6 The roles of power in multijurisdictional IA.

the streamlining and clarification of power relationships, the upward, downward, and horizontal flow of power among governments (e.g., senior, intermediate, local community, indigenous), power interconnections between government and the public, and initiatives to correct power imbalances.

Power Relationship Streamlined and Clarified Multiple jurisdictions can be involved in IA in a variety of ways. Proposed actions and effects from proposed actions can cross jurisdictional borders (transboundary IA). There can be vertical and horizontal interconnections among planning

(policy, plan, program, project) levels (tiering). Measures can be taken to progressively modify, laws, regulations, and administrative procedures, when more than one set of IA requirements apply to the same action, to achieve a degree of homogeneity and enhanced functioning (harmonization). Harmonization does not necessarily, and rarely does, lead to standardization. IA requirements and procedures can be explicitly linked by, for example, cross-referencing and circulation procedures to the administration of other laws policies, plans, and programs. Steps can be taken to facilitate cooperation among and across government types and levels (e.g., international, national/subnational intergovernmental, subnational/regional/community intergovernmental, intra-governmental head office/regional field office).

Power Centralized and Decentralized IA-related power can be centralized at the political level and/or at the administrative level. Centralization can involve the upward flow of power to more senior governments or centralized offices within governments. Centralization of IA-related decisions often takes the form of a greater level of implicit political-/administrative discretion, sometimes as part of the IA process, and sometimes at the end of and external to the IA process. Centralization tendencies can be directed and bounded by such mechanisms as requirements to justify decisions, explicit criteria that must be considered, and appeal procedures.

Decentralization in IA can entail delegation within government (as when decision-making power is devolved to a regional office), and the shifting of IA-related responsibilities in whole or in part to, for example, intermediate governments, indigenous governments, or community/municipal governments, through such mechanisms as accreditation, substitution, and exemption. The exercise of power through such decentralization initiatives can be directed and circumscribed by such measures as explicit criteria and thresholds, adherence to explicit good practice standards, external advisory groups, and the independent auditing of procedural and substantive effectiveness.

The flow of power in IA practice is sufficiently complex that the decentralization and centralization of power, in different forms and in different ways, often occurs simultaneously, and varies among sectors, geographically, and over time. The somewhat naïve view of IA simply informing decision making fails to reflect the complex and evolving patterns in the exercise of power and influence in multijurisdictional settings. A failure to understand these flows of power and influence, and then to act on this understanding, can result in the marginalization of IA requirements and procedures and, in turn, the marginalization of the role of IA practitioners in influencing the exercise of power by decision-makers.

Local Autonomy, Public Influence, and the Correction of Power Imbalances Multijurisdictional IA literature and practice tend to focus on the role of power as it is exercised

within and between senior and intermediate levels of government. The potential flow of IA-related power to and from local and indigenous governments tends to receive much less attention. However, consistent with the principle of subsidiarity (decisions made by the smallest, lowest, or least centralized authority), an argument can be made for an enhanced decision-making role for community-based IA and IA by indigenous governments—on the grounds that they are closer to the people, more accountable, and more sensitive to local conditions and circumstances. Such a downward shift of power, or perhaps more legitimately, such a retention and reinforcement of local autonomy, might, for example, necessitate capacity-building measures, the use of formal agreements, contextual adaptations, and variations in the scope of responsibilities entailed.

The tendency in multijurisdictional IA institutional arrangements is to limit the role of the public to notification requirements and involvement opportunities. These matters need to be addressed explicitly and comprehensively. However, a democratic IA process, regardless of the number of governmental and nongovernmental levels and participants, should include the roles of the public in actually influencing decision making. Such a reorientation shift, would, for example, necessitate demonstrating if and how decisions were shaped and influenced by the public. It could, even in a multijurisdictional setting, suggest such procedural performance standards as the free, prior, and informed consent of potentially affected publics. It also suggests a predisposition toward and embracement of collaborative and shared decision-making models.

Multijurisdictional IA practice is prone to power imbalances. This suggests that multijurisdictional IA institutional arrangements need to encompass a range of measures to ameliorate such imbalances, especially for disadvantaged and marginalized groups and populations. Measures such as participant funding, access to justice provisions, the analysis of environmental justice implications, and various capacity building initiatives are likely to be necessary in order to allow all potentially interested and affected parties to fully participate and demonstrably influence multijurisdictional IA requirements, procedures, and practices.

8.6.2 Multijurisdictional IA: Good Practices

Table 8.5 lists a range of possible multijurisdictional IA good practices. Collectively, the measures seek to make multijurisdictional IA institutional arrangements and practices more transparent, comprehensive, consistent, collaborative, substantiated, efficient, effective, and democratic. The categories contained in the table are far from mutually exclusive. An effective range of harmonization/coordination measures might, for example, represent a viable alternative to decentralization. Or, partial decentralization could work effectively in tandem with various harmonization/coordination measures. Measures, to enhance public influence, reinforce local autonomy, and correct power imbalances,

Table 8.5 Multijurisdictional IA—Good Practices*Power Relationships Streamlined and Clarified Tiering*

- Clarify tiering meaning, types, and dimensions
- Encourage agencies to tier SEAs and EIAs
- Recognize that tiering is not always hierarchical and linear
- Identify tiering objectives, principles, and frameworks
- Clearly identify roles and issues appropriate to each level
- Explore tiering options
- Make tiering process more explicit
- Identify gaps, potential conflicts, and overlaps
- Integrate sustainability into each level
- Provide tiering guidance
- Sponsor tiering pilot projects and applied research
- Assess the effectiveness of tiering initiatives from multiple perspectives

Harmonization

- Define harmonization
- Apply when actions subject to more than one assessment process
- Identify environmental mandate, interest, objectives, priorities, and policies for each level
- Identify harmonization objectives and principles
- Address consistencies and inconsistencies among SEAs and EIAs and seek to harmonize procedures and significance criteria
- Institute an explicit, substantiated, and collaborative harmonization procedure(s)
- Provide for IA-related agreements and joint or coordinated processes and documents
- Include provisions for enhanced coordination and disputes resolution
- Encourage national IA performance standards
- Openly address unresolved harmonization issues and place within the context of broader environmental quality enhancement initiatives

Other laws, policies, plans, and programs

- Make explicit cross-references to related laws
- Seek to resolve conflicts and inconsistencies with other laws, policies, plans, programs, and projects
- Explore linkages between EIA/SEA and substantive environmental and procedural requirements
- Seek mutually supportive approaches and requirements between EIA/SEA and land use and environmental planning and management
- Assess effectiveness of requirements, individually and collectively, from multiple perspectives

Transboundary IA

- Require consideration of transboundary effects at scoping stage
- Institute interjurisdictional transboundary IA agreements
- Explicitly identify and apply transboundary IA principles
- Provide opportunities for other, potentially affected jurisdictions to cooperate in IA processes and in hearings/court cases
- Require information on IA and regulatory requirements of other jurisdictions
- Clarify such matters as contacts, languages, terminology, division of responsibilities, document contents, notification procedures, public access and consultation procedures, dispute resolution and appeal procedures, competence of authorities, cost allocation, follow-up, and contextual adjustments
- Assess effectiveness of transboundary provisions from multiple perspectives

International cooperation

- Identify shared and country-specific objectives and priorities, and clarify geographic areas over which have jurisdiction
- Explicitly link to international treaties, accords, conventions, goals, and environmental norms
- Seek to strengthen international environmental treaties and manage conflicts among international treaties (e.g., independent inquiry)
- Seek to increase accountability and legitimacy
- Ensure binding rules and compliance with IA good practices in international areas and adapted to context and indigenous populations
- Build on and contribute to good practices of international aid organizations
- Participate in international IA good practice initiatives
- Assess effectiveness of cooperative measures

Intergovernmental cooperation

- Identify shared and government-specific objectives and priorities
- Clarify coordination and substantive roles and responsibilities

(continued)

Table 8.5 (Continued)

- Institute coordinated approach to IA applied research, IA harmonization, and joint or concurrent but linked IA processes
- Ensure community-based regional planning in place prior to IA project review
- Require information on IA and regulatory requirements of other jurisdictions
- Facilitate intermediate level IA capacity building
- Assess effectiveness of cooperative measures

Intragovernmental cooperation

- Identify shared and level-specific objectives and priorities
- Clarify coordination roles and responsibilities
- Define substantive and procedural roles and responsibilities of each party
- Institute coordinated approach to IA applied research and document review
- Assess effectiveness of cooperative measures

Power Centralized

- Clearly define centralization objectives and principles (e.g., transparent, substantiated, and collaborative)
- Only centralize when essential to environmental mandate, necessary expertise, and independence
- Apply subsidiarity and proportionality principles to any power centralization proposals
- Recognize advantages and disadvantages of centralization
- Only reallocate IA responsibilities among government levels with the involvement and consent of those most directly affected
- Approach centralization with caution, fully substantiate, and test for effectiveness and consequences

Power Decentralized (Delegation, Subsidiarity, Accreditation, Substitution, and Exemption)

- Decentralize to regional/local government offices where practical and appropriate
- Clearly define decentralization types under consideration and clearly define and substantiate decentralization objectives and principles
- Independently assess effectiveness of current IA institutional arrangements
- Collaboratively and transparently develop, with interested and affected parties, any decentralization initiatives
- Compare selective and comprehensive decentralization options with harmonization and mixed harmonization/decentralization/tiering options
- Clearly identify redefined roles and responsibilities in formal agreements, where practical
- Explore opportunities for selective delegation
- Provide for lower level substitution if consistent with explicit criteria and if auditing and appeal provisions
- Apply subsidiarity and proportionality principles to any power decentralization proposals
- Only undertake decentralization if consistent with level's mandate and capacity, if demonstrable substantive environmental and procedural benefits, if no reduction in public access or participation, and if independence of review not compromised
- Undertake in conjunction with IA harmonization and tiering measures, and initiation of joint IA good practice standards
- Undertake applied research of decentralization measures
- Assess effectiveness of decentralization measures

*Local Autonomy Retained and Reinforced**Local government*

- Proactively seek to enhance local government decision-making influence and autonomy
- Seek to obtain community acceptance/approval
- Explicitly and collaboratively identify community involvement, participation, and influence objectives and principles
- Make provisions for full participation of local jurisdictions in IA processes, including the possibility of formal agreements
- Encourage and support community level IA
- Explore opportunities for delegating IA responsibilities to community level
- Ensure IA process designed and managed to take into account local community characteristics and preferences
- Consider delegating selective IA responsibilities to communities but ensure sufficient capacity
- Consider use of formal agreements in facilitating participation and influence of local governments
- Assess consistency of all proposed actions with community objectives, policies, plans, programs, and laws; seek to resolve all conflicts
- Assess implications of all proposed actions for local decision-making authority and autonomy
- Fully integrate community knowledge
- Require explicit responses to all community proposals and positions, and require demonstration of local decision-making role
- Assess effectiveness from community perspective

Indigenous government

- Institute government to government IA arrangements with indigenous peoples
- Explicitly and collaboratively identify indigenous community involvement, participation, and influence objectives and principles
- Consider use of formal agreements in facilitating participation and influence of indigenous peoples

Table 8.5 (Continued)

- Explore opportunities for selective or complete delegation of senior level IA responsibilities to indigenous groups or communities
- Proactively seek to enhance decision-making influence and autonomy of indigenous peoples
- Seek to obtain indigenous community acceptance/approval
- Ensure early and ample time for indigenous peoples' input, review, and comment at each decision point
- Ensure appropriate structures and procedures and adequate financial and other resources for "meaningful participation"; capacity build as needed
- Encourage and support indigenous government IA
- Collaboratively adapt IA process to characteristics, needs, and aspirations of indigenous peoples
- Respect treaty and other rights of indigenous communities
- Consider and apply, where practical and appropriate, indigenous community-based IA model
- Assess consistency of all proposed actions with indigenous community objectives, policies, plans, programs, and laws; seek to resolve all conflicts and consistencies
- Assess implications of all proposed actions for indigenous peoples' decision-making authority and autonomy
- Respect and fully integrate traditional knowledge
- Require explicit responses to all indigenous community proposals and positions
- Provide for indigenous community to assess effectiveness from own perspective

*Public Influence Facilitated and Enhanced**Access to information*

- Identify explicit access to information objectives, principles, and procedures (jointly determine with stakeholders)
- Provide timely public access to all IA documents and files
- Independently assess effectiveness of access to information provisions

Meaningful public participation

- Identify explicit public participation objectives, principles, and procedures (jointly determine with stakeholders)
- Ensure early and ample time for public input, review, and comment at each decision point
- Broadly define public and interested parties
- Proactively seek more open and transparent IA processes; draw upon and contribute to IA public participation good practices
- Require consideration of community knowledge and indigenous traditional knowledge
- Provide for public review of draft guidelines, codes of practice, agreements, arrangements, and criteria
- Independently assess public participation implications of changes to IA institutional arrangements and effectiveness of public participation measures

Public influence

- Require demonstration of public's role in decision making
- Require justification of IA-related decisions, consistent with democratic principles and public values
- Explicitly respond to all public comments and proposals
- Seek to enhance public decision-making influence and effectiveness
- Apply collaborative, shared decision making and delegated participatory IA approaches
- Seek effectiveness of measures to enhance public's role in planning and decision making, from multiple perspectives

Power imbalances corrected by participant funding

- Provide funding for full participation in IA process; additional funding for disadvantaged groups
- Provide funding for full participation in hearings and legal proceedings
- Provide funding for independent peer review
- Independently assess effectiveness of participant funding mechanisms

Access to justice

- Provide standing to public in hearings
- Provide ability to appeal IA decisions
- Independently assess effectiveness of access to justice provisions

Environment justice analysis

- Integrate environmental justice analysis requirements
- Provide environmental justice analysis guidance
- Analyze distribution of effects; seek to minimize adverse impacts on and to enhance benefits to less advantaged
- Independently assess effectiveness of environmental justice analysis requirements

(continued)

Table 8.5 (Continued)*Capacity building*

- Provide additional resources for disadvantaged communities, groups, and segments of society
- Ensure that all interests are represented at the table, power imbalances are ameliorated, and community accountability and influence is enhanced
- Independently assess effectiveness of capacity building measures

Sources: Albergharia and Fidelas (2006), Albrecht (2008), Arts et al. (2011), Biermann et al. (2012), Bina et al. (2011), Bonvoisin (2011), Burdge (2004), Carter and Howe (2006), Craik (2008), Donnelly and Mahoney (2011), Eccleston (2008), EC (2008b, 2009b, 2012c), Fischer (2007b), Fitzpatrick and Sinclair (2009a,b), Galbraith et al. (2007), Glasson and Bellanger (2003), Hacking and Guthrie (2011), Hemmings and Roura (2003), Herring (2009), Imperial College London Consultants (2005), Jiricka and Pröbstl (2009), Koivurova (2008), Lawrence (1999), Lyhne (2009), Mas (2003), de Mulder (2008), Noble (2009a), Noble and Gunn (2009), O’Faircheallaigh (2006), Pinho et al. (2010), Pope and Dalal-Clayton (2011), Pope and Grace (2006), Purnama (2004), Renda (2006), Ritsatakis (2004), Risse et al. (2003), Ruddy and Hilty (2008), Sánchez and Silva-Sánchez (2008), Sadler and Jurkeviciute (2011), Sinclair et al. (2012), Taylor et al. (2004), Théritel (2010), Tomlinson (2004), Whitelaw et al. (2009).

could complement streamlining and power clarification measures at senior government levels.

Many of the measures listed in Table 8.5 are reflected, to varying degrees, in existing IA multijurisdictional IA institutional arrangements. What is much less clear is whether or to what extent these measures (either individually or collectively) are effective, complementary, publicly supported, and appropriate to the context. The state-of-practice of multijurisdictional IA also is severely hampered by a “rush to judgment” based on preconceived notions regarding what is right or wrong with the current system, and what reforms should be introduced to remedy perceived deficiencies and to enhance perceived strengths. Perspectives tend to vary dramatically among stakeholders regarding the state-of-practice of multijurisdictional IA. Based on this scant and impressionistic knowledge base, positions rapidly become entrenched. Depending on who has the “balance of power,” reforms are made to the existing IA system or the entire system is replaced, without a clear sense that the problems that they are intended to remedy are valid, if other problems might be more serious, whether the proposed remedies will have the desired effect, any unintended “side effects,” and what contribution other interested and affected parties might have made to the reform process.

Ideally, what should emerge from ongoing debates and discussions surrounding multijurisdictional IA is, first and foremost, a consensus concerning multijurisdictional IA core principles, goals, unacceptable practices, and minimally acceptable practices. The existing multijurisdictional IA system should then be evaluated for effectiveness from multiple perspectives. Armed with a clear, and preferably consensual understanding of what is right and wrong with the current system, a baseline can be established for moving forward. Individual “good practice” candidate measures can then be knit together, through collaborative forums, into a coherent strategy.

The strategy would be guided and bounded by a clear set of objectives and principles. It would encompass, for example, tiering procedures, harmonization measures, transboundary consultation, and analysis provisions, links to related requirements, inter- and intragovernmental coordination

mechanisms, selective delegation and centralization mechanisms, and a range of proactive measures to facilitate local autonomy, public influence, and the correction of power imbalances. All proposed measures would be fully explained and justified. In the event that there are major divisions in perspectives regarding proposed measures, these measures could be deferred, subject to intense discussions and negotiations, or alternative strategies or strategy components could be formulated. These strategies or strategy components could then be compared and evaluated (again in collaborative forums) against the multijurisdictional IA goals and principles.

The preferred strategy would extend from the minimally acceptable practices and selectively integrate complementary elements from other strategies. It also would be adapted to the institutional, environmental, and cultural context. Elements of the preferred strategy, with which there is ample experience and broad support, could first be progressively integrated into the existing system. Other elements, where there is a greater level of uncertainty and/or support, could be tested through pilot programs associated with individual IAs. The multijurisdictional IA system would progressively evolve over time and subject, periodically, to independent review and stakeholder review and discussion. The whole enterprise could be informed by experience elsewhere, and IA-related literature and good practice standards. The effectiveness reviews of the multijurisdictional IA reforms also should contribute to the wider IA knowledge base.

8.7 SUMMING UP

This chapter describes a democratic IA process—a process that shifts power from specialists and politicians to the public. The people most directly affected by proposed actions have a major say in whether and how actions proceed. Groups, segments of society, and perspectives, commonly excluded or underrepresented, assume a more prominent position in the IA process.

The three stories presented in the preceding section approach the question of democracy in contrasting ways. The first story describes how a project-level EIA was

democratically ineffective in influencing decision making in favor of more environmentally sound choices. The second story provides an example of how collaborative, consensus-based, and democratic higher level planning can help direct and bound planning and decision making at the project EIA level. The third story illustrates how the integration of SEA and planning is a more complex, and sometimes constrained, endeavor than is often assumed or understood. The stories provide an initial and partial sense of how democratic values should and should not be approached in the IA process design and management.

Although the value of public participation is widely acknowledged, the public too often has a minor role in the IA process. Members of the public frequently are or believe themselves to be powerless in major decisions that affect their lives. This problem is exacerbated by imbalances in the distribution of power. The most vulnerable segments of society tend to be the least influential. The solution is an IA process that delegates or shares decision-making authority with the public.

Democracy is rule by the people. The IA process should be an expression and fulfillment of direct and participatory democratic concepts and principles. The courts, politicians, and government officials should involve, delegate power to, share power with, and be responsive to the public.

The IA process should be designed to facilitate a high degree of direct public influence and control. The public, working closely with local politicians, should assume the lead role in shaping and guiding the process. There should be an influential public role for each decision within the process. There should be a clear rationale for how the public is defined, what represents a public choice, and any bounding of the public's role. The IA process should draw upon the principles, insights, and experiences of community resource co-management and voluntary siting approaches.

The IA process should help make people and communities more autonomous and better able to make decisions about matters that affect their lives. Lessons should be derived from community-based IA and from visions, principles, and strategies for more autonomous communities. The IA process should facilitate community empowerment, development, and mobilization. It should promote and accommodate community and traditional knowledge. It should assess conflict and community power structure implications. It should facilitate community IA capacity building and institutional reform. Roles, conventionally assumed by politicians, government officials, and technical specialists, should be shifted to the public, wherever practical. The public should be at the center of the process. Community activists and nongovernmental organizations should be prominently featured. The IA process should be guided by community values. Proposed actions should be assessed as catalysts for or against the realization of community needs and aspirations.

The IA process should be designed and managed to minimize power imbalances. This may necessitate preparing

alternative IA documents, interpretations, and analyses. Social and environmental justice concerns should be integrated into the process. Decision making and the IA process should be accountable and legitimate. Imbalances should be ameliorated by decentralizing and deconcentrating power. Collaborative and inclusive governance networks should be facilitated. Dominant discourses should be identified, critically evaluated, and collaboratively reformed. Environmental equity and progressive planning concepts and principles can be instructive. Power relationships should be formalized and redefined, when appropriate, by using tools such as impact management and benefits agreements. The IA process should encourage and support community advocates, activists, and organizers. Social and ecological political activities and movements also should be encouraged and supported. Identifying and characterizing power imbalances should be aided by drawing upon critiques from pertinent political, social, ecological, and feminist theories and analyses. The process should be opened up to perspectives and critiques outside mainstream IA practice. The analysis and management of community conflict should receive particular attention. The IA process should draw upon the analyses and suggestions of institutional advisory bodies and nongovernmental organizations. Financial and other assistance should be provided to underrepresented and unrepresented segments of society so that they can more effectively participate in the process. IA capacity-building efforts should devote greater attention to identifying and rectifying power imbalances.

Senior governments should, wherever practical, decentralize and deconcentrate their IA operations. IA responsibilities should be delegated to intermediate government levels where appropriate and practical. A clear rationale as to why central control is essential should be provided whenever delegation does not occur. The autonomy of local IA systems should be promoted and supported. IA systems should promote and encourage early and ongoing public participation and influence. Opportunities for delegated or shared decision making with the public should be provided where practical and appropriate. IA systems should ameliorate power imbalances. They also should resist the propensity to centralize.

A democratic IA process seeks to maximize public influence and control, foster local autonomy, and correct power imbalances. Decision-making authority is delegated to or shared with the public. The process is designed and managed to build public confidence, trust, and acceptance.

One or more public task forces guide and manage the example democratic IA process. IA practitioners act as facilitators and collaborators. The process begins with the task force formulation, the identification of major values and principles, the formulation of public and agency participation strategies, and the development of a preliminary IA approach. Major issues and choices are identified. The process is scoped. The need for action is determined. The balance of the process, leading up to review and approvals, is built around decisions. The task force, drawing upon an

extensive knowledge base and maintaining close contact with the broader public, makes each decision. Major available alternatives to the proposed action are identified, screened, and compared. Impact management principles and commitments are determined. Proposed facilities are located using a voluntary siting approach. Proposal characteristics are formulated. Community and traditional knowledge are prominently featured in the baseline analyses. Community concerns and preferences provide the basis for mitigation, local benefits, and compensation policies and measures. Facility design, operations, closure, and postclosure options are evaluated. Individual and cumulative impact analyses, taking into account mitigation potential, compensation measures, risks, and uncertainties, are undertaken. An overall impact management strategy is formulated. Differences among task forces are reconciled, where practical. Measures such as referenda, council resolutions, and organizational endorsements are used to gauge public and stakeholder acceptability of proposed actions.

The public task force draws upon an extensive knowledge base. Reference is made to technical studies, baseline studies, community profiles, literature reviews, applied research, peer reviews, and visits to comparable facilities. Community and traditional knowledge is supported and accommodated. Community power structure implications are explored. The task force works closely with technical specialists, government officials, legal advocates, and procedural specialists. It receives technical and procedural training, as needed. Institutional reforms and capacity building occurs where needed to support the process. The task force makes an ongoing effort to reflect the perspectives, interests, and preferences of the overall public. Close contact is maintained with politicians. A variety of methods are applied to communicate with, involve, and collaborate with the public. Interim, background, and working documents provide a sound decision-making basis. The documents are readily available, are adapted to the needs of different publics, and fully integrate public concerns and preferences. The IA process proceeds to review and approval only when there is clear community acceptance and preferably, support. There is ample public and agency involvement in preparing draft and final IA documents. An appeal procedure to an independent review body is available. The public participates in determining approval conditions. Commitments to individuals and communities are formalized in accords and agreements. Proposed facilities are comanaged. The public has a major influence in closure and postclosure planning. Community experiences with the process are documented. The process is designed and adapted to suit the IA level (e.g., SEA, project EIA) and type (e.g., SA, EcIA, SIA, HIA).

A democratic IA process proactively seeks to influence decision making by bringing it “closer to the people.” It focuses on the exercise of power and seeks to broaden the range of participants in IA-related decision making, enhance the role of community-level decision making, decentralize decision making to the lowest practical level, make IA public participation more “meaningful” (in the sense of being more influential), and correct power imbalances. It effectively draws upon community and indigenous knowledge and perspectives. A democratic IA process is not always effective in overcoming inertia, resistance to change, and political maneuvering outside or even within the IA process.

Multijurisdictional IA is a major challenge in contemporary IA practice. It encompasses the consideration of the streamlining and clarification of power relationships, the centralization and decentralization of decision making, the retention and reinforcement of local autonomy, the facilitating and enhancement of public influence, and the correction of power imbalances. A range of possible multijurisdictional IA good practices is identified. Collectively, the measures seek to make multijurisdictional IA institutional arrangements and practices more transparent, comprehensive, consistent, collaborative, substantiated, efficient, effective, and democratic.

Many of the available measures are reflected in existing IA multijurisdictional IA institutional arrangements. What is much less clear is whether or to what extent these measures (either individually or collectively) are effective, complementary, publicly supported, and appropriate to the context. The state-of-practice of multijurisdictional IA also is severely hampered by a “rush to judgment” of behalf of many IA stakeholders.

What is needed is a consensus concerning multijurisdictional IA core principles, goals, unacceptable practices, and minimally acceptable practices. What should then occur is the systematic and collaborative assessment of the effectiveness of the existing array of measures. This would be followed by the knitting together, through collaborative forums, of individual potential improvements to the system into a coherent strategy. This strategy should be progressively introduced and tested for effectiveness. This multijurisdictional IA system would progressively evolve over time and be subject, periodically, to independent review and stakeholder review and discussion. The whole enterprise could be informed by experience elsewhere, and IA-related literature and good practice standards. The effectiveness reviews of the multijurisdictional IA reforms also should contribute to the wider IA knowledge base.