

-MODULE 2-

GOVERNANCE PRINCIPLES & APPROACHES

CONTEXT OF MODULE WITHIN BROADER COURSE

- This is the second Module in the Course.
- Understanding the notion of “governance” is recognised as a key prerequisite to developing and implementing any effective and equitable PA legal framework.
- A thorough knowledge of the concept of “governance” is essential to anyone tasked with understanding, implementing, reviewing or drafting PA legislation.
- This Module provides the Learners with a broad introduction to, and overview of, the concept of governance in the context of PAs.

OVERVIEW OF KEY CONTENT

In this Module the Educator will introduce the Learners to:

- **The Concept of “Governance”**
 - Definition of governance
 - Form & nature of governance
 - Levels of governance
 - Relationship of governance to related concepts
 - “Good governance”
 - “Cooperative governance”
 - “Cooperative environmental governance”
 - “Protected areas governance”
- **Legal Aspects Influencing Protected Areas Governance**
 - Contextual factors
 - Rights (substantive rights & procedural rights)
 - Structure of government
 - Legislative & executive competence
 - Site-specific factors
 - Tenure/rights
 - Management
- **Relevant International Laws and Policies**
 - Conventions
 - Agreements
 - Guidelines
- **Protected Areas Governance Typologies**
 - Governance by government
 - Shared governance

- Private governance
- Governance by indigenous peoples and local communities
- **Legal Instruments Recognising/Promoting the Inclusion of Voluntary Protected Areas Governance Types in Formal Protected Area Systems**
 - Contractual arrangements
 - Covenants/easements/servitudes
 - Land trusts

MODULE OBJECTIVES & OUTCOMES

- **Objectives**
 - Introduce the Learners to the origins, form and nature of the concept of "governance".
 - Clarify the relationship of "governance" to other related concepts such as "good governance", "cooperative governance" and "cooperative environmental governance".
 - Provide an overview of the contextual and site-specific factors that impact on "protected areas governance".
 - Explain the international and regional instruments and policies of relevance to "governance" and "protected areas governance".
 - Explain the IUCN PA governance types.
 - Describe legal instruments that can be used to recognise or promote the inclusion of voluntary PA governance approaches in formal PA systems.
- **Desired Outcomes**
 - Understanding of the origins, form and nature of the concept of "governance".
 - Appreciation of how the concept of "governance" relates to and can be differentiated from other related concepts such as "sustainable development", "good governance", "cooperative governance" and "cooperative environmental governance".
 - Clarity on the contextual and site-specific factors impacting on "protected areas governance".
 - Awareness of the international and regional instruments and policies of relevance to "governance".
 - Knowledge of the IUCN PA governance types.
 - An ability to advise domestic stakeholders on the form, nature, importance and legal factors influencing PA governance in a given setting.
 - Knowledge of the array of legal instruments that can be used to recognise or promote the inclusion of voluntary PA governance approaches in formal PA systems.

READINGS & RESOURCES

- *PA Law Guidelines* (Pgs 75-105)
- *PA Management Guidelines* (Pgs 25-32)
- *PA Governance Guidelines* (Pgs 1-62)

STRUCTURE & DURATION OF MODULE

- This Module is structured into **two main components**:
 - **Seminar Presentation**
 - **Exercise**
- The approximate **duration** of the Module is 4 hours comprising of:
 - Seminar Presentation (2 hours)
 - Exercise (2 hours)

REFLECTIVE EXERCISES

In this Module the Educator has the choice of **two exercises**:

- **Exercise 1** - *Understanding the Nature and Relationship Between "Protected Areas", "Governance" & the Law*
 - **Nature of the Exercise**
 - Small Group Exercise.
 - Theoretical Reflective Exercise.
 - Discussion Forum.
 - **Purpose of the Exercise**
 - Build Learners' knowledge of the definition of "protected areas".
 - Create awareness of the concept of "governance".
 - Enable Learners to critically explore the relationship between the concepts of "protected areas", "governance" and the law.
 - **Methodology/Procedure**
 - Divide Learners into groups of four.
 - Each group will be given a three column Matrix in which the following will be reflected (adapted from that contained in the *PA Governance Guidelines* – page 6):
 - Different components of the definition of a "protected area" (filled in).
 - Governance issues relating to each of these components (blank).
 - Legal Issues relevant to/influencing these governance issues (blank).
 - The Educator will introduce Learners to the Exercise and the Matrix (10 minutes).
 - Each group will be required to discuss and complete the blank components of the Matrix (60 minutes).
 - The Learners will then come together as a group and the Educator will facilitate the joint completion of the Matrix (50 minutes).
 - An example of a complete Matrix will be provided to the Educator in advance to facilitate this process.
- **Exercise 2** - *Understanding the Stakeholders and Legal Sources of Authority in a Protected Area*
 - **Nature of the Exercise**
 - Individual Exercise.
 - Case Study.
 - Legal Analysis.
 - Discussion Forum.

- **Purpose of the Exercise**
 - Promote an understanding of the range of potential stakeholders exercising authority within a PA.
 - Build awareness of the range of sources of such authority.
 - Enable Learners to appreciate the role of law in founding and influencing such authority.
 - Foster critical appreciation of the array of internal and external legal factors that influence the form, nature and relationship of stakeholders and authority within a PA.

- **Methodolgy/Procedure**
 - The Educator will introduce a particular case study of a PA (20 minutes).
 - The Educator will then task Learners with individually identifying the following (50 minutes):
 - The stakeholders that potentially exercise authority in relation to the PA.
 - The formal and/or informal source of such authority.
 - The role of law in founding such authority.
 - The internal and external legal factors which impact on the source or exercise of such authority.
 - The Learners will then come back together as a group and the Educator will facilitate a discussion about the above issues (50 minutes) – drawing from the Learners’ contributions.
 - The Educator may wish to repeat this exercise with a different case study (or work with two groups in parallel on different case studies) to highlight potential differences between the governance types.

NOTES FOR THE EDUCATOR

• **General Preparations for the Module**

- Read the main texts and the additional readings and resources.
- Work through the relevant Seminar Presentation and supporting Notes for the Educator.
- Tailor the Seminar Presentation to suit your purpose and audience.
- Read through the relevant Exercises.
- Tailor the Exercises to suit your purpose and audience.

• **Facilitation of the Module**

- The Educator may wish to consider the following factors in tailoring the Seminar Presentation to their specific context and audience:
 - Where this Module is presented as a stand-alone Module - the Educator may wish to insert a slide containing a photograph of him/herself and his/her contact details (after slide 1) and spend some time allowing each of the Learners to introduce him/herself.
 - Where the Learners have a good grasp/working knowledge of PA governance (and particularly the content contained in the *PA Governance Guidelines*), the Educator may wish to:
 - Abbreviate the content in slides 11-21 that details the five generic factors listed in slide 10 - which are drawn directly from the *PA Governance Guidelines*. The Educator is nonetheless urged to retain/emphasise the role/influence of law relating to each of these factors.
 - Omit slide 22 that details four general lessons on PA governance - which are similarly drawn directly from the *PA Governance Guidelines*.
 - Abbreviate the content in slides 36-39 - which provide detail on the four IUCN PA Governance Types. The Educator is nonetheless urged to retain/emphasise the special legal considerations relating to the different types of PA governance.
 - The Educator may wish to tailor the content in slides 43-48 (which deals with the law relating to the recognition/promotion of voluntary PA governance typologies) to their specific legal context, highlighting both which legal tools are present and which are absent.
- Owing to the cross-cutting nature of governance, the Educator should be aware that the content dealt with in Module 2 links with that contained in several other Modules in the Course, most notably:
 - **Module 1** (Setting the Context - which introduces the notion of "governance" and "PA governance").
 - **Module 4** (Planning, Types, Establishment, Disestablishment and Alteration) - which covers the legal tools for recognising and promoting PA governance types in the content of planning, establishment and disestablishment.
 - **Module 5** (Management) - which covers the legal mechanisms for recognising and promoting different institutional relationships in a PA such as single management and co-management.

- **Module 6** (Regulation, Impact Assessment, Compliance & Enforcement, Financing) - which covers the legal mechanisms for enabling both state and non-state actors to play a compliance and enforcement role in a PA and highlights different incentive and financing mechanisms for all PA Governance Types.
- **Module 7** (International and Regional Law) - which covers several international and regional instruments of relevance to "governance" and "PA governance".

ASSESSMENT EXERCISES

• Nature and Guidance on Use of Exercises

- The Educator is provided with a series of essay-style assessment questions that are designed so as to broadly cover the content the Module.
- The questions may be utilised for assessment purposes or as an opportunity for Learners to consolidate their knowledge.
- The questions cover both theoretical and practical issues.
- No mark allocation for the questions has been provided.
- All of the questions are of equal weighting.
- It is recommended that in an exam-type setting, Learners should have 1 hour to answer each question.
- The answers for the questions can be drawn directly from the Seminar Presentation and the accompanying Seminar Notes.

• Assessment Questions

○ Question 1

"Governance" has emerged as the new "buzz word" of the 21st Century and appears to be regarded as a "sort of magic wand" potentially applicable to a diversity of challenges and contexts. Write an essay in which you distil your understanding of the terms "governance" and "protected areas governance", highlight key factors potentially influencing PA governance, and identify the role/influence of law in relation to each of these factors.

○ Question 2

There are several contextual and site-specific legal factors that influence the form and nature of PA governance in any particular setting. Write an essay in which you describe the nature and form of these different legal factors.

○ Question 3

The concept of PA governance and the focus on diverse governance types is a relatively recent phenomenon – having emerged strongly only in the past decade. Prepare a memorandum for your relevant national policy-makers that highlights the key events and documents that have triggered the focus on PA governance and particularly new policy directions in the past decade.

- *Question 4*

Write an essay in which you describe the nature, form and difference between the IUCN PA Governance Types. Include in your essay any key lessons/principles that underpin these governance types and the manner in which they relate to/intersect with/differ from the IUCN PA Management Categories.

- *Question 5*

With growing recognition accorded to the vital role of “voluntary conserved areas” in enlarging the globe’s PAs estate, law-makers have sought to design special legal tools to recognise and promote such initiatives. What do you understand by the terms “voluntary conserved areas” and critically reflect on the array of potential contemporary legal tools for recognising and promoting them in domestic legislation.