Integrative Bargaining and Complementary Paradigms for Sharing Water Related Benefits.

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"Some for All Forever"

Positions are a party's stated solution to the conflict. It is what they say they want. **(Rights)**

Interests are the basic needs, concerns, fears or values which underlie their position in a conflict. **(Needs)**

Orange Example

Three different types of interests

Substantive -- relate to physical resources such as money, land or time.

Psychological -- relate to issues of trust, fairness and respect.

Procedural -- relate to the way the dispute will be resolved, who will be involved and how decisions will be made.

Types of interests are **inter-related.**

If resolution of the conflict is geared only towards meeting substantive interests, the resulting agreement may fail.

Interest based bargaining is one of the processes in the broad general category of Alternate Dispute Resolution (ADR).

integrative bargaining

interest based negotiation

open bargaining

mutual gain bargaining

principle based *negotiations*

interest based problem solving

win-win bargaining.

Interest based bargaining is not easy.

Temptation to switch back to a rights based bargaining paradigm,

Multi-dimensional rights

- exclusivity
- security
- flexibility
- transferability
- divisibility
- duration

Rights to

- access
- withdrawal
- management
- exclusion
- transfer of the resource

Governance Unit

- **Multiple National Governments**

- **National Government**

- **Sub-national governments**

- **River basin commission**

- **Community or Association**

- **Individual**

- **Common property**

- **State property**

- **Delegated authority**

- **State property**

- **Common property**

- **Private property**

Water rights are shaped by multiple sources and scales of order :-

- international
- religious
- project
- local
- customary
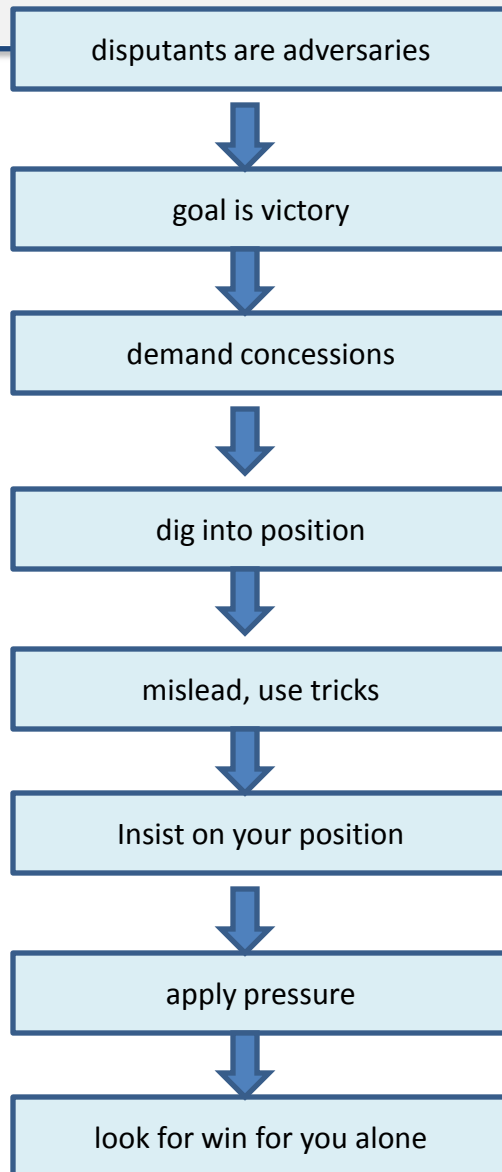
Constitutional questions ...... are rights conferred by:-
- hierarchical command
- legal judgement
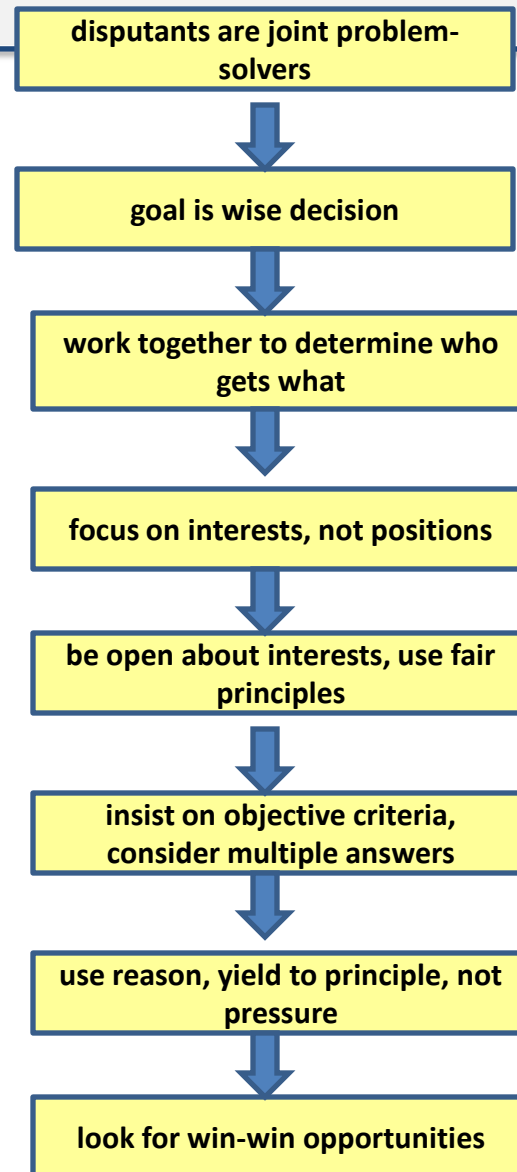- legislative majority
- trade transaction
- negotiated consensus?

Legitimate self interests and **narrow** self interests

Positional Bargaining (Rights Based)

- disputants are adversaries
  ↓
- goal is victory
  ↓
- demand concessions
  ↓
- dig into position
  ↓
- mislead, use tricks
  ↓
- Insist on your position
  ↓
- apply pressure
  ↓
- look for win for you alone

Integrative Bargaining (Interest Based)

- disputants are joint problem-solvers
  ↓
- goal is wise decision
  ↓
- work together to determine who gets what
  ↓
- focus on interests, not positions
  ↓
- be open about interests, use fair principles
  ↓
- insist on objective criteria, consider multiple answers
  ↓
- use reason, yield to principle, not pressure
  ↓
- look for win-win opportunities

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Integrative bargaining seeks

- **to preserve relationships**

- whole systems understanding

- **equity**

- inclusiveness

- **transparency**

- to hold respect for multiple perspectives

- **to build a commonly shared and understood narrative**

- to reduce power differences caused by asymmetry of information

- **requires and simultaneously develops transformational leadership amongst the participants**

Many critiques of **consensus building** *have been uninformed about the nature of this practice or the theory on which it was built, though there is extensive literature on both. It is grounded in the* **theory and practice** *of* **interest-based negotiation** *and mediation.”*

Innes (2004 ; p1)

Consensus building and other forms of collaborative planning are increasingly used for dealing with

- ***social and political fragmentation****,*
- ***shared power****, and*
- ***conflicting values****.*

…………..to evaluate this emergent set of practices, a new framework is required, modeled on a view of

- ***self-organising,***
- ***complex adaptive systems***

rather than on a mechanical Newtonian world.

Consensus building processes are not only about producing agreements and plans but also about

- ***experimentation***
- ***learning***
- ***change***
- ***building shared meaning****"*   Innes & Booher (1999; p 1)

"... *methods of interest-based negotiation can be applied to solicit organisation-specific rules that draw organisations away from development-induced conflict and social exclusion towards an* "**edge of chaos**" *where* **creativity and adaptation flourish**."

Warner, (2001) Cited in Ramalingam *et al.* (2008 ; p 39)
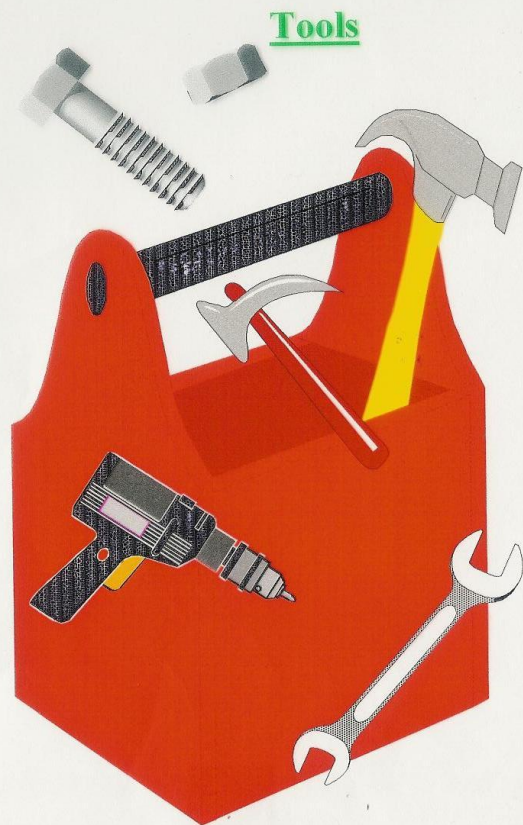
Learning for integrative bargaining

- **What the multiple stakeholders will need to be learning in the metaphorical crucible, within the paradigm of interest based bargaining, will be consistent with their learning needs as they pursue** :-

- adaptive capacity

- participatory agent-based social simulation modelling

- the processes in Scharmer's Theory U

- post normal science

- absorptive capacity

- self organisation

- communities of practice

- socially robust knowledge generation

- the need to overcome the limitations of bounded rationality, and

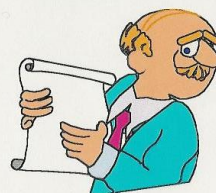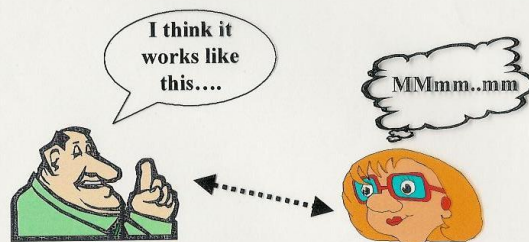- the development of socio-ecological intelligence and resilience.

- **Combined synergies of all the above makes interest based (*or integrative*) bargaining so compelling.**

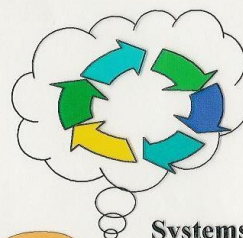- Same cannot be said of **positional** (*or rights based*) bargaining which ignores the above in the pursuit of **legal** solutions.

NWRS

DWA

NWRS

WATER RESEARCH COMMISSION

Industry

Energy (Eskom)

Forestry

CMA Board

All Sectors engaging each other over water, under DWA's oversight

Mining

Conservation

Key

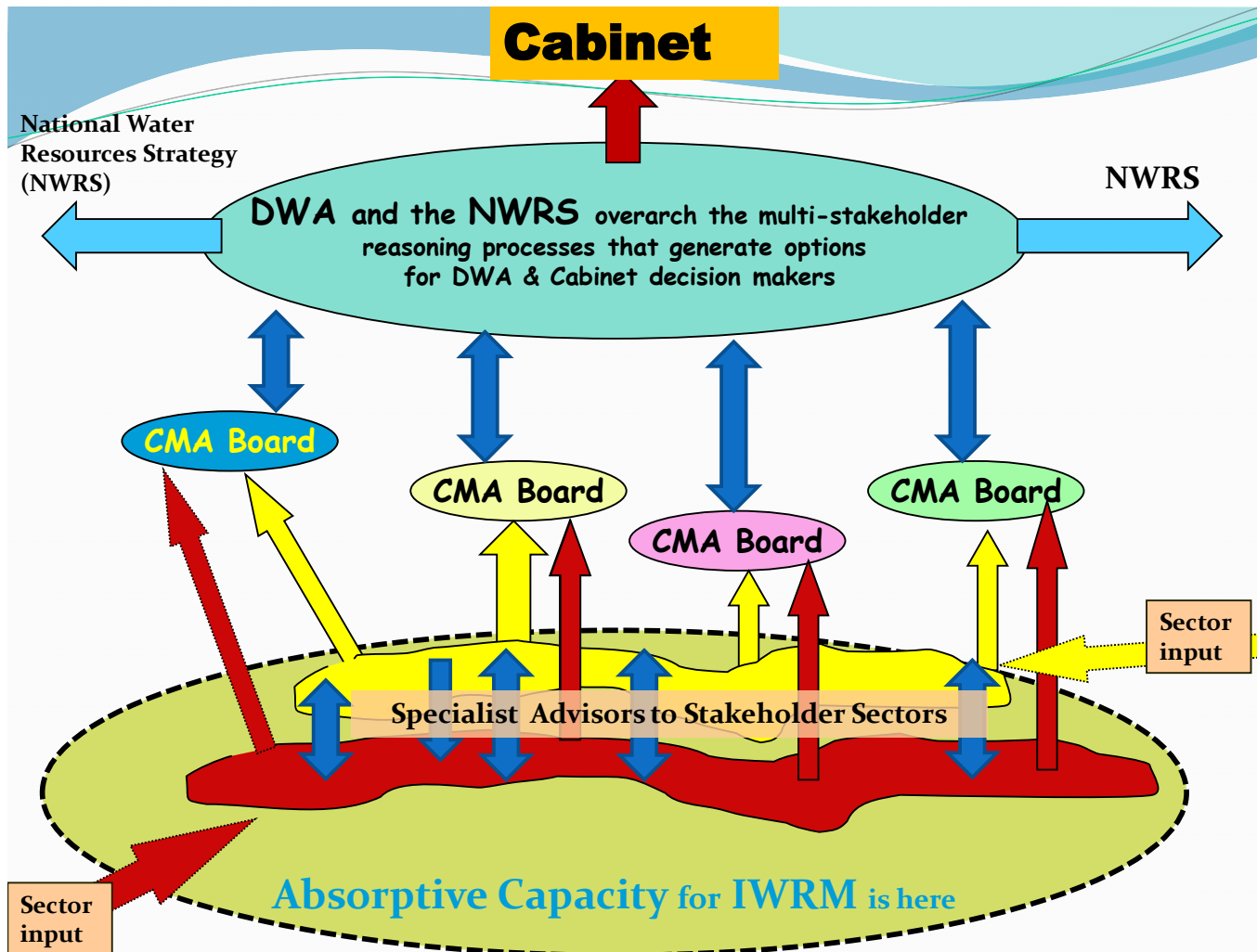The cloud depicts an Intense virtual network of inter-sector engagement

Agriculture

Local Govt

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Cabinet

National Water Resources Strategy (NWRS)

NWRS

DWA and the NWRS overarch the multi-stakeholder reasoning processes that generate options for DWA & Cabinet decision makers

CMA Board

CMA Board

CMA Board

CMA Board

Sector input

Specialist Advisors to Stakeholder Sectors

Absorptive Capacity for IWRM is here

Sector input

Theory U - Deeper Levels of Learning

PACP Framework

Thinking

Doing

Increasing awareness
Of the whole

Action that increasingly
serves the whole
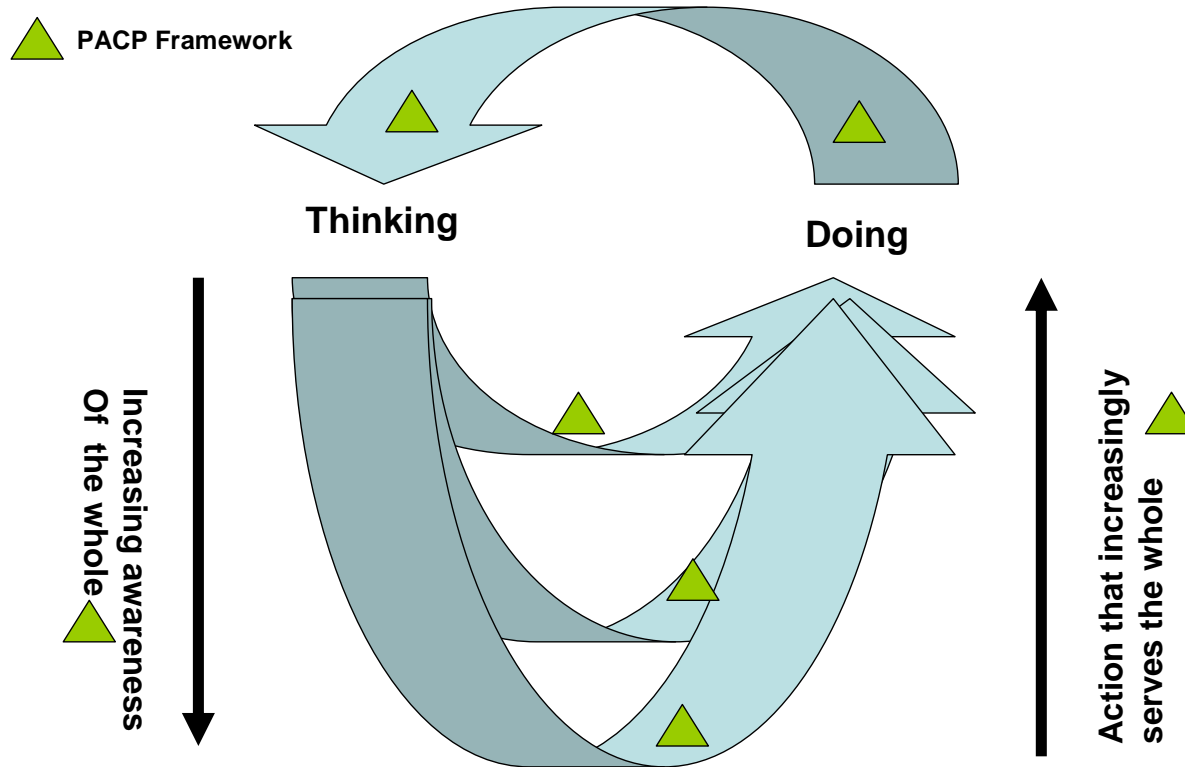
Deeper Levels of Learning create increasing awareness of the larger whole – both as it is and as it is evolving- and actions that increasingly become part of creating alternative futures.
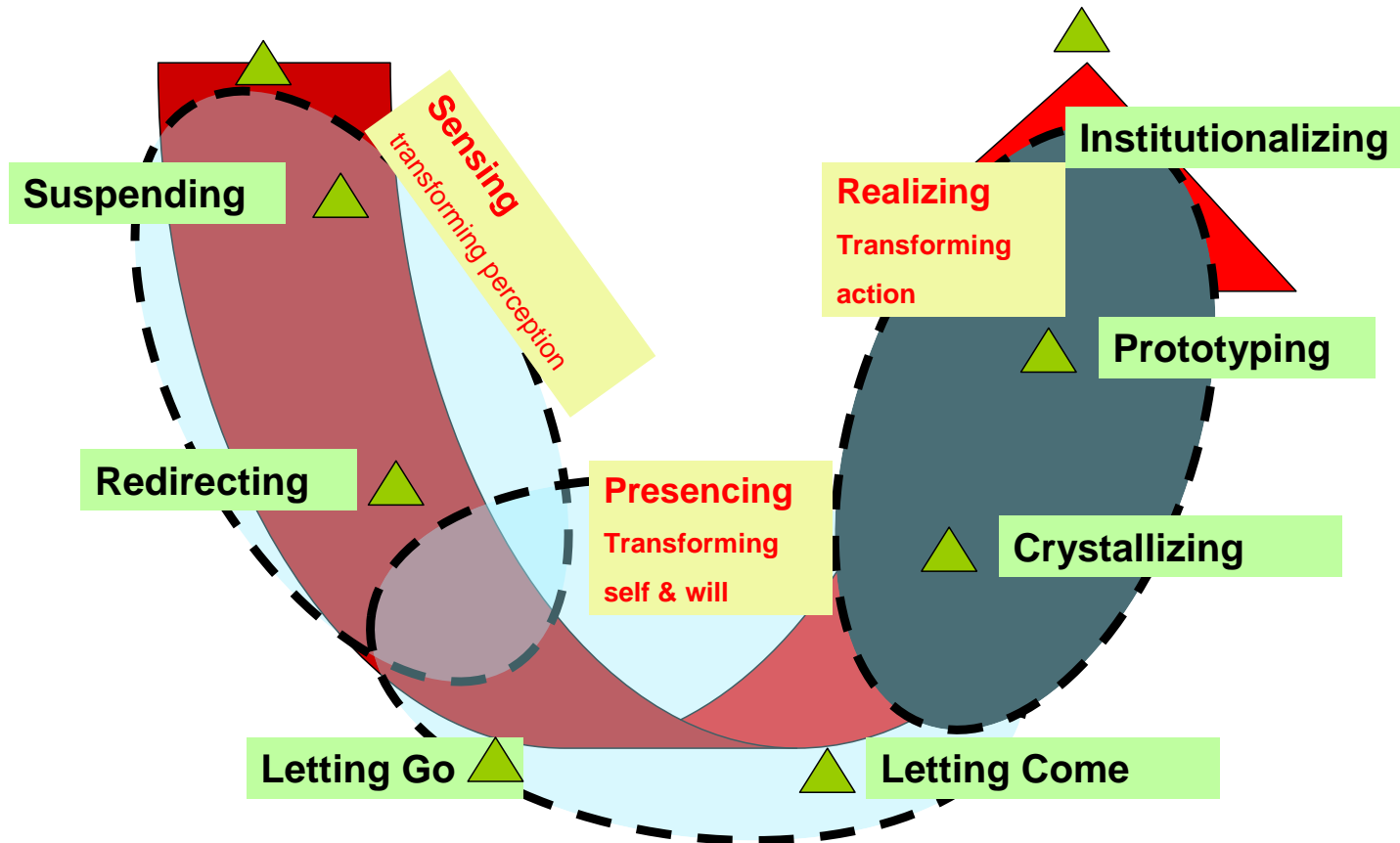
Ref:-   Senge, Scharmer, Jaworski, Flowers (2005) Presence :- exploring profound change in people, organisations and society. Pg 11

7 Capacities of the U Movement

Seven Capacities of the U Movement – The entire U movement arises from seven core capacities and the activities they enable. Each capacity is a gateway to the next activity – the capacity for suspending enables seeing and the capacity for prototyping enables enacting living microcosms – but only as all seven capacities are developed is the movement through the entire process possible.

Reference:- Senge, Scharmer, Jaworski, Flowers (2005) Presence :- exploring profound change in people, organisations and society. Pg 219

Suspending

Sensing
transforming perception

Redirecting

Presencing
Transforming self & will

Realizing
Transforming action

Institutionalizing

Prototyping

Crystallizing

Letting Go

Letting Come

- # Post-normal science   :- is the methodology that is appropriate when:-

    - facts are uncertain,
    - values are in dispute,
    - stakes are high and
    - decisions are urgent

- # Absorptive Capacity   :-   Organisations produce a **dynamic organizational capability** by developing their organizational routines and processes to assimilate, transforms and exploit knowledge to produce. This capability has become known as **absorptive capacity**

Self-organizing

- *"Processes of self-organization literally create **order** out of **disorder**."* Heylighen (2009; p 2)

- *" ....the more freedom in self-organizing, the more order".* Jantsch, E (1980 ; p 40) cited in Wheatley (2006; p 87)

- *"The two forces we have placed in opposition to one another – freedom and order- turn out to be partners in generating healthy well-ordered systems"* Wheatley (2006; p 87)

Role-identity and communities of practice

- *"In a social learning space, participants engage their* **identity** *in the inquiry."* (Wenger 2009; p 4)

- *"They pursue learning as a change in their ability to participate in the world, as a* **transformation of their identity."**

  (Wenger 2009; p 4)

- *"Effective self-organization is supported by two critical elements; a clear sense of* **identity** *and* **freedom**.*"* Wheatley (2006; p 87)

Role-identity and communities of practice

- *"Learning in a social learning space covers all the aspects of knowing relevant to a person who can act meaningfully and competently. This accountability to **identity** includes ways of being, behaving, and talking.*

- *It also involves issues such as* efficacy, legitimacy, *values,* connections, *and* **power**, *typical of engagement in the human world."*   *(Wenger 2009; p 4)*

- *"A* **community of practice** *can be viewed as a social learning system. Arising out of learning, it exhibits many characteristics of systems more generally:-*
    - *emergent structure,*
    - *complex relationships,*
    - *self-organization,*
    - *dynamic boundaries,*
    - *ongoing negotiation of identity and*
    - *cultural meaning,*
    - *to mention a few."*   *Wenger (2009; p 1)*

Socially robust science knowledge generation

- " Socially robust knowledge is *the product of intensive (and continuous) interaction between results and interpretation, people and environments, applications and implications*"
  Nowotny *et al.* (2001; p 258)

Resilience of socio-ecological systems

- **Sensing** early and discerningly and then **responding** wisely are imperative for healthy integrative bargaining processes and are also crucial for resilient socio-ecological systems

Social Learning

- **Social learning** takes place in the collaborative commons and involves *inter alia* ;-

  - conversations,
  - reflections,
  - advocacy and inquiry
  - finding, using, creating and contributing information.

-

- The Evolution of Cooperation by Axelrod (2006)

- "…..*when the future casts a long shadow…..*"

Sustainability

" …… **it is very useful to view** *sustainability* **as an emergent property of stakeholder interaction, and not a technical property of the ecosystem.**"
Ison *et al.(2005;* P 6)

SLIM stands for *S*ocial *L*earning for the *I*ntegrated *M*anagement and Sustainable Use of Water at Catchment Scale.

"*When society **changes** its mind, you better be in front of it and not behind it, and this (sustainability) is an issues in which society has changed its mind. As a CEO, my job is to get out in front of it because if you are not out in front of it, you will get plowed under.*"
Immelt, J (CEO of General Electric (in Senge *et al.* 2008 pg 106)

Bounded Rationality

- A person can only be rational within the bounds of their cognition.

Summarising Rights Based & Integrative Bargaining

Positional (*or Rights Based*) Bargaining	Integrative (*or Interest Based*) Bargaining
* appropriate when only two parties and uncertainty is low	* appropriate when more parties and uncertainty is high
* adversarial process	* co-operative process
* stronger seeks to dominates the weaker	* stronger seeks to empower the weaker
* no sharing of information	* open sharing of information
* large scale duplication of effort	* productivity enhanced through sharing effort
* difficult to reach decisions in uncertain environments	* easier to reach decisions in uncertain environments
* expensive in terms of intellectual resources	* far better use of intellectual resources
* state will have much difficulty ensuring fair deal for the disadvantaged	* state can leverage (enlist) voluntary help of stakeholders to empower disadvantaged
* poaching of skills encouraged	* reduced incentive to poach skills

Thank You