LAW AND POLICY LITERATURE REVIEW

J MUTEMBEDZI

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<td>CZI</td>
<td>Confederation of Zimbabwe Industries</td>
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<td>District Development Fund</td>
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Chapter 1

Introduction

1.0 Background
Urban service provision has become one of the major challenges facing almost all local authorities in Zimbabwe. The rapid urbanisation that has taken place in the history of Zimbabwe, particularly the period after independence, has placed immense strain on these local authorities’ resources inevitably resulting in failure to provide adequate services to their residents and areas under their jurisdiction. The problem of service delivery failure, although affecting all residents of the cities, has been more deeply experienced in the low income high density areas where the majority of the poor stays. Although poor service delivery to low income areas has become more pronounced in the period after independence, its entrenchment can be traced back to the advent of colonialism. Inequalities, vulnerability and poverty were introduced and sustained through the enactment of legislation and policies that skewed the provision of services in colonial Zimbabwe towards the white population.

In current periods, the problem of poverty and poor service provision in high density areas has been exacerbated by the prevailing macroeconomic instabilities which have battered the country’s economy since the introduction of Structural adjustment Programmes and subsequent free economy policies whose negative effects on the economy resulted in high unemployment and the eventual invasion of white owned farms under the Fast Track Land Reform programme in 2000. The Poor economic performance of the economy has further handicapped local authorities’ ability to provide an efficient service. As result homelessness, unemployment, violence burst sewer pipes, uncollected household, commercial and industrial waste, potholed roads and littering in public places have become common phenomena.

This study therefore seeks to investigate the role of policies and by-laws in regulating the management of urban services in the three local authorities in Zimbabwe, namely Harare,
Bulawayo and Kadoma. In line with the requirements of the Urban Councils Act (Chapter 29:15), each local authority in Zimbabwe is required to have by-laws guiding the manner in which certain activities and functions are undertaken. The study examines what national and local authority policies say with respect to the provision of urban services—housing, water, sanitation, electricity, roads and environmental management—and further analyses pre-independence and post-independence policies have worked together towards the creation and further entrenchment of exclusion, vulnerability and poverty and the obligations they place on local authorities with regard to service provision. This facilitates the identification of discrepancies between policy requirements and practice on the ground.

1.1 Objectives of the Study
The study was undertaken to evaluate the policy and legislative framework governing the provision of housing and other urban services with special reference to Harare, Bulawayo and Kadoma. The specific objectives were,

(a) To identify and review the national policies regulating housing and service provision in Harare, Bulawayo and Kadoma as well as the by-laws used by local authorities in dealing with service provision.

(b) To critically analyse policies that positively or negatively affect these communities and in particular women’s potential exposure to violence and unsafe living conditions.

(c) To ascertain whether in the formulation of national policies on housing and service provision there has been consideration of the safety implications and potential exposure to various forms of violence for women and girls of the failure to provide adequate and comprehensive services in the suburbs under study.

1.2 Study Areas
The study focused on 3 local authorities namely Harare, Bulawayo and Kadoma. The study focused on 3 pre-independence high density suburbs. These were Mbare in Harare, Makokoba in Bulawayo and Rimuka in Kadoma which assisted in the analysis of pre-independence policies. Post-independence low income suburbs studied were Hatcliffe in Harare, Nketa in Bulawayo and Ngezi in Kadoma.
1.3 Methodology
Information for this report was gathered using 2 main methods: literature review and structured interviews with officials responsible for service provision in the three study areas. Interviews were held with Government officials in the Ministries responsible for water, sanitation, energy, roads, environment and housing and especially the Ministry of Local Government, Public Works and National Housing.

1.4 Literature Review
The first stage in information gathering involved a review of policies and legislation governing housing, water, sanitation, energy, roads and environmental management in Zimbabwe. This was followed by a review of the associated by-laws governing the six areas for Harare, Bulawayo and Kadoma.

1.5 Structured and Semi-structured Interviews
Structured interviews were used to get first hand information about the status of service delivery problems faced by local authorities as well as short and long term plans they have for improving the prevailing state of service provision in their respective areas. Relevant officials in stakeholder institutions such as Ministry of Environment and Water Resources and Climate Change and the Ministry of Local Government, Public Works and National Housing in order to understand their roles and relationship with local authorities with regards to the provision of the various urban services.

1.6 Structure of the Report
This report consists of five chapters. This first chapter provided the background information to the study, the objectives of the study, the methodology used in information gathering, and the historical overview of urbanisation in Zimbabwe. The 2nd chapter provides a review of the housing policies in pre and post-independent Zimbabwe while the 3rd chapter reviews policies on service provision-water, sanitation and electricity. The 4th chapter provides a review of infrastructure provision and the physical environment and its management.

1.7 History of Urbanisation in Zimbabwe (1890-1979)
Zimbabwe’s history of urbanisation and local government is traceable to the arrival of the British South Africa Company (BSAC) in 1890 and the subsequent establishment of the Salisbury Sanitary Board as the first formally established local authority in 1891. The legislation governing its establishment was enacted in 1894 (Ordinance 2) by the first
Municipal Law of 1897. The attraction of the African population to the cities to work in the expanding industrial and administrative sectors resulted in the establishment of Native townships for the provision of accommodation, shopping and other services. The first native location in Salisbury (now Harare) was established in October 1907 outside the boundary of the township (city proper) through a central government declaration that beginning May 1908 in Salisbury, all natives, except those already sleeping on their employer’s premises must reside in the location (Yoshukuni, 2006; Patel et al, 1981; Patel, 1988).

Pre-independence local government development was intricately linked to the questions of land and race. National contests for political power between Africans and Europeans shaped the discourse and practice of local government. Africans were treated as inferior and centrally defined programmes on Africans were imposed. Yoshukuni (2006), mentions that African experienced of segregationist policies in urban areas, particularly state control of African housing during the colonial period. Rural and Urban Africans were described as the ‘other’, a social history characterised by under-provision of services, political exclusion and socio-economic ill-treatment, with local government literally reduced to an instrument of the Centre.

A series of laws were promulgated to regulate the coexistence of blacks and whites at the work place and in the urban setup to create exclusive domains based on racial segregation by the settler population:

1. The Industrial Conciliation Act (1934) as amended in 1959 promoted inequality by creating a job colour bar that restricted black workers to mainly menial jobs.
2. The Urban Registration and Accommodation Act (1954) created African townships (ghettos) for black workers in urban areas. Whose dwelling units were mostly ‘hostels’ which lacked proper sanitation.
3. The Pass Laws (1902) regulated the movement of blacks in settler areas.
4. Native Land Husbandry Act (1951) allowed for white farmer cattle rangers to breed unlimited heads of cattle while blacks were restricted to six heads of cattle per household.

Racial bias towards inequitable distribution of resources created conditions of income inequalities; with blacks at independence receiving 60% of the wages while whites
representing 2% of the population receiving 37% of wages and salaries. The wage
differentials between the unskilled (blacks) and the skilled (whites) ranged from 1 to 21 in
agriculture to 1 to 7 in manufacturing and 1 to 11 in all other branches in the economy.
Karumbidza, (2008) argues that African women earned half of what their male counterparts
were receiving, excluding women in general and black women in particular from a wide
range of opportunities.

Yates, (1980) observes that only 4% of workers on manufacturing were women while 65% of
women were in agriculture (the least paying of the productive sectors with the lowest
wages). A World Bank study, (1987) indicates that at independence black wages were one
tenth of those of the whites. Moyo and Yoros, (2001) observe that black people were
grossly underpaid, earning 11 times less than their whites counterparts. The whites,
constituting 4% of the population, controlled 90% of the economy in terms of owning the
means of production. Blacks had limited access to basic social services such as education,
health and other social amenities while the best services such as tarred roads and piped
water accorded to the white settler communities.

The pre-independence economy was a robust agro-based relatively developed and
diversified economy with flourishing mining and manufacturing sectors, heavily supported
by multinational corporations such as London Rhodesia (Lonrho), Anglo-American
Corporation and British Tobacco with massive investment in mining, agriculture and
manufacturing, providing a broad export base with each of the three sectors.

However, the economy was moulded on a philosophy of white supremacy creating an
enclave of a well developed modern sector co-existing with an underdeveloped and
backward rural economy home to 70% of the black population. The beneficiaries of the
economy were whites who systematically and deliberately exploited black labour.

1.7.1 Urban Development Policies (1980-1990)

1.7.1.1 Growth with Equity
Independence brought high expectations among the black population in 1980 that were
looking forward to the reversal of the colonial inequalities with respect to resources, social
services and social amenities. In order to prioritise the provision of education, health and
sanitation government designed and implemented regulations, legislation, social and
macroeconomic policies through the Growth with Equity Policy. The policy was to shape all national policies and give direction based on socialist egalitarian and democratic principles under conditions of rapid economic growth, full employment, price stability, dynamic efficiency in the allocation of resources and to ensure that benefits are equally distributed.

Government viewed development as an instrument for achieving rapid socioeconomic development and raising the living standards of the people. Between 1982 and 1985 Government implemented the Transitional National Development Plan followed by the First Five Year Development Plan (FFYNDP) from (1986-1990) emphasising economic growth, employment creation, and poverty reduction and levelling off of inequalities. During this period the economy registered 3.2% growth rate while the productive sectors registered 3.1% annual growth rate over the same period, (Government of Zimbabwe, 1981). An economic growth rate of 3.4% compared to projected 4.3% was registered under the FFYNDP (1985-1990) while productive sectors registered significantly suppressed growth of 1.7% over the period mainly due to foreign currency shortage and low levels of investment. Only 209 000 jobs were created in the non-agricultural sectors.

Independence also meant an end to work place discrimination, disparities and the respect of workers to participate in industrial action. It also meant an end to the racist Industrial Conciliation Act of 1959 and the establishment of Workers’ Committees to engage with management on issues of conditions of service and wages and salaries. The Employment Act (1980) and the Minimum Wage Act (1980) were two pieces of legislation established to assist in the implementation of the policy. The Minimum wage Act obligated government to come up with minimum wages for all sectors of the economy. In 1985 the two pieces of legislation were repealed and replaced by the Labour Relations Act.

The concepts of equal pay for work of equal value as enshrined in the International Labour Organisation (ILO) Convention No. 100 (Equal Remuneration), 1949 and Non-Discrimination at the Work Place as promulgated in the ILO Convention No. 111 (Employment Occupation), 1949 were also promoted by the Act while Zimbabwe ratified both Conventions. Paid maternity leave was granted to women. Indeed the LR Act of 1985 is a significant piece of legislation promulgated in the first decade of independence.
1.7.1.2 Redress of Inequalities which affected Women
Black women in particular had been grossly discriminated against during the colonial era such that within the first 10 years of independence government introduced legislation and put in place affirmative action programmes to redress gender disparities including the Legal Age of Majority Act (1982) which gave women majority status upon turning 18 years of age. The Labour Relations Act (1985), prohibiting discrimination against women in the work place and recruitment for employment and the Maintenance Act (1983) compelling financial support for children until adulthood were also promulgated. The Acts promoted gender equality and in the process helped in the reduction of gender based inequalities. The Ministry of Women’s Affairs and Community Development was established in 1985 to spearhead women advancement and emancipation by government to oversee integration of women issues and concerns into national development programmes.

1.7.2 Economic Development Policies of 1990-2000

1.7.2.1 Economic Structural Adjustment Programme (ESAP)
Economic Structural Adjustment Programme (ESAP) was introduced on the advice of the World Bank and the IMF to pursue a free market led economic development strategy and coincided with the SFYNDP (1991-1995). However the free market economy undermined the socioeconomic progress of the previous decade that resulted in significant improvement in the social sectors and land distribution. Performance of the economy under ESAP was not impressive. Within two years of implementation the economy experienced significant decline in real incomes and per capita levels of social expenditure on education, health and social welfare.

Employment decelerated to an annual average of 0.8% from 2.4% during the pre-ESAP period far below the three percent annual growth rate of the labour force. Inflation rose to 27% as compared to 11.4% between 1985 and 1990. Budget deficit rose to 12.2% from 10% in pre-ESAP period and the goal of reducing it by 5% of GDP by 1995 failed (Government of Zimbabwe, 1998). Bond (2009) blames the Government policy for zigzagging between market liberalisation, crony capitalist corruption and state intervention while failing to control public spending (2007).
1.7.2.2 Inequalities in Zimbabwe

Inequalities in Zimbabwe have their roots in the colonial history which was characterised by a white minority population dominating the majority blacks in the period 1890 to 1980. Historical inertia in discriminatory policies of colonial governments and settler regimes as experienced by Zimbabwe continue to polarise countries along ethnic lines because of the pawl effects of lagged structures that create inequalities in socioeconomic opportunities and life chances (Arrighi, 1970; Mafeje, 1977; Palmer, 1977; Mandaza, 1986).

Post-colonial resource allocation mechanisms since 1980 to present have been inclined towards the new black elite and the few remaining whites who use their education and funds in offshore accounts as well as real estate and business interests to keep a grip on the country’s economy. According to Kamidza et al (2010), inequalities in Zimbabwe are visible in the access to land and the labour market as well as the provision of basic social services such as health, education, housing, water, sanitation, and the environment. Zimbabwe’s inequalities can be analysed in three broad dimensions:

1. Colonial policies that discriminated against the blacks and whose effects continue to be felt in the post-independence period despite various corrective policy measures implemented in the first decade of independence.
2. The consequences of neo-liberal policies and subsequent macro-economic frameworks.
3. The Fast-Track Land Reform programme and the eventual collapse of the economy.

Zimbabwe’s inequalities are visible along income, gender and ethnic lines. Inequalities have resulted in increased vulnerability and poverty particularly among the poor and women especially in the high density, low income areas of our towns and cities. In the period following Zimbabwe’s attainment of independence in 1980, attempts were made towards establishing an egalitarian society based on equality of opportunities. However, the attempts were held back by the remnants of laws and policies crafted in the colonial period and the consequences of neo-liberal policies and subsequent macro-economic frameworks, the Fast-Track Land Reform programme and the eventual collapse of the economy.
Chapter 2

2.0 Housing Provision

Housing laws that existed before independence were meant to govern urban centres in keeping with the intention to retain and expand the primacy of white interests. **Box 1** lists the major African accommodation policies in the pre-independence period. Patel (1988) cites the Native Locations Ordinance (1906), the Amendment to the Land Apportionment Act (1941) the Native (Urban Areas) Accommodation Registration Act (1946) as critical legislation on African urbanisation. The 1906 Native Locations Ordinance gave way to the establishment of native locations separate from white residential areas based on concern for health and security needs. The 1941 Amendment to the Land Apportionment Act provided for Local authorities and Government to provide accommodation for their black population. Under the same legislation, statutory bodies such as the Railways were also mandated to provide housing for their black workers.

Councils were also obligated by the Native (Urban Areas) Accommodation Registration Act 1946 to finance and administer urban black areas as well as operate pass laws. The Act provided for the registration of contracts of services in the towns to which it was applicable. It also stipulated the type of accommodation to be supplied by employers for their African employees and their wives in certain circumstances, and the rates payable to the local

**Box 1 Principal Pre-independence Housing Policies**

1. Accommodation of singles in hostels.
2. Rental accommodation for married persons of various designs (Flats, semi-detached, detached...)
3. Limited home ownership for black bourgeoisie on long lease basis from the 1960s.
4. Site-and-service on self help basis from 1935 e.g. Highfield.
5. Employer-built accommodation e.g. Rugare by Railways.
6. Upgrading of informal settlements (Chirambahuyo, St Mary’s in the 1960s).
7. Involvement of Building Societies in low-income housing finance for site and service schemes.
8. Establishment of the housing Services Board
9. Charging a service levy for employers
10 Establishment of the African Building Fund (Kamete, 2000)
authorities where this applied to them. Housing before 1980 was tied to one’s employment duration. While blacks owned housing under the existing legislation, they did not own the land.

Actual housing development was guided by the Housing Standards Act, Model Building By-laws, and the Regional, Town and Country Planning Act by collectively guiding:

- Land subdivision (defining minimum land sizes).
- Plot or land servicing standards.
- Stipulated that land servicing preceded allocation and occupation.
- Certification of superstructures by council before authorising occupation.

Main actors in the provision of pre-independence housing were Central Government, Municipalities, statutory bodies and employers. Employers and partly local authorities provided the bulk of the colonial housing stock while the role of central government was to set standards, facilitate establishment of building societies and generally playing the role of a facilitator and was not involved in the provision of the housing superstructure. The absence of government in the actual provisioning of housing constrained the form and extent of housing delivery. Race and capacity to pay were the major determinants of where one would be allocated a stand. An obstacle to the provision of African accommodation has not always been one of lack of resources but rather a lack of political will on the part of the authorities (Patel et al, 1981).

Patel, (1981) points out that there was always insufficient supply of housing through a deliberate policy of discouraging blacks from settling in urban areas which fuelled overcrowding and inferior conditions for the poor. By 1977, 1.07 million people were living in 130,000 units giving an occupancy rate of 8 persons per unit. Colonial policies on black housing actually succeeded in denying blacks permanent urban residence to the extent that by the 1960s only limited housing ownership schemes had been established mainly on long leases. Pre-independence self-help programmes faced problems of high standards and costs and inflexible procedures. Rakodi and Mutizwa-Mangiza, (1990), show that housing delivery has been an issue in Zimbabwe’s urban areas since the 1950s.
2.2 Post-Independence Housing Policies
Post independence urbanisation in Zimbabwe was mainly a result of ‘rural push’ and ‘urban pull’ factors. In 1980 government repealed some of the racially motivated urban governance policies and practices (Box 2) leading to increased rural-urban and intra-city migration, (Chaeruka, 2009).

Patel (1998) notes that rapid urbanisation after independence put a strain on physical, economic and social system of most cities and towns. Urbanisation in Zimbabwe has not been accompanied by substantial industrialisation (Rakodi and Mutizwa-Mangiza, (1990). While migrants come to cities to better themselves economically they rarely contribute towards municipal revenue streams with free riding having risen in post independence period. This has limited available public finance from central government needed to expand social, economic and physical infrastructure.

Post-independence housing policy in Zimbabwe was one of home ownership for all urban dwellers. Government became a direct provider of the superstructure a clear departure from colonial era policy and practice where government was only a facilitator in the provision of housing. Box 3 lists the key settlement agencies in post independence Zimbabwe. It also repealed most of the colonial legislation to remove racial barriers and build inclusive cities. Through the same policy sitting tenants in government and council housing were given the option to purchase the houses they were occupying. Government

Box 2 Main Post-Independence Housing Policies
- Home ownership for the majority
- Establishment of the NHF and the HGF to offer affordable loans.
- Supporting effective and labour intensive construction modes e.g. building and material brigades and housing cooperatives.
- Supporting the private sector in low cost housing
- Rationalising building codes.
- Introduction of rent control regulations
- Introduction of rural housing programmes
- Working with waiting list for targeting
- Upgrading pre-independence housing
- Informal settlement upgrading (e.g. Epworth). N.B. Existing policy framework is intolerant of informal settlements.
- Direct provision of housing by government.
- Mobilisation of international actors and finance (World Bank and USAID)
also introduced site-and-service, developing core and shell houses, promoting housing cooperatives and other types of mutual housing groups, using building Brigades, pay-for-your-house schemes and employer assisted housing. The policy thrust was captured in the national goal of ‘housing for all by the year 2000’. This saw the participation of civil society organisations and broadening of private sector participation. Several site and service schemes were also established in conjunction with the international community such as the World Bank and USAID. Building societies were also capacitated to provide housing loans for low income groups.

Housing Development after independence was guided by the following principal legal instruments:

2.2.1 The Town and Regional and Country Planning Act (1976 revised 1996).
The Town and Regional and Country Planning Act (1976) guides spatial planning of regions, districts and local areas, focus on conserving and improving the physical environment, promoting health, safety, convenience and general welfare as well as efficiency and economy in the development process. The Act authorises the preparation of regional, Master and local plans and regulates subdivision and consolidation of pieces of land. Subsidiary legislation such as Statutory instrument 216 of 1994 which have effectively authorised non-residential activities in residential areas (change to use regulations) have acted to ‘soften’ the Act but the main legislation remains steeped in colonial norms of land use planning and control or regulation. Spatial planning or land related legislation in Zimbabwe remains constrained by unresolved decentralisation issues in Zimbabwe. UNHABITAT (2005) noted considerable inconsistencies between central government and local government roles and responsibilities particularly regarding support to alternative housing delivery models. These include allocation of subserviced plots, promotion of cooperatives and incremental housing without or before changing legislation used to control development. This resulted in some form of policy legislation log jam which resulted in or manifested itself through the legalistic realisation of operation Restore Order or

**Box 3: Main Settlement Agencies**

2. Local Authorities.
3. The private developers.
4. The National Housing Trust.
5. Building materials suppliers.
6. The construction sector.
7. The financial services sector.
8. Public, private and non-state employers.
Murambatsvina (Chaeruka, 2009). Such rationalisation blatantly side-stepped the legal sanction to backyard structures provided by SI 216.

2.2.2 The Urban Councils Act (CAP 29:15)

The Urban Councils Act provides for the setting up of Urban Councils and management of Councils or urban settlements. It covers issues of estate development, housing provision and development, which proceed in tandem with the Ministry activities in the same area. The Act outlines how councils can raise finance and spend it in the context of urban development and how they relate with the Minister. The powers to raise and apply finance/revenue in keeping with Council-defined plans and budgets define the framework within which councils provide services, like housing, street lighting, sanitation, education, and health. Prior to 2005 (and effective February 2009) councils had the responsibility to provide and manage water and sewer services, which were assigned to the Zimbabwe National Water Authority (ZINWA) in the 2005-2009 period. Additional to use of national laws to plan and manage their areas, Councils are also authorised under the Act to formulate by-laws. The shrinking revenue streams from central government (GoZ, 2004) coupled with declining local revenue have a bearing on housing and service delivery. The prevailing economic situation has affected council revenue streams, the National Housing Fund (NHF) and Building Societies.

Both central government and local authorities are unable to provide new or adequately maintained existing urban infrastructure. Apart from limited financial resources, staff and equipment shortages have also affected housing delivery capacity resulting in the decline of quality of existing neighbourhoods and sluggish provision of new housing stock. There have been improvements in the planning processes of councils over the years. This has seen flexible use of Master and Local Plans as well as the introduction of Integrated Strategic Plans (ISPs) and a cocktail of Turnaround Strategies. Integrated Strategic Plans were introduced in the late 1990s to replace Master Plans which were regarded as rigid and outdated. Integrated Strategic Plans with a life of about five years would combine land use and corporate planning practically used in conjunction with performance related management to yield positive results. Senior council executives were to be on three to five year contracts renewable on good performance. In this plan housing delivery and related infrastructure development were included as substantive issues to be addressed by council over a five year
period. Essential ISPs combined spatial planning and institutional development or governance to leverage the performance of urban local authorities.

2.2.3 Settlement Related Policies
Private developers are obligated to cover costs of, directly provide or donate land as endowment in lieu of providing such services. The rationale for the endowment policy is that private development imposes a burden on the local planning authority (either central or local government) in terms of public services provision (schools, hospitals, roads) that would otherwise not be budgeted for. Related is the policy on standardising public infrastructure. The provision of gravel roads was made a basic requirement for all developers irrespective of whether applications were treated as subdivisions or townships. Where the developer provided roads, this was to be accounted for as part of the land endowment. Where plots less than two acres were to be developed, the developer was required to provide piped water supply from an approved source at developer’s cost. The water supply was to be handed free of charge to the local authority. Furthermore a reticulated sewer system was to be provided in the case of plots being less than one acre. The thrust of these was to promote the development of infrastructure without raising public expenditure. The requirement though good in reducing unbudgeted for expenditure reduces the number of private players in low-cost housing provision. It is a form of bottleneck on the entry of low income earners into the private housing market.

2.2.3.1 Land Acquisition Act
Largely covers the acquisition of rural land for either redistribution, social and economic infrastructure development or for incorporation into urban areas for urban uses. Once incorporated into the city/town boundaries the administration of land falls under central and local government, private landowners and civil society groupings. The principal reasons why the poor are squeezed out of the urban market is one of the cost of land itself and the associated transactions which involve professionals charging high fees. Land acquired under the Fast-Track Land Reform Programme and earmarked for urban development has gone through a legal black hole where its status was unclear and thus unavailable to both old and new owners. The other challenge is to put infrastructure on the land itself i.e. new trunk sewer lines, reservoirs and off-site water pipes. Generally urban councils cannot supply adequate water supplies to existing let alone new housing schemes. The land allocation
practices especially under the fast-track land reform programme in peri-urban areas raises tenure security issues. This is besides the tenure issues regarding transfer of land from original owners to the state but generally in terms of actual beneficiaries receiving land from informal land administrators.

Delays in completing land transactions are often blamed on legislated procedures (e.g. the consultative process prescribed for subdivision in the Regional Town and Planning Act. Such delays may act to create artificial land shortages. For example Roth and Sukume (2003) argue that ‘land administration machinery [subdivision controls], in trying to control land sizes, has constrained the ability of the land market to deliver land. Council areas may end up without land to offer developers whilst plenty of land is laying idle thereby stifling development.

2.2.3.2 The Housing Standards and Control Act and Model Building By-Laws
These constitute the policy instruments governing superstructure (housing unit) development. Circular No. 70 of 2004 amended some of the original provisions that were considered generally too high. Cumulatively these changes enabled government to deal with buildings of unsatisfactory standards, issues of overcrowding and control of harmful use of premises including the protection of the rights of neighbours. Structures which are substandard may be demolished. It defines the room size, council powers to monitor development and to order demolition where necessary. These two instruments work with the RTCP Act and together guide the enactment of Council by-laws. Mafico (1989) suggests that while planning and housing standards have been meant to promote better quality living environments through the provision of basic health and safety standards, in most developing countries they tend to achieve the exact opposite. The provisions then tend to exclude the poor from urban housing. In his analysis of the planning and housing standards for low income housing in Zimbabwe, Mafico argues that they [standards] have become an end in themselves as they have remained static and not influenced by the ever changing socio-economic and cultural conditions of the country.

Mabogunje et al have argued that if planning and housing standards are to be acceptable and enforceable, they should evolve from the people’s needs. The principal acts particularly the Regional Town and Country Planning Act remain restrictive to the new processes on low cost housing provision by providing a very restrictive environment to the standards of
buildings. Changes in subsidiary legislation and circular directives on their own, while important and necessary remain inadequate in terms of facilitating expeditious development of affordable housing.

2.2.3.3 Decentralisation Policy

At independence Zimbabwean cities and towns were literally ‘two-in-one’ cities due to the white city principle where white neighbourhoods and services co-existed with generally impoverished African townships. Early post-independence policy work was built around the ‘one-city’ principle which saw considerable modifications to the governance processes in cities and towns. Unlike rural councils urban local authorities enjoyed relative autonomy in terms of governing development processes in their areas of jurisdiction throughout the 1980s and 1990s. Decentralisation was generally seen in relation to the transfer of functions to rural local authorities. However the adoption of the structural adjustment Programmes from 1991 and subsequent market oriented economic programmes was associated with increasing urban poverty and modification to the urban governance terrain. First was the introduction of executive mayors followed by the entrenchment of central government involvement in urban affairs, the office of Provincial Governors, Provincial Administrators, and Commissions and between 2005 2009, the takeover of traditional council functions by ZINWA.

Essentially deconcentrated government became more visible in the running of urban affairs within and outside state land than hitherto. In terms of decentralisation the processes have generally proceeded on the back of statutory instruments without amendment to local government legislation. At best the developments have constituted an experiment while on the worst case they constitute central interference in urban local governance.
2.2.3.4 Housing and Building Act

The Housing and Building Act establishes the Housing and Guarantees Fund and the National Housing Fund which benefits civil servants and non-civil servants. The fund guarantees loans for Zimbabwean civil servants and non-civil servants for purchasing or constructing houses. Local authorities also apply for funds under this fund to establish trunk services. In recent years the National Housing fund has been used to construct dwellings, other buildings and essential services, support construction related ‘experiments’ in the area of affordable housing and construction material. The N.H.F is financed through funds from the H.G.F, money appropriated by parliament for the purpose, interest or rent received from financial resources and properties owned by the fund and commission for fund-guaranteed mortgages by the fund.

2.2.4 Zimbabwe's Housing Challenges

Available evidence clearly shows that supply of housing and the associated settlement services lags demand. Over the years this has resulted in serious backlogs and straining of existing facilities. While the numbers vary it is an established reality that Zimbabwe’s urban areas have inadequate housing stock of good quality alongside dilapidated neighbourhoods serviced by collapsing basic infrastructure. For example, in the 1990s annual supply of

**Box 4 Settlement Sector Constraints**

The human settlement sector faces structural and operational problems. The main ones not in any order relate to:

1. **Sociological factors**: unrealistic expectations, low planning-regulatory literacy, weak demand for accountability, weak social mobilization, politicization of social development organizations and free-riding. Gender and other social inclusion issues not incorporated into housing policy.

2. **Land shortages**: land for low-cost housing not readily available, wasteful designs (sprawl), ambiguous legal status of designated land and complicated incorporation processes.

3. **Inadequate and obsolete trunk infrastructure**: low strategic investment in off-site water and sewer, electricity, tele-communication and trunk roads.

4. **Unresponsive legislation**: fragmented laws and policies for regulating settlement development and maintenance. Policies are also biased against the poor.

5. **Weak and sub-optimal institutional arrangements**: fragmentation of public institutions responsible for funding and providing key services, weak structures that frustrate professionalism, increase transaction time and costs.

6. **Weak funding of strategic programmes and institutions**: private and public financiers of settlement development generally inactive

7. **Weak private sector participation**: estimates put private sector contribution to the urban housing stock at 5% largely because of economic stress and skills shortages.

8. **Rising construction costs and building material shortages**

*Source: Adapted from Chatiza (2008); HPZ-UN Habitat Mutare dialogue report (Mutare, Oct. 2008), GRZ 2005*
housing was less than 10% of targets at 12,000 to 14,000 units per year versus a target of 162,500 units (Auret 1995). The observation that supply of housing lags behind demand, is evidenced, among others, by overcrowding in major urban neighbourhoods.

The Housing Database of 2007 reflects considerable housing challenges in all major cities. It cites high occupancy rates in the Harare Metropolitan Region e.g. 9 people per housing unit for Harare excluding satellite settlements, 6 for Kadoma and 7 in Bulawayo (GRZ 2007). However, these figures mask intra-urban variations in occupancy rates between high income and low income residential areas. For example Mbare is considered as having a higher occupancy rate than Belvedere. For example the occupancy rates for Kadoma GBs and SQs is as high as 12 people per room much higher than the 2 people per room for Westview.

The other dimension of the housing challenge relates to inadequate maintenance of housing units, general settlement amenities and offsite public utilities. Local authorities’ ability to maintain existing services is weak for a number of reasons. Available resources make it difficult to design and implement effective maintenance programmes let alone undertake facility expansion programmes (Ibid). Offsite or trunk infrastructure is overburdened in most Council areas.

In its multi-faceted form the human settlement challenge in Zimbabwe has resulted in often undesirable sociological transformations in terms of family life and culture. For instance, some parents share rooms with their children or are forced to stay apart, different couples share single rooms and children stay or sleep out at night which raises family stability and morality issues (see Auret 1995). The settlement challenges have also contributed to a loss of quality of (urban) life. Disease outbreaks like Cholera, Tuberculosis and other health conditions have been linked to overcrowding, poor waste management as well as inadequate water and sanitation conditions.

Key tools guiding responses to the housing crisis have largely been the waiting list and housing backlog. Despite the limitations of these tools, they have guided efforts in the housing sector with good results. As stated above, housing policy and practice is premised on the assumption that the quality of existing stock will be improved once more units (of a
superior quality) are produced and occupied. This assumption has some merit but is not holistic enough to address the housing challenge as conceptualized in this report.
Chapter 3

3.0 Service Provision

Urban infrastructure, particularly what is known as utility networks are technological systems which facilitate the rapid movement of energy, water, waste and information in cities (Graham and Marvin, 1995). According to Konvitz, Rose and Tarr (1990), the modern city is heavily dependent on technological systems that shape the urban infrastructure. Nielsen and Elle (2000) point out that urban infrastructure is a precondition for many of the vital human activities in cities. Hodson and Marvin (2009) mention that development of key infrastructure has had a strong impact on how cities are shaped. Sahley, Kennedy and Adams (2005) address the aging, deterioration and the need for new developments of new urban infrastructure as one of the major problems of urban centres the world over. Monsdat (2009) draws our attention to the point that ‘urban infrastructures are among the most vulnerable systems of modern cities, that they are bottlenecks for economic development and are critical for social justice.

Specific historical determinants in developing countries such as the legacy of colonialism, land use patterns and residential segregation or differentiation under colonialism have laid the foundation for the spatial differences in service distribution that correlate with other demographic characteristics such as ethnicity and race. Indeed the condition of the poor with respect to basic water and sanitation services in Africa and particularly in Zimbabwe’s recent rapid urbanisation provides a key indicator of the division of wealth and power and the issue of self inclusion among the various classes in the provision of urban services. The most visible manifestation of this is the rapidly growing population of poor urban dwellers in formal and informal settlements who lack adequate housing and who must cope with an inequitable distribution of basic services of sufficient quality such as water, sanitation, transportation and electricity (Tipping, 2005; Hicks, 1998). High unemployment has also contributed to the straining of services such as water and sanitation since majority of the urban residents will not be able to pay for the services.
For example the deindustrialisation which followed ESAP and the Fast-Track Land Reform programme in Bulawayo and Kadoma has contributed to a significant decline in the revenue that these municipalities get. Push-pull factors leading to rural-urban migration have been strengthened by the destruction of farming in commercial farms and the loss of incomes by farm workers and direct expulsion from their former employment and housing. These contributed to the population of the urban areas as they found their way to join the growing unemployed in the streets. Between 2000 and 2008 Zimbabwe’s urban areas became congested and were bereft of adequate public services (e.g. sanitation, public health) and dearth of formal, affordable and liveable housing. Zimbabwe, like most countries in Sub-Saharan Africa from 1970 to 2000, experienced high population growth rates in population (above 3% per year) while it experienced average decline in GDP during the same period (Hicks, 1998).

3.1 Water

3.1.1 Water Legislation in Rhodesia
Manzungu and Machiridza (2005) allege that the system of water allocation in Rhodesia was based on the matrix of ideas of efficiency, modernity, white power, male dominance and supremacy and the conception of starving Africans of land and water. Campbell (2003) argues that the planning mechanism of the settler state as organised around the concept of water scarcity. Politicians and other officials such as planners and hydrologists propagated the concept of water scarcity when in reality the problem of water availability was one of democratic distribution and not availability (Manzungu and Machiridza, 2005). The concept was reinforced by the myth of white supremacy, backed up in law and in the allocation of resources (Musingafi, 2013).

3.1.1.1 The Water Act 1976 (Chapter 20:22)
The Act recognised three types of water, namely public water, private water and underground water. The legislation required that those who applied for water rights had to provide water measuring devices before a water right was confirmed as permanent hence part of the explanation why water rights for blacks were temporary as they could not afford to install the requisite measuring devices.
The main weaknesses of the Water Act (1976) (see Box 5) were:

- All water was issued in perpetuity on a first come-first-served basis. Meant that when water resources were fully allocated, no further water rights would be issued, regardless of need.
- In the event of water shortage the reallocation was very long and complex.
- A water right would not be revised, even if the right holder was not exercising his/her water rights. Water rights could only be revised if the holder volunteered to do so.
- The process of acquiring water rights was very long and tortuous. Once granted there was no requirement to pay for the possession of the water right or to contribute towards general water provision.
- The Act as silent on water quality issues relating to the environment.

There was little or no consideration given to underground water supplies. The secretary of water had to be informed when a deep borehole was drilled, but there was no control on the amounts of ground water pumped from the borehole, or the number and spacing of such boreholes (Kjeldsen, et al, 1997).

3.1.2 Water Legislation in Zimbabwe
The Water Act of 1976 (Chapter 20:22) governed water resources for almost two decades after independence until 1998, when a new Water Act and the Zimbabwe National Water Authority Act (ZINWA Act) were passed (SADC 2003d), representing a shift from centralised water management to a decentralised system of water management based on river basins and a strong degree of stakeholder participation.

3.1.2.1 The Water Act 1998 (Chapter 20:24)
The Act is described as having been founded on efficiency, environmental sustainability and equity of use. The Water Act vests all water in the President, thereby removing the concept of private ownership of water. Water allocations are allocated through a permit system, which grants
water use for a specific period of time (SADC 2003a). The Act also brought changes through renaming Water rights as water permits which are granted for a fixed period subject to renewal. Water rights were no longer granted in perpetuity and the concept of private water was abolished by removing the priority date system. The Act also introduced stakeholder institutions and provided for stiffer penalties for excessive water pollution. The environment was also recognised as a legitimate user of water resources.

The Ministry of Lands and Water (MLW) controls water use through the provisions of the Water Act. Its mandate includes the development, sustainable use and allocation of water resources and the protection of catchment areas. The Ministry of Lands and Water Development has the overall mandate for the protection of the quality and supply of freshwater resources, including monitoring their pollution levels. Water supply and sanitation issues in urban areas are the responsibility of the Ministry of Local Government, Urban and Rural Development. Local authorities in major urban areas are responsible for the management and protection of their water resources.

### 3.1.2.2 The Zimbabwe National Water Authority (ZINWA)

ZINWA is a parastatal, which acts as an operator and a regulator (SADC 2003a). ZINWA is responsible for the following functions at the national level (SADC 2003a):

- Water planning and implementation
- Management of public dams
- Supply of bulk water to the agriculture, industrial and mining sectors
- Supply of bulk water to urban centres
- Coordination and supervision of the five catchment councils

ZINWA is responsible for water supply to urban centres, while the municipalities supply water to smaller urban settlements.

### 3.1.2.3 The Water Sector Reform Programme, (1993)

The Water Sector Reform Programme, (1993) is the main focus in the protection of the quality and supply of freshwater resources in Zimbabwe. The overall objective of the programme is the sustainable, equitable and economically feasible use of water resources, taking into
account shared waters. The programme has two components, namely: the institutional development and legal framework and the water resources management strategy project.

Water is increasingly becoming a scarce resource in Zimbabwe, and access to water is key to development and poverty reduction. The national priority in the Water Policy is to develop adequate water resources for the growing needs of the various sectors of the economy and to ensure good water quality.

The Water Act of 1998, Section 5(1) (d), states a primary goal to (Mapedza & Geheb 2010):

“Promote an equitable, efficient and sustainable allocation and distribution of water resources”


“Promote the sustainable, efficient and integrated utilisation of water resources for the benefit of all Zimbabweans”.

Despite the provisions of the National Water Policy Zimbabwe’s urban areas have been experiencing critical water shortages as a result of the following challenges:

- Under capitalization of the sector to fully carry out its mandate enabling access to clean and safe drinking water.
- Inability of the majority of consumers to service their bills on time.
- National power supply challenges have resulted in reduced production.
- Unavailability of water conveyance structures to deliver water from the dams to intended point of use.
- Frequent breakdowns in the distribution systems due to non-maintenance of the systems
• Inability to treat adequate water for urban, industrial & mining (UIM) uses and sewerage due to aged equipment and plant, and insufficient treatment capacity
• Unavailability of funding for agricultural inputs for farmers resulting in low uptake of water from the dams
• Limited capacity of contractors and suppliers to fully implement projects
• Most of the materials and equipment has to be imported because they are not readily available on the local market leading to long delivery periods
• The sector has suffered from severe brain drain.
• overlapping responsibilities and lack of clarity among the various entities involved with service provision

**Bulawayo Water Regulatory Framework**
From its own local legislation Bulawayo engages the Sewerage, Drainage and Water By-Laws 1980 SI 888/79. The By-laws provide a legal framework on issues of water provision such as the supply of water, metering, the sinking of boreholes and interference with water system and pollution of supply. Part II Section 14 (1) provides that a person who wishes to obtain supply of water was supposed to apply to the City Council for a fee. Section 16 (1) (a) gives the council the power to cut off supplies in the event that the consumer has failed to pay any sum due to council.

Due to water shortages which have affected the city in recent years, the BCC has passed new by-laws which restrict the use of council water for domestic purposes only. No resident carrying out any form of construction is allowed to use council water for construction. Constructors of buildings are supposed to source their own water for the construction. The By-laws also penalises those who use council water for gardening.

**Kadoma Water Regulatory Framework**
The Gatooma (Water By-Laws), 1965, provide for regulation on the supply of water in the city. It deals with the conditions of water supply, discontinuation of supplies pollution of supplies. Part I Section (4) (1) gives it as council duty to provide water connection to premises. The by-laws also empower council to cut off supplies in the event of the consumer failing to pay for the water consumed. Section 15 of the By-laws prohibits people from vandalising water infrastructure.
Consumers are also prohibited from connecting any other sources of water supply to council supply systems. The by-laws in Section 35 direct all persons wishing to install any other water supply infrastructure to do so through council. The 1965 Gatooma By-laws were then amended in 1966 Gatooma (Water) (Amendment) By-laws. Underground water supplies were governed by the Gatooma (Well and Borehole) By-laws, 1972. These by-laws prohibit residents from drilling wells and boreholes without council authorisation

**Harare Legislative Framework on Water Provision**

The first water regulation for the City of Harare was the Water Regulations, 1913. The regulations dealt with the earliest policy on water provision to both White and Black areas. The 1913 Water By-laws were then amended several times between 1947 and 1998 the last Amendment being the Water Amendment Regulations 1998 (No.19). Other by-laws on water supply include the Water Restriction By-laws, 1951, Water Restriction Amendment By-laws, 1974 (No.2) and the Well and Boreholes By-laws 1998. Harare’s water by-laws are quite extensive. They provide for issues on the responsibility of the City Council to provide water to residents on a 24 hour basis and establish the HCC as the sole provider of water. The by-laws prohibit residents from sinking boreholes and wells without council approval. The by-laws also state that the provision of water by the city council is for a fee failure to which council can terminate water supplies. Though the By-laws do not state which suburbs could apply for the sinking of boreholes, if used in conjunction with the Regional Town and Country Planning Act, and without looking at the cost of drilling a borehole or digging of wells, high density residents are not allowed to sink boreholes or dig wells on their premises.

**3.1.2.2 Discrepancies between Legislation and Practice in the Water Sector**

Manzungu and Machiridza (2005) observe that while the water reforms might have been partly a result of internal developments, they were largely shaped by international donors. Campbell (2003) concluded that the old settler-dominated river boards were somewhat reincarnated (with some black faces) as catchment Councils. Derman, et al, (2007) states that the reasons for the poor performance of the water sector include donor withdrawal as a result of civil strife emanating from the fast track land reform programme; financial instability; weak institutional linkages; lack of capacity in key institutions; poor
remuneration for participants; lack of enforcement of legislation; different levels of appreciation of water and political interference.

3.2 Sanitation

3.2.1 Policies and Institutional Set-up for Wastewater Management

The framework and national strategy for wastewater management is governed by several pieces of legislation that are the responsibility of different Government Ministries and Agencies.

3.2.1.1 The Environmental Management Act (Chapter 20:27)

Attempted to bring the Public Health Act, The Water Act (Chapter20:24), the Water Pollution Control Act (1976), the Natural Resources Act (Chapter 20:13), and the Urban Councils Act (Chapter 29:15) under one governing framework (Nhapi and Gijzen, 2002).

3.2.1.2 Environmental Management (Effluent and Solid Waste Disposal) Regulations, 2007.

These regulations generally set for the basic framework for wastewater management in Zimbabwe but the other pieces of legislation remain relevant. The Public Health Act through Statutory Instrument 638 of 1972 gazetted as the Public Health (Effluent) Regulations sets guidelines for wastewater irrigation with regards to public health.

3.2.1.3 Regional Town and Country Planning Act, (Chapter 29:16) 1976

All households are compelled to have an acceptable sanitation system before an occupation certificate is issued. This has led to the high sanitation coverage in Zimbabwe urban centres. However, the challenges in maintaining wastewater infrastructure means that water is channelled away from the households and industries but could fail to get adequate treatment before re-entering the water courses or being used irrigation. Zimbabwe has regulations contained in the Public Health (Effluent) Regulations and the Environmental Management (Effluent and Solid Waste Disposal) Regulations as national guidelines for the safe use of wastewater. For a long time sanitation has been addressed through projects and programmes that combined water supply and sanitation. However experience with such combined projects and programmes marginalise sanitation. Sanitation issues in Zimbabwe are combined and guided by water and sanitation policies. Whereas detailed institutional, financial,
implementation, operation and maintenance arrangements are presented for water this is not the case for sanitation.

3.2.2 Municipal By-Laws and Institutional Framework for Waste Management

3.2.2.1 Sanitation Provision in Harare
The Harare City Council uses the following by-laws to regulate sanitation services; the waste management By-Laws 1979; Waste Management (Amendment) By-laws 1981 (No. 1); Waste Management (Amendment) By-laws 1987 (No. 2); Public Health Amendment) By-laws, 1975, (No.5); Public Health(Amendment) By-laws, 1962 (No.1); 1967 (No.2); 1967 (No. 3); 1973 (No.4) were amended by the 1975 Public Health By-laws. Other by-laws on Harare’s sanitation regulations are the control of Vegetation and Waste Material By-laws, 1982; Human Waste not to be used as fertiliser, (324/1910). Sanitation by-laws for Harare are extensive and touch on almost every aspect of urban sanitation. Council is obliged under the Waste Water Management By-laws to treat all domestic and industrial effluent before returning it to the environment. Council is also obliged to provide water for 24 hours every day for purposes that include sanitation in residential areas.
Sanitation provision in Harare is grossly deficient. Most people do not have access to a hygienic toilet; large amounts of faecal waste are discharged to the environment without adequate treatment; this has had major impacts on infectious disease burden and quality of life (Hutton et al. 2007). For example the cholera outbreak in 2008-2009 which killed more than 4,000 people.

3.2.2.2 Sanitation legal Framework in Bulawayo
Besides being guided by the various pieces of legislation stated above, BCC has enacted by-laws to govern the provision of sanitation in the city. The major piece of local legislation for sanitation management in Bulawayo is the Sewerage, Drainage and Water By-laws 1980 SI 888/79. These by-laws obligate the BCC to only issue certificates of occupation to properties that have sewer and water connections. They stipulate the type of sanitation facility as being water borne sewerage system that has to be connected to the council sewer mains in the case of high density suburbs or septic tanks for low density areas. The Anti-Litter By-laws 1981, SI 872/8 also works with the above by-laws to provide sanitary conditions for the city by advocating for a litter-free environment.
The other piece of legislation used by the BCC is the refuse Removal By-laws 1979, SI 525/79. These also oblige the BCC to provide a clean environment by performing the duty of refuse removal from premises and the capacity to fine offenders. The public Health By-Laws 1966 SI 803/66 as Amended from 1969 through Amendment 149/69 obliges the city council to provide refuse removal and refuse services. It provides regulation on the provision of sanitation services for both public and private premises. It also regulates the occupation and maintenance of premises and the obligations of the occupiers to keep their premises clean. It also regulates the sell of food and the sanitary conditions expected where food is sold.

3.3 Electricity
The legislation that governs the electricity supply industry in Zimbabwe is the Electricity Act (Chapter 13:19) and Rural Electrification Fund Act (Chapter 13:20) of 2002. The Electricity Act created ZERC and provided the legal framework for the unbundling of the state-owned utility, ZESA.

Up to 55% of urban households are supplied with electricity, compared to 28% in rural areas. The bulk of the remaining households rely on fuel wood with its attendant impact on the environment. The Government, through the Department of Energy, is exploring and promoting alternative sources of energy, such as solar energy and biogas as well as energy saving devices.

3.3.1 Policies and Legislation in the energy sector
Government has produced a revised National Energy Policy (NEP) which seeks to promote supply and utilisation of energy in particular the use of indigenous sources of energy for socioeconomic development in a safe sustainable and environmentally friendly manner. The policy paper addresses the current unsustainable operation of the electricity supply industry.

3.3.1.1 National Energy Policy 2012
Policy supports strategic planning for multiple resources. The objectives of the Energy Policy are:

- to ensure accelerated economic development
- to facilitate rural development
- to promote small-medium scale enterprises
to ensure environmentally friendly energy development, and
to ensure efficient utilisation of energy resources.

3.3.1.2 Institutional arrangements of the energy sector
The Ministry of Power and Energy Development is the authority responsible for the
supervision of the energy sector operations through policy formulation, performance
monitoring and regulation of the sector. It monitors the Zambezi River Authority (ZRA)
which operates monitors and maintains the Kariba Dam Complex. The Electricity Act 2002
brought about restructuring and unbundling of ZESA from a vertically integrated utility into
separate successor companies under ZESA Holdings. The Rural Electrification Fund Act was
passed in January 2002 establishing the Rural Electrification Agency (REA) mainly for grid
extension in rural areas and for supplying specific institutions such as schools, clinics,
government offices and community initiated projects. In 2005 the Electricity Act established
the Zimbabwe Electricity Regulatory commission reporting to the Minister of Energy and
Power development with the mandate to promote competition and private sector
participation in the power sector. It also is responsible for the licensing and regulation of
businesses engaged in electricity generation, transmission, distribution and supply. In 2010
ZETCO and ZEDC were merged into a single company, the Zimbabwe Electricity Transmission
and Distribution Company (ZETDC) now responsible for distribution of electric power and its
sale. In addition to these government entities, a number of independent private producers
(IPPs) are active in electric power generation in Zimbabwe.

3.3.1.3 Pricing Policy for Electricity
Is an important issue in Zimbabwe and ZERC is responsible for the design of the pricing
policy and in consultation with MEPD sets prices and tariffs. The standard structure
currently in place distinguishes between residential users who pay a fixed charge and a
variable increasing-block based on the level of consumption. Low demand non-residential
users pay a mix of a fixed charge and flat variable rates while high demand non-residential
users pay a combination of fixed and capacity charges and a variable seasonal price. Current
electricity pricing policy calls for the setting of prices on a cost-plus basis and the revision of
tariffs once a year to cover operating costs and capital expenditure. The electricity price in
Zimbabwe is low as compared to tariffs obtaining in other countries in the region supported
by the case for the need to supply affordable electricity to some groups in the country.
Electricity supply to Urban Users
ZETDC reports that 81% of urban residents have access to electricity from the national grid. This is a fairly high level of access compared to many Sub-Saharan countries. Urban electrification rate according to the NEP is at 76%.

3.3.2 Major challenges in the Power Sector
The electricity sector suffers from unsustainable operations owing to financial constraints as a result of non-cost reflective tariffs, collection inefficiencies and vandalism of distribution infrastructure. The sector is central to the development of the industrial sector which is critical for livelihood improvement particularly for urban residents. Key challenges facing the sector are:

- Implementation of a comprehensive program to rehabilitate the existing power sector
- Restructuring of the state enterprises responsible for power supply, transmission and distribution to improve their financial and technical capacities
- Reduce the under pricing of power
- Improve regulatory and investment framework for the power sector to mobilize resources for increased power generation capacity.

This research has found out that although local authorities were responsible for street lighting in urban areas the shift in power supply policy for residential areas in 1986 when
ZESA became the sole supplier of electricity to residential homes shifted accountability from local authorities to ZESA. Local authorities no longer have the mandate to plan for electricity supply to local residents and the revenue generated does not help local authorities to increase their revenue. On the other hand ZESA as a supplier of electricity is not directly accountable for service delivery to residents. The economic challenges that the economy faced in the past decade have resulted in ZESA being unable to supply adequate electricity to urban residents increasing the vulnerability and poverty of already poor urban dwellers.

In pre-independence era, local authorities such as Bulawayo and Harare used to have their own generation capacity for some of their electricity requirements which allowed them to control and regulate the amount of electricity their residents accessed. However local authorities have failed by not providing adequate lighting in the streets. Maintenance of street lighting has been lagging behind in most suburbs. This has seen some local authorities such as City of Harare amending their by-laws to mandate residents to provide their own lighting for their stands. The move increases the cost of public lighting to residents by shifting responsibility from the Local Authority. In Kadoma, in Rimuka, the local authority has not been able to provide street lighting to new suburbs (Mutembedzi, 2012).

The establishment of infill settlements through the new housing provision policies such as parallel development have not correlated with change in some policies on street lighting to allow local authorities to provide street lighting even before the new settlement is not yet serviced. The same has been obtaining in Bulawayo and Harare where new residential areas have not been provided with street lighting.

There has also been increased isolation of vulnerable groups such as women and the physically challenged in low income residential areas due to frequent load shedding and failure to provide street lighting in advance in areas undergoing parallel development. Research has found increased crime and violence in areas that lack adequate street lighting. Also increased real or perceived crime was correlated with participation in physical activities. Vulnerable groups such as women tend to remain indoors when crime increases. From this review it appears that people are likely to be active if they perceive their neighbourhood as being safe from crime and that people have lower rates of physical activities when they fear crime. Crime and fear of crime inhibit physical activity.
Chapter 4

4.0 Infrastructure

4.1 Environmental Management

Zimbabwe does not have an overall national waste management policy. This has been seen as a factor in the waste management sector in most urban areas (MET, 2004). However there are several policy documents that recognise the importance of developing efficient waste management system in order people’s health as well as their environment.

The first one is the Environmental Impact Assessment policy launched in 1994 in response to the UN Conference on Environment (UNCED) held in Rio in 1992. Principle 17 of the Rio Declaration states that:

“Environmental impact assessment as a national instrument shall be undertaken for proposed activities that are likely to have adverse impact on the environment and are subject to the decision of a competent national authority (Agenda 21, p.7)”. The EIA Policy requires some development projects to go through an EIA process in which both their positive and negative impacts are evaluated to enable appropriate mitigation measures to be put in place. Under the policy waste management infrastructure such as waste dumps are required to go through the EIA process before implementation.

It provides a comprehensive set of guidelines on how to conduct EIA studies in different sectors. Of interest in the case are vol.8 and 10 which deal with urban infrastructure and waste management respectively. Volume 8 isolates the following as issues requiring consideration when conducting EIA for urban infrastructure:

- Waste handling, storage and treatment (solid and water borne).
- Increase in solid waste and waste water volumes during the operational phase of a project.

Volume 10 of the guidelines provides for issues and typical environmental impacts arising from waste management and how they can be mitigated. It provides a checklist of waste management issues for consideration during the planning, construction and operational phases of management facilities. The EIA provides useful guidelines for ensuring that all precautionary measures are taken when managing waste hence minimising the associated environmental and health risks.
However, prior to the enactment of the Environmental Management Act (Cap 20:17) in 2002, the EIA policy and the national EIA process carried no legal force hence were not widely applied as a development planning tool to minimise environmental impacts of development activities. Manny local authorities and other private developers implemented their waste management facilities without applying the precautionary guidelines offered by the policy.

This was produced by the National Sustainable Development Committee set up by the Ministry of Environment and Tourism following the world summit on Sustainable Development in Johannesburg (2002). The document is Zimbabwe’s response to the Johannesburg Plan of Implementation which was the major outcome of that summit. The document represents the National Action Programme which contains the actions which need to be undertaken under each of the three pillars of sustainable development. These are social, economic and environmental together with the indicators for measuring progress as well as responsibility for action.

The document clearly shows that the urban environment is threatened by poverty and notes the close link between poverty and environmental degradation. Among key urban problems noted is poor waste management including the management of hazardous waste from industrial activities? It recommended the adoption of cleaner production technologies as the only solution to problems related to industrial waste management. The document highlights the need to promote safe disposal of waste and chemicals through the provision of support in constructing and rehabilitating waste disposal systems.

This set up a programme dubbed “A clean Environment for everyone’s Duty” driven by a taskforce comprising representatives from the city of Harare Health Department, Ministry of Environment and Tourism and the Confederation of Zimbabwe Industries (CZI). Te overall objective of the Programme is to ensure the transformation of Zimbabwean cities, towns and growth points to their past clean status. It identifies the following as key issues that have to be addressed in order to improve the waste management situation in the country.
4.1.3 Legislation on Waste Collection

Refuse collection in Zimbabwe is governed by the Environmental laws, the Urban Councils Act, the Public Health act and Municipal by-laws. According to the Environmental Management Act (2007) all people have the right to live in a clean and healthy environment which is not harmful to their lives. The Environmental Management Authority (EMA) and the Ministry responsible for the Environment do some checkups and enforce the hygiene and environmental laws. Under the EMA Act, EMA can fine an individual, company or even the city council for illegal dumping of refuse and the amounts range from US$1500 to US$5000 depending on the offence committed.

4.1.3.1 The Urban Councils Act: (Chapter 29:15)

The Act regulates activities in centres designated as urban. Section 218 (b) makes provision for the councils to charge for the removal of refuse where this service will have been provided. However, urban councils may not be able to charge market relate values for its services. Urban councils fall under the Ministry of Local Government, Public works and National Housing who may not approve council budgets which may leave councils with very little resources that may not allow for the frequent removal of refuse. Section 227 (1) provides provisions for matters to which council may make by-laws and these are listed in third schedule of the Act as sewerage, sanitary fittings, effluent and refuse removal, cleansing of private sewers, streets, yards as well as crops, vegetation, rubbish and waste material.

4.1.3.2 The Regional Town and Country Planning Act. (Chapter 29:12)

This act is surprisingly silent on issues of waste management. It does not even mention the issue of design and selection of waste disposal sites despite the fact that the planning stages of selecting and designing waste disposal facilities determine the impact that the facilities will have on the environment and on public health.

4.1.3.3 Water Act: (Chapter 20:24)

This Act addresses the issue of waste management in Section (1) where it prohibits the discharge of any organic and inorganic matter into any surface or groundwater, either directly or indirectly so as to cause pollution of water. Local authorities are required to construct and manage waste disposal sites so as to avoid causing pollution.
4.1.3.4 The Public Health Act (Chapter 15:09)

This Act under section 68 (1) (b) provides for the Minister of Health and Child Welfare to make regulations prohibiting the erection of dwellings, sanitary conveniences, stables, cattle kraals, pig sties, ostrich pens, dip tanks, factories or other works likely to entail risk of harmful pollution of water supply or prohibiting or regulating the deposit in the vicinity of, or draining into any such place, of manure, filth or noxious or offensive thing.

4.1.3.5 Discrepancies between Legislative Requirements and Practice

The laws to regulate waste management in Zimbabwe are comprehensive enough to ensure sustainable waste management practices in all local authorities. However, from the experience of the three local authorities, Harare, Kadoma and Bulawayo problem of waste management is severe even though all the national laws and by-laws exist. This shows that the problem is one of inadequate enforcement rather than absence or ineffectiveness of the laws and policies. Equally important are public awareness education and campaigns on the existing laws and by-laws on waste management and the obligations they place on residents and Local Authorities.

Municipal By-Laws and Institutional Framework for Waste Management

Apart from policies and Acts of parliament dealing with waste management issues, local authorities make by-laws to help them control and regulate activities taking place in their areas of jurisdiction under the Urban Councils Act Chapter 29:15. The by-laws used to control waste management have been derived from national legislation dealing public health or environmental management.

Waste Management By-laws for the City of Harare

The city of Harare has a comprehensive set of by-laws covering all urban functions and activities. The by-laws on waste management date back to 1948 when they were adopted as the Salisbury Sanitary and Refuse removal by-laws (1948)Together with the Anti-litter by-laws of 1981 these are the most important sets of by-laws on waste management currently in use in Harare.
Harare Waste Management By-Laws, 1979 (Statutory instrument 477 of 1979)

The main provisions of these by-laws are

- Only the council or its contractors has the responsibility for removing all domestic waste from premises.
- Council may require that the owner or occupier of any premises to which no waste removal service is provided to remove all domestic waste and deposit it at a waste disposal site.
- The council supplies a ‘standard’ waste receptacle to residents.
- Domestic waste is collected once a week, or at such frequent intervals as council may determine from time to time.
- No person shall abandon or deposit any waste upon any vacant land, public place or premises other than a waste-disposal site. Section 13 (1) restricts access to waste materials once they are deposited at a waste disposal site.

There are two amendments to these by-laws in the post independence period i.e. in 1981 and in 1987 through the Harare (waste management (Amendment) by-laws 1981 (No> 1) and the Harare (waste management) (Amendment) by-laws 1987 (No.2).

Highlights of the Amendments

While section 4(1) (a) of the principal by-laws (Statutory Instrument 477 of 1979) states that the council shall “...remove any domestic waste accumulating in the standard waste receptacle on any premises.” the amendment to this part made through section 4 (1) osf statutory instrument 127 of 1981 says the council “may supply to any premises a service for the removal of domestic waste.” This amendment reduces the provision of waste removal from being a council duty to being a privilege that may or may not be provided to residents.

Section 4 (2) requires the council to provide waste receptacle to all premises but does not specify the frequency at which they will be replaced.
**Waste Management Kadoma Municipality**

The KCC is guided by National Policies and Legislation as well as its own by-laws. The national legislation and policy framework in as far as it applies to waste management by local authorities is the same for all cities and towns and has been dealt with elsewhere in this report. The most important policy document for waste management in Kadoma at sub-national level is the Kadoma Anti-Litter By-Laws, (1994). The by-laws tackle issues on prohibition of deposit of litter, setting of fines littering and the responsibility of the local authority in removal of waste from households. Before 1994 the KCC was guided by the Kadoma (Public Health) By-laws, 1984. These classify the types of waste into two categories instead of four categories as in the Public Health By-laws 1953. The By-laws also state the responsibilities for the collection of waste. The KCC has the sole responsibility of removing Class ‘A’ waste from households.

**Waste Management for Bulawayo City Council**

Besides the national legal and policy framework waste management in Bulawayo is regulated by the city’s by-laws. The Refuse Removal By-laws 1979 SI 525/79. SI 525/79 clearly states that it is the duty of the Municipality of Bulawayo to remove litter from all households/premises and deposit the refuse on landfills. The by-laws also obliged the BCC to provide waste receptacle to each residential premises and obliges all premises to put all waste into the receptacle which has to be emptied at least once a week or at such frequency the city may see necessary. There are also the Anti-Litter By-laws 1981 SI872/8 for the BCC which prohibit residents from throwing litter on vacant land. It criminalises all forms of dumping and stipulates fines and or imprisonment as punishment for offenders. The Natural Resources Act, the Water Act, the Urban Councils Act and the Rural District Councils Act regulate the disposal of Waste in Zimbabwe. The management of sewage related issues is conducted through the use of the Water regulations of 1977 -Effluent and Water Standards- contained in the Water Act.
4.2 Roads

4.2.1 The Roads Act (Chapter 13:18)
The responsibility for the management of the roads as specified in the Roads Act is as follows:

- The responsibility of the Department of Roads (DoR) in the Ministry of Transport Communications and Infrastructure Development is the management of the primary and secondary roads.
- Urban roads are managed by Urban Councils (UC) under the Ministry of Local Government, Public Works and National Housing (MoLGPWNH).
- The District Development Fund (DDF) and the Rural District Councils (RDC) manage the bulk of the unpaved tertiary roads under the MoLDPWNH.

The three (DDf, RDCs and Ucs) are referred to in the Act as “local road authorities” are eligible for direct allocation from the roads Fund.

4.2.2 Role of the Zimbabwe National Road Agency
Zimbabwe National Road Administration Zimbabwe National Road Administration (ZINARA) was established by an act of parliament, the Roads Act [Chapter 13: 18]. The functions of ZINARA are defined by the Road Act. They include:

- Fix road user charges and collect such charges, fuel levies and other revenue for the Roads Fund (RF).
- Allocate and disburse funds from the RF to the road authorities.
- Monitor the use of funds by the road authorities including the implementation of road maintenance works.
- Assist road authorities to prepare road maintenance plans and approve such plans.
- Assist the Minister to set out technical standards for roads and ensure that the road authorities adhere to these. The key fund-raising instruments have been the fuel levy, transit fees, overload fees, and abnormal load fees.

4.2.3 Department of Roads
The DoR is responsible for the development and maintenance of primary and secondary roads, which form the most strategically important part of the national road network. The DoR is therefore a major recipient of government funding. The Department maintains the roads through a network of maintenance camps based on a force account system.
4.2.3 Urban Councils and Rural District Councils
Local authorities are designated as autonomous road authorities under the Road Act. They have autonomy in the management of infrastructure services in their jurisdiction, but they are subject to policy directives from the MoLGPWUD. The UCs use a combination of force account operations for routine maintenance and small works and contracting for larger projects.

4.2.4 Road Funding in Zimbabwe
Zimbabwe National Road Administration (ZINARA) is responsible for reviewing annual works programs and budgets submitted by the road authorities and consolidating them into a single national road maintenance work program. The Board prescribes the criteria used to allocate grants by percentage splitting of total funds available between roads of different classes, by formulae that take into account the class of road, its length, width, surface type, and traffic level, and by identifying needs based on the condition of the network. The Board must ensure “an equitable distribution of funds” between the road authorities. The Board may determine priority works by taking into account Government priorities, the need for effective use of the RF, and performance of road authorities in the use of RF money. The Board may allocate funds in accordance with the road authorities programs or may allocate funds according to its own identified priorities.

4.2.5 Role of the Road Fund (RF)
The establishment of the RF in 2001 was a key institutional reform in the road sector. Prior to its establishment, maintenance of the road network depended entirely on treasury allocations by the National Government and local authorities. The RF can be used for the following purposes: (i) grants to road authorities for routine and periodic road maintenance or emergency works; (ii) road safety activities; and (iii) salaries, allowances, and other expenses of ZINARA (which must not exceed 2.5 percent of the revenue of the RF).

4.2.6 Condition of the Road Infrastructure
The current condition of the network is not known with accuracy, but it is clear that it has declined significantly since the mid-1990s as a result of the lack of funding for routine and periodic maintenance. Most of the deterioration has occurred on urban roads and on the unpaved rural road network. In general, the paved trunk road system managed by the DoR was maintained to reasonably high levels and suffered minimal deterioration between 1995 and 2005. During this period, there was a drop of only 10 percent (from 90 to 80 percent) of
the proportion of primary roads in “good” condition. However, according to the World Bank (2006), only 24 percent of the entire network was in “good” condition in 2005 and 40 percent was in “poor” condition. By 2005, the part of the network with the highest proportion of roads in “poor” condition was the secondary unpaved roads with 55 percent in “poor” condition. Overall, the paved urban roads and the unpaved rural road networks were most affected by the lack of funding for maintenance. The period 2005-08 was characterized by a sharp decline in the state of an already ailing economy and in general, little was done in terms of road rehabilitation and maintenance. Only about 20 percent of the total network is in good condition and therefore requires only regular routine maintenance. A little less than 40 percent of the network is judged to be in fair condition at this time. The bulk of the urban roads are paved, but about 25 percent of this network is judged to be in poor condition.

4.2.7 Funding requirements for Urban Councils
Urban Councils are designated as autonomous road authorities under the Road Act. Local authorities generate funding through rates and local taxes. However, these revenue sources are inadequate; in the past decade, annual rate increases were constrained by the inability of residents to pay, and were rapidly eroded by inflation. Local authorities are also able to borrow for capital investments on approval of the MoLGPWUD. This facility is, however, limited by high interest rates, which became unaffordable with the declining economy. The implication is that the balance of the funds would have to come from the national budget and or donor support. There is a history of donor support for urban infrastructure. The Urban Project of the World Bank (1989-99) supported the development of basic infrastructure including roads and water treatment works.

4.2.8 Funding Arrangements for Local Authorities
The UCs are heavily dependent on allocations from their own budgets for road maintenance. They generate funding through rates and local taxes. UCs are required to collaborate with the DoR for the maintenance of national roads where they pass through urban areas. The Government provides part of the cost of this maintenance to the urban council, though in recent years these contributions have not been received by the councils. The City of Harare gets road maintenance funds from ZINARA. For over a decade, the city’s
requests for road related budgetary allocations from the central Government could not be met but the allocation was the equivalent of about $200,000.
Chapter 5

5.0 Conclusions and Recommendations

5.1 Conclusions
On the basis of the review of the policy and legislative framework governing service provision:

- There is a conducive policy framework which can effectively address service provision in the three local authorities in Zimbabwe.
- The mere existence of the policy framework is not enough to guarantee an efficient service provision in the three local authorities. There is need for an equally efficient enforcement mechanism.
- Although government is the origin of local governance policy and its role cannot be denied, there is need for local authorities to have the independence to make decisions and implement them without central government interference.
- There has to be a partnership between local authorities and residents in order for each party to fulfil its mandate. Local authorities should provide services which residents should pay for.
REFERENCES

LIST OF STATUTES AND REGULATIONS

1. Urban Councils Act, (29:15)
2. Regional, Town and Country Planning Act (29:12)
3. Roads Act (13:18)
4. The Public Health Act (Chapter 15:09)
5. Water Act: (Chapter 20:24)
7. The Water Act 1976 (Chapter 20:22)

LIST OF POLICIES

1. National Environmental Policy
2. The Strategic Document on Waste management
3. Environmental Impact Assessment Policy
4. National Housing Policy
5. National Energy Policy
6. Zimbabwe National Sustainable Development Policy
7. Environmental Management (Effluent and Solid Waste Disposal) Regulations
8. The National Sustainable Development Strategy
9. City of Kadoma Housing Policy
10. City of Harare Housing Policy
11. City of Bulawayo Housing Policy

LIST OF TEXTS


**LIST OF DEPARTMENTS AND AGENCIES INTERVIEWED**

1. Ministry of Local Government Rural, Public Works and National Housing

2. Department of Physical Planning

3. Ministry of Environment, Water Resources and Climate Change

4. Ministry of Energy and power Development

5. Ministry of Transport and Infrastructure Development
6. Ministry of Women, Gender and Community Development
7. City of Kadoma
8. City of Bulawayo
9. City of Harare

LIST OF MUNICIPAL BY-LAWS

1. Bulawayo Public Health By-laws
2. Bulawayo Refuse Removal By-laws SI 525/79
4. Bulawayo Building (Adoption)(Amendment) By-laws SI 314/85
5. Bulawayo Anti-litter By-laws (SI 872/8)
9. Harare Building (Adoption)(Amendment) By-laws
10. Harare Building By-laws (1953)
12. Harare Water Restriction By-laws (432/1951)
15. Harare Water Regulations 1913
16. Kadoma Water By-laws (SI 865/65)
17. Kadoma Water Restriction By-laws (SI 557/52)
18. Well and Borehole By-laws (859/72)
19. Kadoma Public Health By-laws
21. Gatooma Building, Roads and Streets By-laws (1953)
22. Gatooma Public Health By-laws (1953)
23. Gatooma Public Health Amendment By-laws (1958) (No.1)
24. Gatooma Drainage, Plumping and Licensing By-laws (1055/74)
25. Kadoma Hawkers and Street Vendors By-laws (97/77)
26. Kadoma Food Stall and Produce Stall By-laws (893/52)
27. Gatooma Protection of Lands By-laws (1971)