



ZIMBABWE REPORT

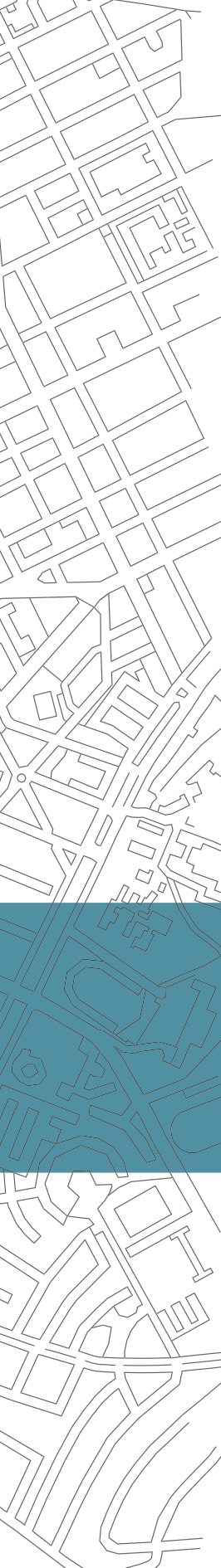
ASSESSMENT OF ZIMBABWE LEGISLATION THROUGH THE URBAN LAW MODULE OF THE LAW AND CLIMATE CHANGE TOOLKIT

<https://climatelawtoolkit.org/>

PROJECT ON URBAN LAW FOR RESILIENT AND LOW CARBON URBAN
DEVELOPMENT IN MALAWI, NAMIBIA, AND ZIMBABWE

URBAN CLIMATE LAW SERIES | VOLUME 1





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DEVELOPMENT IN MALAWI, NAMIBIA, AND ZIMBABWE



Assessment of Zimbabwe Legislation through the Urban Law Module of the Law and Climate Change Toolkit

[Urban Planning Law for Climate Smart Cities: Urban Law Module of the Law and Climate Change Toolkit](#)

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Aerial view of Victoria Falls on the border of Zimbabwe and Zambia by SteveAllenPhoto999 source: envato elements.



National Validation Workshop with Key Zimbabwe Stakeholders on Law and Climate Change. Wednesday, 8th June 2022, Cresta Lodge, Harare, Zimbabwe. Photos by Samuel Njuguna (UN-Habitat).



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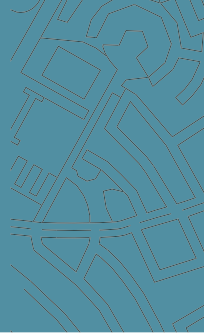
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ACRONYMS

EIA	Environmental impact assessment
EMA	Environmental Management Act
INDC	Intended nationally determined contribution
LEDS	Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050)
NCCRS	National Climate Change Response Strategy
NEPS	National Environmental Policy and Strategies
NDS1	National Development Strategy 1
RTCPA	Regional, Town & Country Planning Act
RDC	Rural district council
ZNHSP	Zimbabwe National Human Settlements Policy
ZNCP 2017	Zimbabwe National Climate Policy
ZNCRS 2019	Zimbabwe National Climate Response Strategy
ZNDS 2020	Zimbabwe National Development Strategy
ZNHSP	Zimbabwe National Human Settlements Policy
ZINWA	Zimbabwe National Water Authority
NDC	Zimbabwe Revised Nationally Determined Contribution

INTRODUCTION



UN-Habitat, through the Policy, Legislation and Governance Section, in collaboration with the Taubman College of Architecture and Urban and Regional Planning at the University of Michigan (United States of America) supported Malawi, Namibia and Zimbabwe (between December 2021 and November 2022) in conducting country assessments of existing urban laws on climate change for resilient and low carbon urban development. The project was funded by the Konrad-Adenauer-Stiftung Regional Programme Energy Security and Climate Change in Sub-Saharan Africa (KAS) with the aim of improving the capacities and knowledge of the national Governments to support climate-friendly urban development through legal frameworks.

This report is the legal assessment made for Zimbabwe. The structure mirrors the categorization in the UN-Habitat Urban Law Module of the Law and Climate Change Toolkit which has five assessment areas, namely a) Governance framework for urban and climate planning; b) Urban and territorial planning; c) Urban planning and design for adaptation; d) Urban planning and design for mitigation; and e) Economic and non-economic instruments for climate friendly urban planning with an executive summary and recommendations for each section.



Aerial view of Victoria Falls on the border of Zambia and Zimbabwe by Steve Allen/Photo995. Source: iStockphoto.com

CHAPTER 1.

GOVERNANCE FRAMEWORK FOR URBAN AND CLIMATE PLANNING

EXECUTIVE SUMMARY

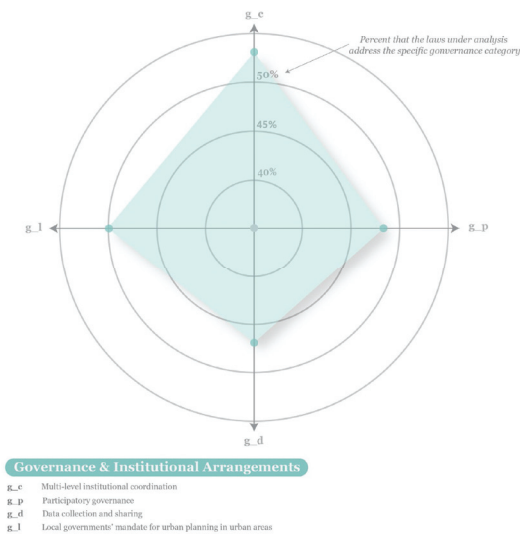


Figure 1: Rating matrix for Zimbabwe on governance framework for urban and climate planning

The magnitude and urgency of climate change calls for an emphasis on strong and effective governance systems and practices. Governance refers to the process through which State and non-State actors interact to design and implement law and policies within a given set of formal and informal rules that shape and are shaped by power.¹ Multilevel governance characterized by intergovernmental (between different levels of government at the national level) and intra-governmental (within the same level of government) cooperation built around broad consultative processes and mechanisms for vertical and horizontal cooperation and integration will be necessary to achieve climate-

responsive governance. Effective climate governance will also require participation by stakeholders, data collection and sharing among public agencies as well as their dissemination to the general public, and adequate powers allocated to local authorities on steering and controlling climate-friendly urban planning and land use.

The 2013 **Constitution of Zimbabwe** provides citizens with robust environmental rights; it obliges the Government to take responsibility for the welfare of citizens and implement the country's development goals across all levels of governance. It provides mechanisms for participatory governance through popular elections of urban local authorities and cooperation between governmental institutions and agencies, although in practice these agencies do not adequately consult each other. The Constitution also emphasizes the devolution of governance to the local level whenever possible and appropriate, and mandates local authorities with managing and planning for the areas under their jurisdiction.

Laws such as the **Urban Councils Act** of 1995 and the **Rural Councils Act** of 1988 provide a framework for local governance modalities; they stipulate that planning and development actions must fall in line with national goals and forbear from infringing on rights laid out in the Constitution. The **National Climate Change Response Strategy** of 2019 contains strategies for inter-institutional coordination

¹ World Bank (2017). World Development Report 2017: Governance and the Law.

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The Zimbabwe 2022 Climate Change Bill, should include explicit provisions on multilevel coordination for climate governance. It should also include provisions for monitoring environmental impact assessments at the community or stakeholder level to enhance compliance by developers and project managers.

99

among the national Government and subnational governments of Zimbabwe, but lacks strategies for coordination between and within the other levels of government. In practice, inter-institutional coordination is sometimes affected by politics and overlapping mandates within State institutions. The Environmental Management Act of 2003 has several provisions on how the Environmental Management Agency is organized and how it interacts with local authorities on environmental matters, some of which relate to climate change. Environmental regulations made in line with the Act directly regulate climate change issues such as greenhouse gas emissions, ozone-dependent equipment and ozone-depleting substances, and set up the institutional structure for climate change in the form of the Ozone Office-Climate Change Management Department.

As such, much can be done to improve collaboration between authorities to achieve climate-related goals which presently, in terms of the law and practice, appear to be an area of action reserved for the environmental sector institutions falling under the Ministry of Lands, Agriculture, Water, Climate and Rural Development. The multifaceted nature of natural disaster risk requires increased coordination and a shift from hierarchical governance to multilevel governance in Zimbabwe. Vertical and horizontal integration in urban processes through the involvement of various public sector actors as well as private sector and civil society stakeholders is necessary to promote effective climate change law and policymaking.²

Furthermore, stakeholder and community identification are not clearly defined, especially in environmental and climate-related legislation. There are not explicit requirements for the collection and sharing of data between the different governmental levels. However, the Ozone Office is required to collect data on emissions. The Climate Change Management Department is not supported by a comprehensive legal framework that sets out its functions and duties, apart from the regulations that provide for its establishment (Statutory Instrument 131). Apart from existing climate change policies and strategies, climate change issues are only inferred from existing environmental legislation and legal provisions to support climate change-related programmes and measures in the country.

1.1 MULTILEVEL INSTITUTIONAL COORDINATION

² Williams, David; Costa, Maria; Sutherland, Catherine; Celliers, Louis; and Scheffran, Jurgen (2019). "Vulnerability of informal settlements in the context of rapid urbanization and climate change." International Institute for Environment and Development 159.

The **Zimbabwe Constitution** of 2013 acknowledges the importance of multilevel governance in Chapter 2, which states that the national objectives guide the actions of “the State and all institutions and agencies of government at every level”.³ These levels or “tiers” of government are stated to include “(a) the national Government; (b) provincial and metropolitan councils; and (c) local authorities”, including urban and rural councils.⁴ Intragovernmental coordination is explicitly prescribed in Section 194(1)(g) where it states that “institutions and agencies of governance at all levels must co-operate with each other”. Furthermore, in Chapter 14 of the Constitution, it states that an Act of Parliament “must...facilitate coordination between central Government, provincial and metropolitan councils and local authorities”⁵. Subnational authorities – provincial and metropolitan councils and local authorities – are compelled to cooperate with one another, in particular by “informing... and consulting one another on matters of common interest” and “harmonizing and coordinating their activities”.⁶

The Constitution grants provincial or metropolitan councils the responsibility of protecting the environment within their jurisdiction through “conservation, improvement and management of natural resources”⁷. The Constitution also recognizes the authority of traditional leaders to protect the environment within their area of jurisdiction “in accordance with an Act of Parliament”⁸, namely the **Traditional Leaders Act**, which outlines the environmental and natural resources conservation duties of traditional

leaders.⁹

The **Provincial Councils and Administration Act** of 1985 was enacted to establish the parameters of provincial governance at a time when provincial and local governments possessed only constitutional recognition rather than direct constitutional autonomy. Until the amendment of the Constitution in 2013, provincial governments and traditional chiefs sourced their authority from national legislation. The Provincial Councils and Administration Act empowers the President to establish any area within Zimbabwe as a province. Each province consists of a council that includes, but is not limited to, the provincial governor and one mayor or chairman and councillor of each municipal council, town council and local board in the province.¹⁰ The primary responsibility of provincial governors and councils is to coordinate, implement and evaluate the provincial development plan, which includes working with the various ministries, agencies and authorities.¹¹ The provincial council can also establish development committees to assist in developing and implementing annual development and other long-term plans for the province.¹²

The **Urban Councils Act** of 1995 makes provisions for the establishment of municipalities and towns, and further gives the urban councils the responsibility for “the administration, control and management of a local government area and any services provided by the State in that area”¹³. As such, the legal recognition of local authorities grants them a range of powers to service areas with, inter alia, roads, water and sewerage within their jurisdictional boundaries. Urban councils are also given the power to “by

3 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 2, Section 8.

4 Ibid, Chapter 1, Section 5

5 Ibid, Chapter 14, Part 1, Section 265.3.

6 Ibid, Chapter 14, Part 1, Section 265.1(d).

7 Ibid, Chapter 14, Part 2, Section 270.

8 Ibid, Chapter 15, Section 282.

9 Traditional Leaders Act [Chapter 29:17], 1998, Sections 5.1 and 9(k).

10 Provincial Councils and Administration Act, Section 14.1(b).

11 Ibid, Section 10(b).

12 Ibid, Section 28(a).

13 Urban Councils Act, Section 7.1.

agreement co-operate with the State or with any other local authority or other person for the better or more economic carrying out...of any matter which the council may by law perform in which the contracting parties are mutually interested”¹⁴. In this way, the law facilitates and implicitly demands the coordination of different departments within local jurisdictions, albeit without necessarily using language that prescribes coordination. Every council is required by the Urban Councils Act to appoint an environmental management committee responsible for environmental matters, and a health and housing committee responsible for health and housing matters. Members of these environmental committees are appointed from a list of elected councillors, while in non-urban areas rural district councils appoint environment committees and subcommittees comprising of councillors and other appointed persons¹⁵. These committees are required to cooperate with the Ministry of Environment, Climate, Tourism and Hospitality Industry in carrying out the objects and purposes of the Act¹⁶. This requirement creates coordination linkages between urban councils and the ministry regarding environmental and climate change issues at the local level.

The **Rural District Councils Act** of 1988 provides for the establishment of rural district councils, which oversee the management of non-urban areas in Zimbabwe. The councils may also establish towns and town boards, delegating “powers held by the council which are solely concerned with the town area for which the town board is appointed”.¹⁷ Further layers of

government, which must consult with the council, include ward development committees and rural district development committees. These committees consist of district administrators as well as other government officials, such as a representative of the police force.¹⁸

Multilevel institutional coordination focusing on climate action and planning is primarily facilitated through the framework of the **National Climate Change Response Strategy** 2019. The Strategy outlines several mechanisms that promote inter-institutional coordination among the national Government and subnational governments, such as:

- The establishment of land-use plans “at district, ward, village and farm management levels”¹⁹
- The capacitation of local authorities “to deliver proper, effective and efficient waste management services in order to reduce GHG emissions from waste management,”²⁰
- The establishment of “an enabling framework for sharing and disseminating information on climate change (i.e., at provincial, district and ward levels in the country)”²¹
- The mainstreaming of “climate change into urban and rural planning, infrastructure, investments and service delivery”²²
- The institutionalization of “the climate change response governance framework at national, provincial, district and ward

14 Ibid, Section 223.1.

15 Rural District Councils Act [Chapter 29:13], 1988, Part VIII, Section 61. Also see Sixth Schedule to Section 142 of the Environmental Management Act.

16 Ibid, Part VIII, Section 61.

17 Ibid, Part VIII, Section 57.

18 Ibid.

19 National Climate Change Response Strategy, 2019, Section 3.1.3.2(a).

20 Ibid, Section 3.3.4.

21 Ibid, Section 4.1.2

22 Ibid, Section 5.1.2.

levels²³

Though the National Climate Change Response Strategy is not legally binding, it nonetheless lays out the potential pathways for Zimbabwe to reach its climate goals. Furthermore, it establishes a strategy for coordination across line ministries at the national level to “develop an integrated and coordinated approach to reducing disaster risk and to address impacts of climate change through a multi-stakeholder approach”.²⁴ Finally, the Strategy proposes a climate change governance framework²⁵ that highlights coordination among cabinets, ministers, committees and various stakeholders. This approach reflects the constitutional requirement for government institutions and agencies to cooperate at all levels.

The **National Climate Policy** of 2017 explicitly addresses climate change as a concern for local, regional and national entities. It fosters coordination between these entities as it “promote[s] a bottom-up approach led by local authorities and communities in decision making, monitoring and evaluation of adaptation and mitigation measures”²⁶ in response to climate change. Developing the capacity of local authorities to manage demographic challenges²⁷ and ensuring that they adopt climate proofed settlement designs²⁸ are other ways that this policy explicitly suggests coordination.

Additional provisions for inter-institutional coordination among the national Government and subnational governments can be found in the **Environmental Management Act**. It establishes the National Environment Council,

23 Ibid.

24 Ibid, Section 3.3.3.

25 Ibid, Section 5.3.

26 Zimbabwe National Climate Policy of 2017, Section 7.3.3.

27 Ibid, Section 2.6.2.

28 Ibid, Section 2.6.5.

which is mandated to promote cooperation between local authorities and other public departments²⁹ and to make recommendations regarding the harmonization of functions related to the environment.³⁰ The Act also establishes and mandates the Environmental Management Agency to assist and participate in any matter pertaining to the management of the environment.³¹ The Environmental Management Act requires that every local authority prepares an environmental action plan for its jurisdiction,³² and that the Environmental Management Agency develops guidelines for the local environmental action plans.³³ It also states that the Minister for Environment, Climate, Tourism and Hospitality Industry can assign any local authority with any functions outlined in the Act.³⁴ The law also compels the Environmental Management Agency to dispense funds to local authorities to ensure sustainable resource access at the local level.³⁵

In relation to greenhouse gas emissions, the **Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulations**³⁶ establish the “Ozone Office” which is operationally called the Climate Change Management Department and is housed within the Ministry of Environment, Climate, Tourism and Hospitality Industry. The Office collaborates with urban and rural councils on climate change-

29 Environmental Management Act, 2005, Part III, Section 8.1(c).

30 Ibid, Part II, Section 8.1(d).

31 Ibid, Part IV, Section 10.1(b).

32 Ibid, Part VIII, Section 52(b).

33 Ibid, Part IV, Section 10.

34 Ibid, Part X, Section 95(i).

35 Ibid, Part IV, Section 10.1(b)(i).

36 Statutory Instrument 131 of 2016, the Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulations, 2016.

related issues. According to the ministry, collaboration with urban authorities is secured through the Local Urban and Rural Authority Climate Change Platform which was created by the Ministry of Environment, Climate Tourism and Hospitality Industry to facilitate information sharing and collaboration with local authorities on climate change issues. The ministry also shares information with local authorities on emission standards, building codes for settlements, capacity building initiatives and compliance with international climate change commitments.³⁷

However, multilevel coordination in relation to climate change mitigation is occasionally affected by politics of exclusion in Zimbabwe's economic decision-making processes. This has occurred when the decision-making power of local authorities is curtailed by ministerial powers and Cabinet decisions, and when key decisions are made without proper consultation and coordination between local authorities and the central Government. The current controversy around the joint venture/public-private partnership agreement between the City of Harare and a foreign corporation for the construction of the Pomona Waste Energy Plant is an example of uncoordinated governance involving climate change issues. Under the Pomona project agreement, the investor, Geogenix, is to design, build and operate the Pomona Waste to Energy Power Station. The matter is before the courts after the Cabinet issued for the agreement to be cancelled due to irregularities in the public procurement process. Under the deal, the City of Harare is to pay Geogenix BV US\$ 40 per tonne of waste delivered and the stipulated daily delivery is at

37 Climate Change Management Department (8 June 2022) Overview of Zimbabwe's Climate Change Plans and Processes; presentation by the Ministry of the Environment, Climate, Tourism and Hospitality Industry during the Zimbabwe Stakeholder Consultation meeting.

least 550 tonnes, or a minimum of approximately 200,750 tonnes per year, which equates to US\$ 8.03 million profit for Geogenix BV in one year.

The **Water Act** of 2000 establishes several governmental bodies that must coordinate the development of water resources, including the National Water Authority, Catchment Council and Subcatchment Councils³⁸. The Minister for Lands, Agriculture, Water, Climate and Rural Resettlement, the authority responsible for ensuring the proper development and use of water resources, is given the power to delegate tasks horizontally to the Secretary of the Water Authority and officers of the National Water Authority. The Act also facilitates vertical coordination by enabling the minister to delegate tasks to subcatchment councils and local authorities, particularly when there is a water shortage. Furthermore, the Zimbabwe National Water Authority is designated to assist local authorities in the development and management of water resources, especially the provision of potable water.³⁹ In practice, much consultation and information sharing takes place between urban authorities and the Zimbabwe National Water Authority on water development issues and water pricing since local authorities (both urban and rural) buy water from the Authority, which controls water resources in the country. Further, in order to promote coordination, the Zimbabwe National Water Authority is required to encourage and assist catchment councils to plan and coordinate the development and management of water resources in areas under their jurisdiction.

The **Energy Regulatory Authority Act** of 2011 provides for the establishment of the Zimbabwe Energy Regulatory Authority and Board which, among other things, "regulates the procurement,

38 Zimbabwe Water Authority Act [Chapter 20:25], 2000.

39 Ibid, Section 5.

production, transportation, transmission, distribution, importation and exportation of energy derived from any energy source.⁴⁰ The Act charges the Energy Regulatory Authority not only with advising the Minister for Energy and Power Development on matters relating to the energy industry, but also with promoting coordination and integration in the Southern African Development Community and the Common Market for Eastern and Southern Africa and representing Zimbabwe in international matters relating to the energy industry.⁴¹ In practice, this has been done by participating in the Southern Africa Power Pool, which was established to coordinate the planning and operation of the electric power system among member state utility companies. The Southern Africa Power Pool prioritized mainstreaming climate change considerations in development planning by adopting a climate change mitigation and adaptation strategy that addresses the impacts of climate change in energy development.⁴²

In contrast, the **Petroleum Act** prescribes other functions for the Energy Regulatory Authority that include the promotion of the production, procurement and sale of petroleum products and the advancement of technology relating to the petroleum industry.⁴³ It is widely known that the global petroleum sector significantly contributes to global greenhouse gas emissions and its promotion and advancement generally runs counter to the principles of climate change mitigation. Zimbabwe's **National Energy Policy** 2012 describes the institutional and governance arrangements in the energy sector and the applicable legislative framework with

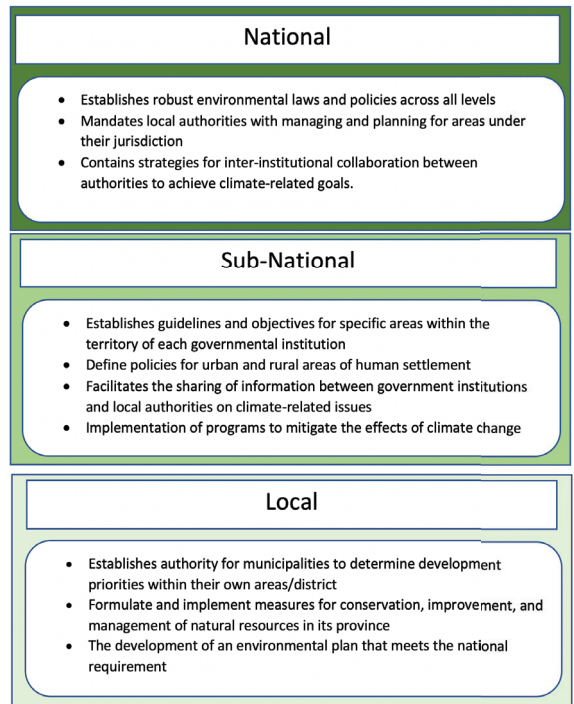


Figure 2: Summary of urban and climate planning roles and responsibilities of governance institutions in Zimbabwe. Source : University of Michigan, Taubman College of Architecture and Urban and Regional Planning

an emphasis on cross-sectoral coordination on energy issues. A similar approach is adopted in the **National Renewable Energy Policy** that calls for the establishment of a strong institutional and regulatory framework to promote the uptake of renewable energy, including mechanisms for community participation and involvement of the private sector in promoting renewable energy sources.

1.2 PARTICIPATORY GOVERNANCE

The **Constitution of Zimbabwe** provides binding national goals and individual legal rights which guarantee and encourage public participation in various spheres of governance. Though these

40 Energy Regulatory Authority Act [Chapter 13:23], no. 3 of 2011, Section 4.1(a).

41 Ibid, Section 4.1(d), (k)

42 Southern Africa Power Pool, "SAPP and Climate Change". www.sapp.co.zw/sapp-and-climate-change.

43 Petroleum Act [Chapter 13:22], 2006, Part II, Section 4.

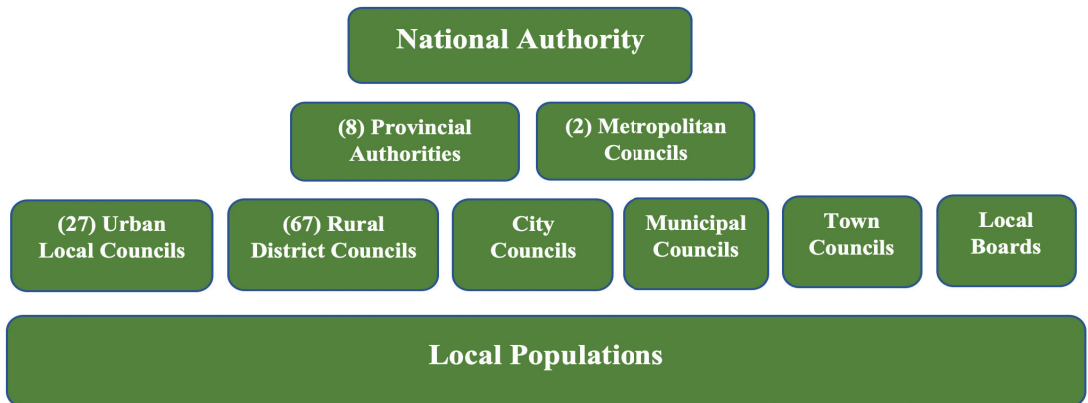


Figure 3 : Hierarchical structures of authorities in Zimbabwe Source : University of Michigan, Taubman College of Architecture and Urban and Regional Planning

provisions do not explicitly refer to urban or climate planning processes, the foundational principles of the Constitution are binding upon “the State and all executive, legislative and juridical institutions and agencies of government at every level”⁴⁴, including those involved in spatial planning, urban development and climate response, just as individual constitutional rights are enforceable against any governmental body responsible for a rights infringement.

In its national objectives, the Constitution provides that government measures to facilitate rapid and equitable development “must involve the people in the formulation and implementation of development plans and programmes that affect them”.⁴⁵ While climate change adaptation and mitigation is not explicitly cited as one of the country’s development goals, it has become essential to “promote...self-reliance, foster agricultural, commercial, industrial, technological and scientific development...[and] bring about balanced development of rural and urban areas”.⁴⁶

“Good governance” is an additional national objective provided for in the Constitution, the principles of which “bind the State and all institutions and agencies of government at every level”.⁴⁷ These include provisions that promote public participation at a political level, through “a multi-party democratic political system” with an electoral system guaranteeing “universal adult suffrage and equality of votes; free, fair and regular elections; and adequate representation of the electorate”.⁴⁸ The relevance of such provisions for urban areas is the election of councillors and mayors who administer the affairs of local authorities and appoint various committees, such as committees on the environment, on health and on housing as provided for in the Urban Councils Act. Furthermore, Section 194(1) of the Constitution sets out basic values and principles governing public administration, including a requirement that people’s needs must be responded to within a reasonable time, and the public must be encouraged to participate in policymaking.

The Constitution also makes provisions to promote the inclusion and participation of specific

44 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 1, Section 2

45 Ibid, Chapter 2, Section 13.2.

46 Ibid, Chapter 2, Section 13.1(a), (b), (d).

47 Ibid, Chapter 1, Section 3.2.

48 Ibid, Chapter 1, Section 3.2(a), (b).

constituent groups, namely women, youths, elderly persons, and persons with disabilities, in societal affairs, including governance and public decision-making. Section 17 states that “the State must promote full gender balance in Zimbabwean society, and in particular... the full participation of women in all spheres of Zimbabwean society on the basis of equality with men”.⁴⁹ The State is obliged to take reasonable measures to ensure that youths, defined as “people between the ages of fifteen and thirty-five years”,⁵⁰ enjoy “opportunities to associate and to be represented and participate in political, social, economic and other spheres of life”.⁵¹ Likewise, the State and government institutions and agencies at all levels must endeavour “to encourage elderly persons to participate fully in the affairs of society”⁵² and “assist persons with physical or mental disabilities to achieve their full potential and to minimise the disadvantages suffered by them”.⁵³ The Constitution also mandates “fair regional representation” to promote the participation of representatives from all regions of Zimbabwe in all institutions and agencies of government at every level”.⁵⁴ This national objective also includes the obligation of the State to take practical measures to ensure that local communities “have equitable access to resources to promote their development”.⁵⁵

The Constitution guarantees citizens and permanent residents the right of access to any information held by the State or State agencies or institutions at every level of government “in so far as the information is required in the interests

of public accountability”.⁵⁶ It also requires that public administration in all tiers of government, including institutions and agencies of the State, and government-controlled entities and other public enterprises, must foster transparency “by providing the public with timely, accessible and accurate information”.⁵⁷ This provision in particular can facilitate public participation in environmental governance and climate change-related discourse despite the legal limitations and practical barriers, such as bureaucratic bottlenecks, to access to information in the country.

The Constitution guarantees the right of access to dispute-resolution mechanisms. In its Declaration of Rights, the Constitution provides a right to a fair hearing, where “[e]very person has the right of access to the courts, or to some other tribunal or forum established by law for the resolution of any dispute”.⁵⁸ This right can be invoked, for example, by any person whose constitutionally-enshrined rights to property,⁵⁹ rights to agricultural land,⁶⁰ environmental rights⁶¹ or liberty from forced evictions⁶² have been infringed by another natural or legal person in urban planning and land development processes. Suits of this nature can be brought directly before the Constitutional Court, “when it is in the interests of justice and with or without leave of the Constitutional Court”⁶³ or through an “appeal directly to the Constitutional Court from any other court”.⁶⁴ The Constitution also provides members of the general public the

49 Ibid, Chapter 1, Section 17.1(a).

50 Ibid, Chapter 2, Section 20.1.

51 Ibid, Chapter 2, Section 20.1(b).

52 Ibid, Chapter 2, Section 21.2(a).

53 Ibid, Chapter 2, Section 22.2.

54 Ibid, Chapter 2, Section 18.1.

55 Ibid, Chapter 2, Section 18.2.

56 Ibid, Chapter 4, Part 2, Section 62.

57 Ibid, Chapter 9, Section 194.1(h).

58 Ibid, Chapter 4, Part 2, Section 69.3.

59 Ibid, Chapter 4, Part 2, Section 71.

60 Ibid, Chapter 4, Part 2, Section 72.

61 Ibid, Chapter 4, Part 2, Section 73.

62 Ibid, Chapter 4, Part 2, Section 74.

63 Ibid, Chapter 8, Section 167.5(a).

64 Ibid, Chapter 8, Section 167.5(b).

right of access to administrative justice through judicial redress in the event that a person's "right, freedom, interest or legitimate expectation has been adversely affected by [the] administrative conduct" of public officials.⁶⁵

The **Environmental Management Act** requires the notification of all people who may be affected by rules, regulations or other acts of the National Environment Council, Environmental Management Agency, or Environmental Management Board. The notification must take place through notices in the Gazette and a newspaper "with wide circulation of the places at which the proposed quality standards"⁶⁶ or other regulations will be exhibited to invite a period of public comment. This period of public comment is required before formulating quality standards⁶⁷ and after plans and regulations have been formulated. The Environmental Management Agency further promotes public accountability by establishing that the Agency is a legal entity that can sue and be sued.⁶⁸ The equitable and effective participation of all interested or affected parties is a fundamental principle of environmental governance established in the Agency. It holds that "all people must be given an opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation"⁶⁹ in environmental governance, and that "environmental education, environmental awareness and the sharing of knowledge and experience must be promoted [to] increase the capacity of communities to address environmental issues and engender values, attitudes, skills and behaviour consistent

with sustainable environmental management."⁷⁰

The implementation of this fundamental principle is primarily vested with the Minister of Environment, Climate, Tourism and Hospitality Industry, who is given the duty to "coordinate the promotion of public awareness and education on environmental management", and the National Environmental Council, which is tasked with promoting co-operation amongst public authorities and the private sector, non-government organizations, and other civil society organizations engaged in environmental protection programmes.⁷¹ The Environmental Management Act also provides for access to environmental information. The Environmental Management Agency has in practice implemented information sharing activities and collaborates with non-government organizations, the private sector and other public departments to promote environmental awareness, including on the impacts of climate change across the country. Other relevant provisions that enhance participatory governance include the requirement for the director of the Agency to ensure that project proponents conduct broad stakeholder consultations during the process of conducting environmental impact assessments as prescribed in the Environmental Management Act and regulations.⁷² Many environmental impact assessment reports in Zimbabwe include a section or component on how the project may impact on climate change or contribute to greenhouse gas emissions. However, in practice, many communities affected by projects in urban and rural communities have reported that companies are not complying with environmental impact assessment requirements.⁷³ The

65 Ibid, Chapter 4, Section 68.2 and 68.3(a).

66 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part IV, Section 10.3(a).

67 Ibid.

68 Ibid, Part IV, Section 9; Part XIV, Section 129.1; Part XIV, Section 130.

69 Ibid, Part II, Section 4.2(c).

70 Ibid, Part II, Section 4.2.d.

71 Ibid, Part II, Section 5.1e; Part III, Section 8.1(c).

72 See Part XI, Section 98 and Section 10.4 of the Environmental Management Act.

73 These views were expressed by civil society groups that

establishment of environment committees and subcommittees at the local level (urban or rural district councils) comprising various stakeholders and councillors also indicates a participatory approach to environmental governance. This has enabled environmental committees to become vehicles of localized policies and action on climate change-related issues.

Multi-stakeholder engagement⁷⁴ is a key element of the **National Climate Change Response Strategy**. The participatory tools used to enable these climate change strategies include enhancing the teaching and learning about climate change by providing relevant training for teachers, implementing a communication strategy to raise awareness about climate change, encouraging information-sharing and networking at local to international levels, and including indigenous knowledge systems in climate change communication.⁷⁵ Collaboration between the Government, local authorities, communities, United Nations agencies, development partners and civil society are encouraged to support climate response at the local level since communities are most vulnerable to climate shocks and extreme weather.⁷⁶ However, it should be observed that while the National Climate Change Response Strategy stipulates sanctions for non-compliance, it is not legally enforceable. In practice, communities may fail to participate in climate change-related processes due to various constraints, such as a lack of information about participatory procedures or the politics of exclusion. The Pomona Waste to Energy Power Station venture is an example of a project that was undertaken without adequate

stakeholder consultation that led to many urban residents calling for its cancellation due to procedural questions about how the decision to award the public procurement contract was made by the Harare City Council and Cabinet.

The National Climate Policy of 2017 states that it was developed based on an integrated and participatory process through consultation of all stakeholders and was wholly owned by Zimbabweans.⁷⁷ This participatory approach is the first key principle underpinning the policy.⁷⁸ However, the details and methods of the policy's development process were not explicitly shared and so it is unclear how its participatory approach could specifically be applied to future policy development. The National Climate Policy also emphasizes education, training and awareness-raising to support successful policy adoption and implementation,⁷⁹ however it does not outline how that education, training, and awareness might have played a role in drafting the policy or assisted in other stages of policy development.

The **Water Act** requires the Minister of Lands, Agriculture, Fisheries, Water, Climate and Rural Development to encourage the participation of consumers in the "equitable and efficient allocation of the available water resources in the national interest for the development of the rural, urban, industrial, mining and agricultural sectors".⁸⁰ Catchment councils are also required to investigate disputes regarding water resource allocation, which can indirectly facilitate public participation in water policy decision-making. The composition of catchment and subcatchment councils in terms of the Water

attended the Stakeholder Consultation meeting in Harare on 8 June, 2022.

74 National Climate Change Response Strategy, 2019, p. ii.

75 National Climate Change Response Strategy, 2019, p. ix.

76 Ibid, Section 5.1.1, p. 62.

77 Ibid, Section 5.1.1, p. 62.

78 Ibid, Section 1.2, p. 3.

79 Ibid, Chapter 4, p. 13.

80 Zimbabwe Water Authority Act [Chapter 20:25], 2000, Part I, Section 6.

Act and Water Regulations⁸¹ reflects some efforts to ensure stakeholder participation in water governance. Water users and stakeholder groups must be represented in catchment councils and subcatchment councils. For example, subcatchment council members may include urban authorities, rural district councils, farmers, industry and miners among others.⁸² Further, any person with an interest in matters pending before catchment councils can make representations.⁸³

Urban councils and rural district councils may promote public participation in their respective affairs through the publication of notices inviting public objections to any decision of council. Some meetings of council committees, including the environment committee, may be open to the public.⁸⁴ While stakeholders are not clearly defined, the **Rural District Councils Act** does provide mechanisms for certain levels of participation. Councillors are selected through a general election, suggesting participation from the electorate.⁸⁵ The council can establish boards or tribunals to manage disputes between the council, landowners and others.⁸⁶

In terms of gender participation, the **National Gender Policy** 2017 seeks to promote equality between women and men in Zimbabwe through the empowerment of women in all spheres of life. In the economic sector, this includes the subsectors of land, agriculture, resettlement,

industry, mining, energy, environment and water. Key strategies to promote gender equality include the formulation and adoption of gender-sensitive policies that enhance the balanced participation of women and men in the mining, energy, tourism and environment sectors; the development of an energy policy that is gender sensitive; and the provision of adequate gender-sensitive forms of energy. The National Gender Policy does not include specific language on climate change, although it refers to the energy sector.

1.3 DATA COLLECTION AND SHARING

The Government of Zimbabwe defines the policy, legislation and regulations regarding data collection and sharing of climate-sensitive information primarily in the National Climate Policy of 2017 and the Environmental Management Act of 2003.

Chapter 6 of the Policy (On Technology Transfer and Information Sharing) defines the manner in which data must be collected and shared among local, subnational and national levels of government. Generally, the Government “shall promote the use of traditional and modern technologies for generation and exchange of climate information, products and services in appropriate languages”.⁸⁷ The Climate Change Management Department was established to serve as a climate change information hub, designed to “generate, coordinate, collect, store, retrieve and disseminate reliable, high-quality and up-to-date data and information”.⁸⁸ Along with this data, this department is tasked with providing guidelines and tools to inform the use of climate data in development decisions.⁸⁹

81 Water Act, Section 20 and 24. See also Section 3 of the Water (Subcatchment councils) Regulations, 2000.

82 See definition of stakeholder group in Section 2 of the Water (Subcatchment councils) Regulations, 2000.

83 Water Act [Chapter 20:24], 1998, Part III, Section 25.

84 Urban Councils Act, Section 87 and Section 171, for example, on notice and objections to any proposed sewerage works.

Further, the process of promulgation of by-laws (Section 227) ordinarily includes public consultation through gazetting for public comment before they become operational.

85 Rural District Councils Act [Chapter 29:13], 1988.

86 Ibid.

87 National Climate Policy of 2017, Section 6.2.4.

88 Ibid.

89 Ibid.

Similarly, the National Climate Policy stipulates that the Meteorological Services Department shall be capacitated with the ability to provide reliable and high-quality meteorological data.⁹⁰ It also describes goals to enhance the development of technologies for climate modelling and forecasting,⁹¹ to further lower emissions and to develop technologies to increase opportunities “related to energy security, energy access, employment generation, cost-savings, resource efficiency and other health benefits”. To do this, the Government will identify the technology needs and priorities of the country⁹² and facilitate the “removal of barriers to technology transfer”.⁹³

Additionally, Chapter 6 of the National Climate Policy defines ways that subnational governments can collect and share information with one another. The Government of Zimbabwe is to set up “climate information hubs in every province to collect primary information” and distribute the climate knowledge they collect.⁹⁴ Chapter 6 also includes policy provisions surrounding data collection and sharing between different institutions within the same city. To enhance climate services using research and indigenous forms of climate knowledge, the Government “shall promote collaborative work between research institutions, climate change management and meteorological services departments”. These collaborative exchanges are expected to generate more information and provide improved climate information products.⁹⁵ They “shall collaborate with the private sector, CSOs [civil society organizations], universities and research institutions and development partners” to develop and share technologies and

90 Ibid.

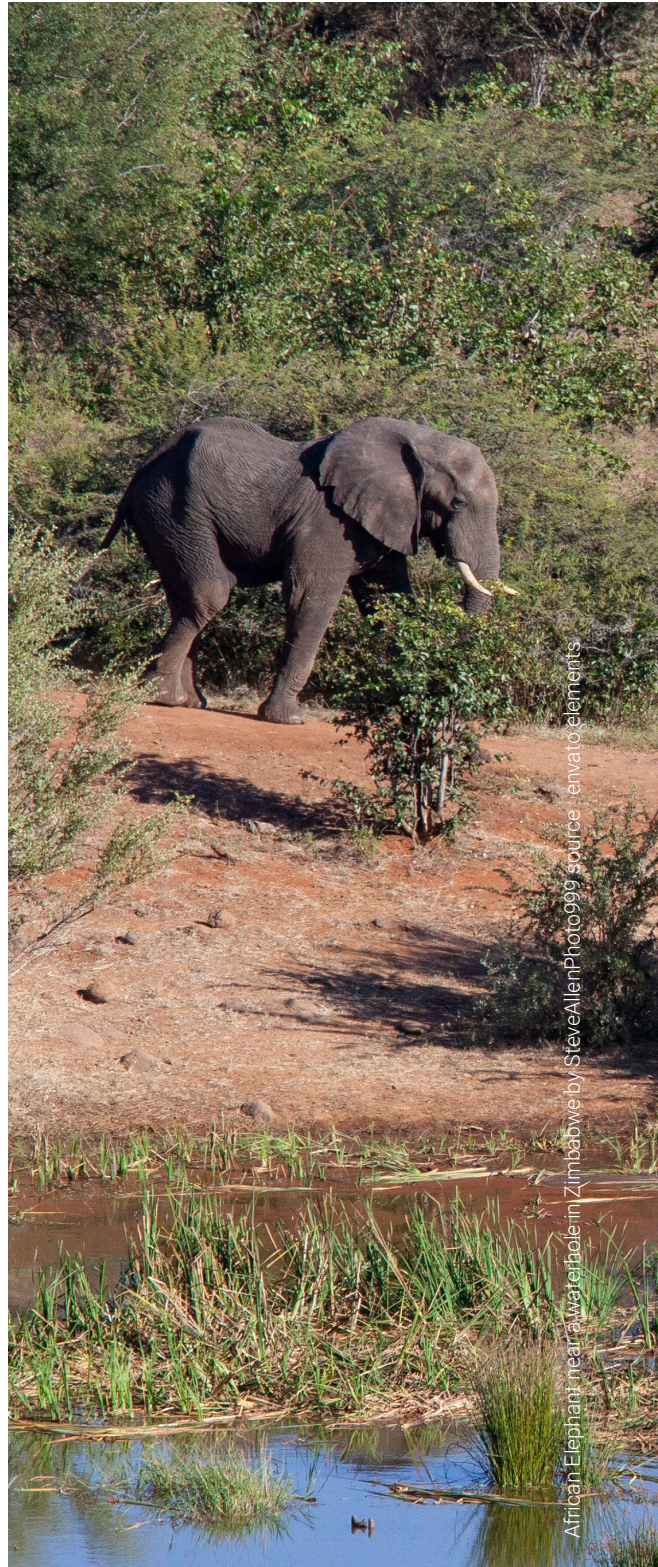
91 Ibid, Section 6.1.6.

92 Ibid, Section 6.1.1.

93 Ibid, Section 6.1.2.

94 Ibid, Section 6.2.3.

95 Ibid, Section 6.2.5.



African Elephant near a waterhole in Zimbabwe by SteveAllenPhoto999 source - envato elements

assist with technical support for “climate-related infrastructure development, preparedness and resilience”.⁹⁶

The **National Climate Change Response Strategy** of 2019 provides decision-makers with potential actions to strengthen climate and disaster risk management policies, which include initiatives to improve data collection and sharing. In the sections that outline economic sectors (industry/commerce, mining, tourism) and physical infrastructure (energy, transport and waste management), the Strategy primarily contains suggestions on ways to identify inefficient technologies, manage and collect emissions data and set standards for the reduction of consumption in each sector. These goals rely on having adequate capacity at all levels of government to collect and process data and to work across sectors when implementing best practices. Section 4 of the Strategy outlines this, citing the need to “create a policy framework that will improve access to and promote uptake of cleaner and more efficient technologies across all economic sectors”.⁹⁷

In addition to its economic sectors, the National Climate Response Strategy envisions strengthening the National Meteorological and Hydrological Services through “improved data collection and management, and climate modelling”.⁹⁸ Furthermore, it outlines the goal for the Services to work with the provincial, district and ward levels of government to share information on climate change.⁹⁹ The sharing of information is a central component of the Strategy, especially to build knowledge on climate change. It includes “enhancing the

96 *ibid*, Section 6.1.5.

97 National Climate Response Strategy, 2019, Section 4.1.3(a), p. 58.

98 *Ibid*, Section 4.1.2 a, p. 57.

99 *Ibid*.

teaching and learning of climate change at all levels of education” and “provid[ing] relevant training on climate change issues for educators and practitioners working with communities”.¹⁰⁰ Lastly, the plan emphasizes integrating a system of indigenous knowledge to help guide localities’ climate response.¹⁰¹

Beyond data collection and sharing, the **Environmental Management Act** also includes legal provisions on data management and sharing. Part IX of the Act, Environmental Quality Standards, defines the duties of the Standards and Enforcement Committee, which is a part of the Environmental Management Board. This committee shall help the Environmental Management Agency to collect data that can be used to advise the Board as it carries out investigations of actual or suspected water pollution.¹⁰² Additionally, the Standards and Enforcement Committee shall “maintain and interpret data from industries and local authorities on the pre-treatment levels of effluents”.¹⁰³

Statutory Instrument 131 of the **Environmental Management Regulations** of 2016 requires the Ozone Office, now operating as the Climate Change Management Department, of the Ministry of Environment, Climate, Tourism and Hospitality Industry to collect information and data regarding greenhouse gasses and equipment dependent on ozone-depleting substances.¹⁰⁴ Under the direction of the Secretary for Environment, Water and Climate, the Ozone Office is to keep accurate records and

100 *Ibid*, Section 4.1.1 c, p. 60.

101 National Climate Response Strategy, 2019, Section 4.2.2(d), p. 61.

102 Environmental Management Act [Chapter 20:27], 2002, Part IX, Section 56(f).

103 *Ibid*.

104 Statutory Instrument 131, the Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulations, 2016, Section 9.1.

collect annual reports of quantities and sources from every licensed importer or exporter of ozone-depleting substances or greenhouse gas.¹⁰⁵ In practice, the Climate Change Management Department shares information and data with local authorities on climate change mitigation and adaptation. Further, Section 18(1) of the **Environmental Management (Atmospheric Pollution) Regulations** of 2009 provides for the publication and provision of information. In its annual report, the Environmental Management Agency is required to state the number of licences issued, applications received, income accrued and to provide a summary of comments and recommendations received from persons consulted. The Agency is also required to publish a report on the quality of air in the country. It may also share information for research purposes. These provisions facilitate collection of data and sharing of information related to greenhouse gas emissions in the country and the impacts on climate change.

The **Constitution of Zimbabwe** in Section 62 guarantees citizens the right of access to information held by the State or by any institution or agency of Government at every level, in so far as the information is required in the interests of public accountability. Information is defined as including documents such as records, correspondence, fact, opinion, advice, memorandum, data, statistics, book, drawing, plan, map, diagram, photograph, audio or visual record. The **Freedom of Information Act** regulates the provision of publicly held information. It imposes a duty on every responsible person or holder of statutory office who, in this case, is a public official to create, keep, organize and maintain information in the interests of public accountability.¹⁰⁶ Every public entity is required

105 Ibid, Section 10.1.(a), (b).

106 Freedom of Information Act [Chapter 10:33], No. 1 of 2020,

to have a written information disclosure policy through which it discloses information in the interests of public accountability. The access to information legislation applies to local authorities – both urban and rural. While the Freedom of Information Act does not contain climate change language, it applies to any public entity whose operations relate to or affect climate change and climate change governance, such as urban and rural councils. These public bodies are required to provide information to the public subject to any access to information limitations clauses in the Act.

The **Urban Councils Act** contains a section on disclosure of documents and publication of proceedings of Council. Councils are empowered to make by-laws to regulate the disclosure of documents and records of the council, including the proceedings of any committee of the council or of the council whilst in committee.¹⁰⁷ This requirement appears to be largely aimed at restricting access to information and may need to be repealed and aligned with the constitutional provision on freedom of information and the limitations to information access stipulated in the Freedom of Information Act.

Regarding water regulations, one of the functions of Catchment Councils and Subcatchment Councils is to work with the Zimbabwe National Water Authority to maintain a database and information system for water catchment, and to assist in the collection of data and planning.¹⁰⁸ While the function of data collection is not specifically stated as being meant for monitoring climate change, access to this data is critical to

Section 4.

107 Urban Councils Act [Chapter 29:15], No. 24 of 1995, Section 7 of Third Schedule.

108 Statutory Instrument 33 of 2000, Water (Catchment Councils) Regulations and Water (Subcatchment Councils) Regulations, 2000.

inform the requisite climate change-adaptation measures.

1.4 LOCAL GOVERNMENTS' MANDATE FOR URBAN PLANNING IN URBAN AREAS

While the national Government of Zimbabwe is entrusted with maintaining a “proper balance in the development of rural and urban areas”,¹⁰⁹ the **Constitution of Zimbabwe** gives provincial and local authorities the power to determine development priorities in their respective districts.¹¹⁰ Moreover, the Constitution provides that government powers “must be devolved to provincial and metropolitan councils and local authorities”¹¹¹ whenever possible and appropriate. It defines two levels of subnational government tasked with urban governance: metropolitan and local government. The Bulawayo and Harare Metropolitan Provinces are the main government bodies for the country’s two largest metropolitan areas. These metropolitan governments are overseen by a metropolitan council tasked with, inter alia, “planning and implementing measures for the conservation, improvement and management of natural resources in its province”.¹¹² Such councils are composed of National Assembly members representing the province, the mayor of the city, and others. In the case of Harare, the council includes both the Mayor of Harare and the mayor of the second-largest urban local authority in the district.¹¹³ Both provincial and metropolitan councils are responsible for the social and economic development within the

region and must coordinate the implementation of government programmes.¹¹⁴ Responsibilities also include monitoring and evaluating the use of resources in its province. At the local level, urban local authorities “represent and manage the affairs of people in urban areas throughout Zimbabwe”.¹¹⁵ These local authorities are themselves managed by urban councils composed of elected councillors and presiding mayors or chairpersons. The Constitution guarantees local authorities the right to “govern, on its own initiative, the local affairs of the people within the area for which is has been established, and has all the powers necessary for it to do so”.¹¹⁶ Through the Urban Councils Act, local authorities have been conferred with the power to make by-laws, regulations or rules for the effective administration of their areas as foreseen by the Constitution.¹¹⁷ Metropolitan and local government alike are obliged to respect, protect, promote and fulfil constitutionally enshrined environmental rights including the right to “secure ecologically sustainable development and use of natural resources while promoting economic and social development”.¹¹⁸ Furthermore, public administration is also tasked with being “development-oriented”.¹¹⁹

The **National Climate Policy** of 2017 provides further mandates for planning in urban areas, stating that institutional collaborations between urban governments should be encouraged to advance climate change initiatives. These include integrating climate change into planning, infrastructure, investments and service delivery.¹²⁰ While this provision seeks

109 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 2, Section 13.1(d).

110 Ibid, Chapter 14, Section 264.

111 Ibid, Chapter 14, Section 264.1.

112 Ibid, Chapter 14, Section 270.1(c).

113 Ibid, Chapter 14, Section 269.1.

114 Ibid, Chapter 14, Section 270.1(a).

115 Ibid, Chapter 14, Section 275.2(b).

116 Ibid, Chapter 14, Section 276.1.

117 Ibid, Chapter 14, Section 276.2(a).

118 Ibid, Chapter 4, Section 73.1(b)(iii).

119 Ibid, Chapter 9, Section 194(c).

120 National Climate Policy, 2017, Chapter 7, Section 2.1.

to foster greater climate change collaboration, it does not specifically require steps to be taken by local governments in urban areas to achieve the desired outcomes. However, the Environmental Management Act designates every local authority to prepare an environmental action plan that meets the requirements that the Minister sets.¹²¹

The **National Climate Change Response Strategy** of 2019 includes several provisions that legislators should adopt to further mandate local urban planning authorities to address climate change. Section 5 of the Strategy recommends “build[ing] the institutional, financial and adaptive capacity of local authorities to address climate hazards and to adopt budgets and plans that are responsive to climate change”.¹²² The implementation of this recommendation would provide local planning with greater tools to manage, control, and improve practices that touch on topics such as water, land use, waste, economic sectors and physical infrastructure. Additionally, the Strategy recognizes the need to adopt a policy framework that allows for climate change-response to take regional agreements and local scenarios into account.¹²³ Lastly, in Section 3, the National Climate Change Response Strategy highlights the uncoordinated approach to climate change and adaptation work, and recommends the development of an “integrated and coordinated approach to reducing disaster risk and to address impacts of climate change through a multi-stakeholder approach”.¹²⁴

The **Urban Councils Act**¹²⁵ empowers urban councils to make by-laws regulating different

planning, construction and use of buildings in urban areas. The Act refers to land-use regulations for classifying the areas and locations where buildings can be constructed and where construction is prohibited due to instability, poor drainage or is otherwise susceptible, resulting in unhealthy or unsuitable buildings.¹²⁶ The Urban Councils Act also prohibits the construction of any buildings without plans, specifications and structural calculations having been submitted to the council and approved.¹²⁷ Councils can pass by-laws for approving the nature, design and appearance of buildings in urban areas. They are also empowered to make by-laws for the preservation and conservation of natural resources¹²⁸ and preservation of trees, shrubs and other vegetation on property under the control of the council and the prevention of injury to such vegetation.¹²⁹ In practice, most urban councils established special departments that manage planning within their jurisdiction, such as the City of Harare Planning Department. These planning related provisions are key for climate change responsive planning in urban areas.

Other acts and regulations have been passed to regulate the planning and construction of buildings in Zimbabwe. For example, the **Housing Standards Control Act** provides for the setting of housing standards by local authorities and for the control and demolition of unsatisfactory buildings, harmful use of buildings or overcrowding in buildings. The **Housing Standards Control (Procedures and Forms) Regulations RGN no. 1091/1973** provides for due process in the way in which authorities can demolish or regulate the occupation or use of buildings within their territories. The Model

121 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part X, Section 95.1.

122 National Climate Response Strategy, 2019, Section 5.1.1(a), p. 145.

123 Ibid, Section 5.2(a), p. 64.

124 Ibid, Section 3.3.3(a), p. 50.

125 Urban Councils Act [Chapter 29:15], No. 24 of 1995.

126 Ibid, Third Schedule, Part IV, Section 34.1, 2.

127 Ibid, Third Schedule, Part IV, Section 35.

128 Ibid, Third Schedule, Part III, Section 16.

129 Ibid, Third Schedule, Part III, Section 15.

Building By-laws RGN 125 of 1978 provide for standards to be observed in the construction of buildings in urban areas. While these legal frameworks do not include specific language on climate change adaptation and mitigation, many urban municipalities are integrating, or requiring land developers to include, climate change-related planning issues into their operations.

The **Regional, Town & Country Planning Act** provides for the planning of regions, districts and local areas with the aim of conserving and protecting the physical environment and promoting health and safety in the context of development control.¹³⁰ It establishes various authorities with the mandate to prepare regional and local plans for the purpose of regulating development in the area. These authorities have the power to control development within their territories and can halt development projects which are not pursued in accordance with their published plans. However, many stakeholders believe that the Regional Town and Country Planning Act is now outdated and should be amended to include and address climate change issues.¹³¹ The Land Survey Act (Chapter 20:12) also does not specifically deal with climate change issues. It establishes the office of the Surveyor General whose duties include supervising and controlling the survey of land in Zimbabwe and examining all diagrams and plans for land surveys.

While the **Rural District Councils Act** of 1988 primarily deals with the management of land outside urban areas, it also provides district councils with the power to acquire land to advance public health and town planning

needs.¹³² Rural district development committees should consider ward development plans, make recommendations regarding the annual development and other long-term plans for the district, prepare the annual district development plan for approval by the council, and assist in the preparation of other long-term plans for the council area.¹³³

In terms of the Zimbabwe National Water Authority Act, the Zimbabwe National Water Authority plays a role in planning which may have implications for climate change measures adopted by urban authorities. The Authority is required to encourage and assist catchment councils to plan and coordinate the development and management of water resources in areas under their jurisdiction. It is mandated to conduct hydrological and geographical surveys and to produce plans, maps or other information necessary in the planning, development and exploitation of water resources, and to publish such surveys, plans or maps. Catchment and subcatchment councils also play a role in water use and distribution planning. Subcatchment councils assist in planning while catchment councils prepare and updating outline plans for river systems.¹³⁴

RECOMMENDATIONS

Multilevel institutional coordination:

- Greater integration of multilevel governance responding to impacts of climate change, particularly through partnerships and participatory governance, is needed in Zimbabwe.

130 Regional, Town & Country Planning Act [Chapter 29:12], 1976, Preamble.

131 These views were expressed during the Zimbabwe Stakeholders Consultation workshop in June 2022.

132 Rural District Councils Act [Chapter 29:13], No. 8 of 1988, Section 78.

133 Ibid, Part VIII, Section 60.

134 See the Water (Subcatchment Councils) Regulations, 2000 and Water (Catchment Councils) Regulations.

- Provisions for coordination among local jurisdictions within the same metropolitan area, between neighbouring cities and rural areas, and among different line departments in local governments should be incorporated into the regulatory framework surrounding planning and climate change. The concept of cooperation found in the Constitution should be put into practice and procedures should be developed for enhancing inter-institutional coordination and collaboration on climate change in particular.
- The Environmental Management Bill, which is under development to amend the Environmental Management Act, should include explicit provisions on climate change and multilevel climate governance. It should also include provisions for monitoring environmental impact assessments at the community or stakeholder level in order to enhance compliance by developers and project managers.

Participatory governance:

- The Regional, Town and Country Planning Act and the Environmental Management Act should include measures for stakeholder participation and community identification in urban planning processes and climate planning processes, respectively.

Data collection and sharing:

- The National Climate Policy of 2017 should define the process of sharing data between city departments and these provisions should be integrated into a binding climate change law.
- The Climate Change Management Department should be supported by a comprehensive legal framework that sets

out its functions and duties, otherwise the regulations that provide for its establishment (Statutory Instrument 131) should be amended to specify the Department's functions and duties, including those related to data collection and sharing.

Local governments' mandate for spatial planning in urban areas:

- Zimbabwe should develop a comprehensive Climate Change Law which clarifies how urban local authorities, metropolitan and provincial councils, and the national Government coordinate environmental and urban management. Such a law may build upon and consequently strengthen the objectives and actions foreseen in the National Climate Change Response Strategy of 2019 and the National Climate Policy by rendering them legally binding and enforceable.
- The Constitution tasks public administrators with being development oriented. However, the definition of national development provided in the Constitution does not reference environmental stewardship or climate change response. Environmental sustainability and climate change mitigation and adaptation should be incorporated into the definition of national development, and, indirectly, the mandate of public administration.

See table 1 for a summary of the main laws, regulations and policies referred to in this chapter.

TABLE 1. Referenced legislation and policies (Governance framework for urban and climate planning)

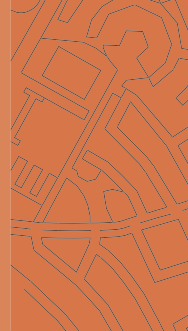
Legislation	Year
Constitution of Zimbabwe	2013
Energy Regulatory Authority Act	2011
Environmental Management Act	2002
Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulation, Statutory Instrument 131	2016
Environmental Management (Atmospheric Pollution) Regulations	2009
Freedom of Information Act	2020
Housing Standards Control Act	1972
Housing Standards Control (Procedures and Forms) Regulations RGN no. 1091	1973
Model Building By-laws RGN 125	1978
Petroleum Act	2010
Provincial Councils and Administration Act	1985
Regional Town and Country Planning Act	1976
Rural District Councils Act	1988
Traditional Leaders Act	1998
Urban Councils Act	1995
Water Act	2000
Zimbabwe National Water Authority Act	2000
Policy	Year
National Climate Change Response Strategy	2019
National Climate Policy	2017
National Development Strategy	2020
National Energy Policy	2012
National Gender Policy	2017
National Renewable Energy Policy	2019
Zimbabwe Vision 2030	2018



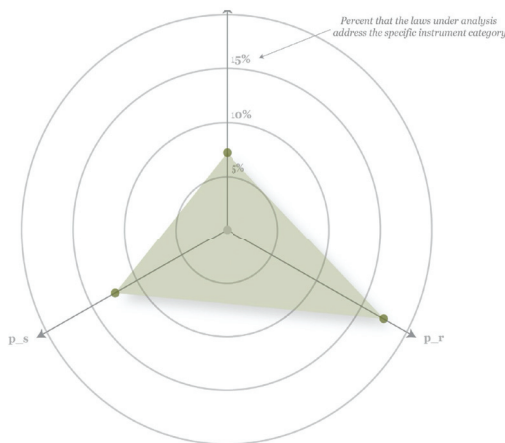
Dried Zimbabwe Baobab Tree by Linda Polik source : flickr

CHAPTER 2.

URBAN AND TERRITORIAL PLANNING



EXECUTIVE SUMMARY



Planning Instruments

- p_n National territorial planning
- p_r Regional territorial planning
- p_s Spatial plans for urban areas

Figure 4: Rating matrix for Zimbabwe on Urban and Territorial planning

The New Urban Agenda requires the integration of climate change adaptation and mitigation considerations and measures in urban and territorial development and planning processes. This is in recognition of cities being both major contributors to climate change and the main targets of its effects and risks.¹³⁵ However, in the legal and policy framework surrounding territorial and urban planning in Zimbabwe, there is scattered or little explicit discussion of climate change or climate adaptation. Apart from provisions and policies falling under environmental planning, protection or pollution language, or land preservation, planning issues

¹³⁵ New Urban Agenda, paragraph 101.

related to climate change such as assessments of future land needs, planning horizons, climate vulnerability and risk assessments, greenhouse gas assessments and land-use classification receive little or no attention at all levels of territorial planning. This is, in part, due to the fact that planning instruments for land-use predate more recent climate change legislation and policy. Furthermore, there appears to be limited coordination between the central Government and subnational authorities in drafting multilevel spatial plans, despite new constitutional provisions that seek to promote decentralization and the cooperation of public institutions and agencies at all levels.

Most countries have a three-tiered planning hierarchy operating at the national, regional and local levels. However, in Zimbabwe spatial planning is primarily done at the subnational levels, particularly at the local level. At the national level, the legal framework for spatial planning lacks provisions requiring the formulation of a national territorial plan which can guide spatial planning at the regional and urban or local levels. Provisions in the **Regional, Town and Country Planning Act** which require national-level authorities, such as the President or Minister of Local Government, Rural and Urban Development, to review and approve lower-tier spatial and development plans allow for some multilevel alignment of spatial planning and development goals. Nonetheless, there is no national territorial plan which classifies national land according to its use, establishes an integrated national inland and coastal transport

and infrastructure network, or coordinates with national climate plans.

The current spatial planning framework in Zimbabwe also promotes unbalanced development at the regional level due to limited rural planning instruments and a weak regional planning framework that does not make regional planning compulsory or mandate it to any permanent public body. These gaps in the legal framework for territorial planning perpetuate rural-to-urban demographic trends which, despite policies in the 1980s that attempted to slow the rural-urban migration, today still result in the neglect of rural urban planning.¹³⁶ Mitigating these gaps in regional planning is the power endowed to urban and rural district councils in the **Urban Council Act and Rural District Council Act**, respectively, to combine their jurisdictional powers overspatial development.

The legislation and policies reviewed emphasize the empowerment of local authorities. Urban master plans, local plans and climate action plans are all developed at the subnational level in either urban or rural contexts. The Regional, Town and Country Planning Act stipulates that these plans should include land use classifications and includes provisions for environmental and development controls; however, explicit planning considerations dedicated to climate change issues are primarily addressed in policy frameworks. It should also be noted that in order to effectively guide spatial planning, Zimbabwe needs a sufficiently stable and robust economy to ensure that local authorities have the financial capacity to fulfil their planning and governance mandates.¹³⁷

136 Mhlanga, Gift, Innocent Chirisa and Verna Nel (2021). "Urban Planning and Policy in Zimbabwe: Change with Continuity." SpringerLink. Springer International Publishing, 8 May. https://doi.org/10.1007/978-3-030-71539-7_3, p. 49.

137 Ibid, p. 5.

66

The urban law framework in Zimbabwe should include provisions establishing a national territorial plan which is coordinated with the National Environmental Plan and can guide territorial planning at the regional and local levels.

99

Sustainable spatial planning frameworks rooted in law contribute to economic growth by promoting a stable regulatory environment and protecting development investments from the effects of climate change and natural disasters. This, in turn, could contribute to the budgeting for increased periodic reviews of planning legislation, funding to address urban growth and new informal settlements, and providing resources to address infrastructure needs.¹³⁸

2.1 NATIONAL TERRITORIAL PLANNING

While the **Regional Town and Country Planning Act** of 1976, referenced throughout much of the legislation of Zimbabwe, does not outline specific guidance for national climate action plans, it does grant regulatory powers to the Minister of Local Government, Rural and Urban Development that are "required or permitted to be prescribed...for carrying out, or

138 Ibid, p. 5.

giving effect to, the provisions of this Act”.¹³⁹ These include actions such as determining the form, content and procedure of plans, permits and enforcement orders. Further, the Act states that the minister “may issue advisory notes and guides to local planning authorities on any matters connected with the exercise or performance of their functions or duties in terms of this Act”.¹⁴⁰ Lastly, in Section 7.1, the President is given authority to approve or reject regional plans,¹⁴¹ which provides leverage for national priorities, especially those relating to climate goals, to be reflected in regional planning. This section aims to assess the human and administrative capacity of planning institutions to respond to local needs and priorities. The other objective is to assess the process of enforcing and monitoring compliance with development planning.

The **National Development Strategy** includes environmental protection when considering urban management goals. One such strategy includes the goal of “promoting sustainable consumption and production” but lacks any quantifiable or legally binding standards.¹⁴² Housing developments must conform to the local authorities’ by-laws, but there is no national standard for layout plans and environmental considerations.¹⁴³

2.2 REGIONAL TERRITORIAL PLANNING

The legal framework of Zimbabwe provides opportunities for regional planning without

necessarily mandating it to any permanent public body. Similarly, there are no legal provisions for regional planning that explicitly prescribe climate-oriented actions and protections; however certain laws provide opportunities that could include climate initiatives on the regional level.

The **Regional, Town and Country Planning Act** defines the planning duties, responsibilities and capabilities of different governmental entities; it also provides a fluid institutional structure for regional planning. The Act allows the President to establish regional planning councils,¹⁴⁴ which accordingly have the duty and responsibility to create regional plans¹⁴⁵ that “ensure the coordinated development of the region”,¹⁴⁶ including major land uses, transport systems, public utilities and other forms of infrastructure.¹⁴⁷ Part II of the Regional, Town and Country Planning Act states that regional councils shall “(a) before preparing its regional plan, prepare an inventory of the assets and resources of the region and, to the extent it considers necessary, of any contiguous area; and (b) thereafter, if it thinks fit or if the minister so directs, institute a further inventory of the region or any part thereof; and in such inventory the matters which may be expected to affect the development of the region or the planning of its development shall be examined and an analysis made and the regional planning council shall thereafter keep all such matters under review”.¹⁴⁸

While there is no requirement to coordinate regional plans with national territorial planning mechanisms, possibly because the Regional, Town and Country Planning Act is considered

139 Regional, Town and Country Planning Act [Chapter 29:12], No. 22 of 1976, Section 68.1.

140 Ibid, Section 69.2.

141 Ibid, Section 7.1.

142 National Development Strategy 1 (2021-2025), 2020, p. 208.

143 Ibid, p. 140.

144 Regional Town and Country Planning Act [Chapter 29:12], No. 22 of 1976, Part II, Section 3.1.

145 Ibid, Part II, Section 5.1.

146 Ibid, Part II, Section 6.2.

147 Ibid, Part II, Section 6.2(a).

148 Ibid, Part II, Section 6.

to be the national legal framework for planning purposes, the President can approve or reject regional plans¹⁴⁹ to ensure compliance with national-level development strategies. On the other hand, the State is obliged to have regard to any regional plan in operation when undertaking any development for State purposes. Moreover, the Act does provide an opportunity for coordination in drafting regional plans, where each council “shall consult with such persons as it may consider appropriate or as the minister may direct”.¹⁵⁰ This means that while the Act does not necessitate that councils consult with national planning authorities per se, they may be mandated to do so if the minister requests it. Furthermore, public institutions, including national and subnational planning authorities, must abide by the basic values and principles of public administration stipulated in Section 194 of the Constitution, which require all institutions and agencies of government at all levels to co-operate with each other.¹⁵¹

The Regional, Town and Country Planning Act does not detail emissions standards for transport systems or infrastructure projects required for each region, nor does it require climate vulnerability assessments of regional territorial plans. Rather, the most highly detailed descriptions of the necessary projects and protections are stipulated by the **Urban Councils Act**, which can fill in the gaps left by the Regional, Town and Country Planning Act at the regional level. Notably, the Act gives powers to the minister on behalf of a council area to make regulations to provide for “environmental protections from fuel emissions and pollutants”.¹⁵² This power,

along with the ability given to councils to work in combination with each other,¹⁵³ can result in coordinated efforts across a region (or regions) to take emissions into account during planning processes. However, it should be noted that this is permitted but not necessarily required by law. In terms of the ability to combine the efforts of different localities, the **Rural District Councils Act** confers the same powers on rural districts to combine with other non-regional entities¹⁵⁴ though, again, without mandating any specific climate-focused considerations. It should be noted that the Urban Councils Act is constructed with much greater detail than its rural counterpart, which may signal a prioritization of urban planning needs and neglect of rural spatial planning, creating unbalanced development at the regional level.

The **Environmental Management Act** does not include any legal provisions that require regional territorial plans to establish an integrated transport network or infrastructure system. However, it provides for environmental impact assessments which apply to infrastructure projects, including transport systems such as highways, airports and airport facilities and new railway routes and branch lines. For broader environmental goals, the Environmental Management Act states that it should “serve as the general framework”¹⁵⁵ for all environmental management plans, including at the local and regional levels.¹⁵⁶ Serving as the general framework includes guiding the interpretation, administration and implementation of any other

149 Ibid, Part II, Section 7.1.

150 Ibid.

151 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 9, Section 194.1(g).

152 Urban Councils Act [Chapter 29:15], No. 24 of 1995, Part XIV, Section 193(g).

153 Regional Town and Country Planning Act [Chapter 29:12], No. 22 of 1976, Part III, Section 10.2.

154 Rural District Councils Act [Chapter 29:13], No. 8 of 1988 Part X, Section 82, 83.

155 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part I, Section 4.3(a).

156 Ibid, Part IV, Section 10.1(b)(i); Part IV, Section 10.1(b)(viii); Part X, Section 95.1.

environmental laws in Zimbabwe.¹⁵⁷ The Act also allows for audits of projects that began prior to the implementation of the Environmental Management Act to make sure they align with standards presently in force.¹⁵⁸ A key role of the Minister of the Environment, Climate, Tourism and Hospitality Industry, as detailed by the Act, is to consult with local ministers and ensure their compliance with the regulations in the Act.¹⁵⁹

The **National Climate Policy** of 2017 includes several different provisions to ensure that local communities have the resources and skills needed to implement the objectives of the national climate plan. The policy facilitates local organizations to participate in international climate funding projects,¹⁶⁰ advocates for community-based organizations to help develop adaptation and mitigation strategies,¹⁶¹ and provides training to local practitioners responsible for climate-sensitive planning, budgeting, public awareness and development.¹⁶² While the National Climate Policy of 2017 does have a chapter on sustainable infrastructure (Chapter 2.5), it does not make any policy provisions for regional integration. Additionally, while the policy focuses on adaptation, mitigation and monitoring, it does not specifically address the assessment of climate vulnerability or greenhouse gas emissions associated with regional territorial plans.

The **Zimbabwe National Climate Response Strategy** and the **National Development Strategy** both devote more attention to transport networks, infrastructure systems and the assessment of climate vulnerability and greenhouse gas emissions. However, they do not address regional integration of transport

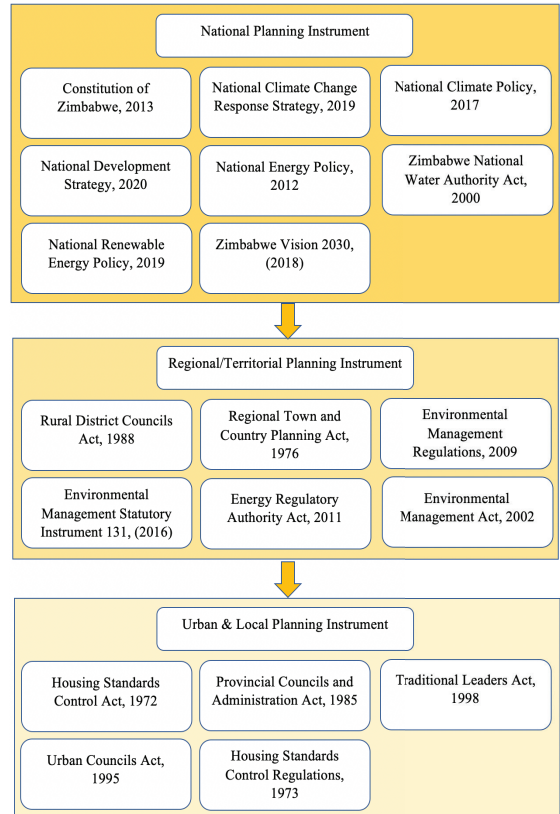


Figure 5: Hierarchy of planning instruments, policies and laws in Zimbabwe. Source :University of Michigan, Taubman College of Architecture and Urban and Regional Planning

networks¹⁶³ or infrastructure systems.¹⁶⁴ Regional assessments are part of the strategies for waste management greenhouse gas emissions¹⁶⁵ in the National Climate Response Strategy but are not specifically mentioned in the strategies for climate vulnerability assessment or in the National Development Strategy.

The **Zimbabwe Vision 2030** more clearly defines the roles and responsibilities of spatial planning and specifies how provincial and central Government plans should align. The goals of the Zimbabwe Vision 2030 are meant to provide the country with a set of values which summarize the long-term aspirations of Zimbabweans.

157 Ibid, Part II, Section.4.3(c).

158 Ibid, Part IV, Section 10.1(b)(xiv).

159 Ibid, Part Section 95.2.

160 Ibid, Part III, Section 7.2.5.

161 Ibid, Part III, Section 7.2.3.

162 Ibid, Part II, Section 4.1.3.

163 Zimbabwe National Climate Response Strategy of 2019, pp. 42, 46.

164 Ibid, p. 62.

165 Ibid, p. 50.

It especially focuses on fostering a business environment with entrepreneurship and foreign direct investment. While not legally binding, the pillars are meant to guide future decision making in national development.

One of the Zimbabwe Vision 2030 Governance Pillars states that “Regional Investment and Development Master Plans should be produced and adopted by Provincial Councils and speak to the National Investment and Development Master Plan authored by the Central Government through the proposed Zimbabwe Investment Development Agency.”¹⁶⁶ These plans must be spatial environment plans that are based on the resources of that region, an environmental impact assessment plan, a utilities plan, an investment opportunities and beneficiation plan, and a local empowerment and participation plan.¹⁶⁷

These efforts aim to make each province an economic zone. The central Government, in line with Section 264 of the Constitution on devolution, will devolve provincial economic development planning powers to provincial councils.¹⁶⁸ These plans should be unique to each province based on resource endowments of the region and need to engage with communities through “extensive bottom-up consultations at the village/ward, district and provincial levels”. They should also engage with the “private sector and development partners who are key in resource mobilization and deployment in the planning process”.¹⁶⁹

In the Zimbabwe Vision 2030, a central goal is the devolution of government to enhance local government powers and bring governance closer to communities.¹⁷⁰ Besides this general commitment to decentralize, there are no specific guidelines on how integration for

transport networks and infrastructure systems or coordination regarding climate plans or assessments with local authorities might be achieved at the regional level. **The Zimbabwe National Development Strategy 1 (2021-2025)** of 2020 provides a similar commitment to devolution and decentralization¹⁷¹ but does not describe the implementation measures or anticipated benefits of that commitment in other parts of the Strategy.

2.3 SPATIAL PLANS FOR URBAN AREAS

The **Constitution of Zimbabwe** devolves Government responsibilities to metropolitan provinces with the purpose of recognizing “the right of communities to manage their own affairs and to further their development”.¹⁷² Section 13 of the Constitution states that “the State and all institutions and agencies of Government at every level must endeavour to facilitate rapid and equitable development and in particular must take measures to (a) promote private initiative and self-reliance; (b) foster agricultural, commercial, industrial, technological and scientific development; (c) foster the development of industrial and commercial enterprises in order to empower Zimbabwean citizens; and (d) bring about balanced development of the different areas of Zimbabwe, in particular a proper balance in the development of rural and urban areas.”¹⁷³ In Chapter 16, the Constitution states that “agricultural land should promote food security, good health and nutrition, and generate employment, while protecting and conserving the environment for future generations”.¹⁷⁴

171 Zimbabwe National Development Strategy 1, (2021-2025), 2020, p. 177.

172 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 14, Part 1, Section 264.2(d).

173 Ibid, Chapter 2, Section 13.1.

174 Ibid, Chapter 16, Section 289.

166 Zimbabwe Vision 2030, No. 88, p. 14.

167 Ibid, No. 89, p. 14.

168 Ibid, No. 93, p. 15.

169 Ibid, no. 94, p. 15.

170 Ibid, p. 13.

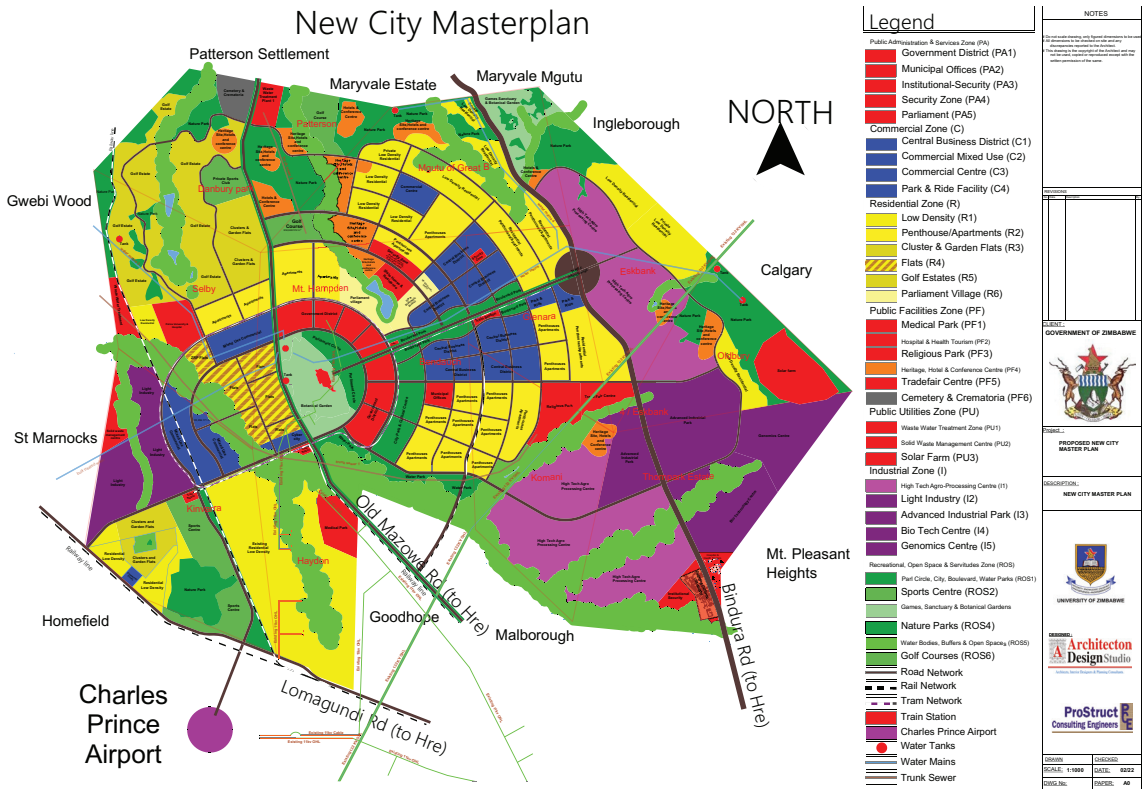


Figure 6: Harare New City Master Plan (2022)

The **Regional Town and Country Planning Act** gives authority to local planning authorities to create and implement urban master plans. Those plans shall regulate “(i) the use of land and the construction and use of buildings; (ii) the conservation and improvement of the physical environment, including the preservation of buildings of special architectural merit or historic interest; (iii) the economic development of the planning area; and (iv) the movement of traffic therein, including the closure and diversion of roads”.¹⁷⁵ The Regional Town and Country Planning Act also makes provisions for establishing local plans. Similar to master plans, the local plan should, in relation to the

planning area, formulate proposals for the coordinated and harmonious development, redevelopment or improvement and other use of land in that area, including measures for (i) the regulation of the use of land and the construction and use of buildings; (ii) the conservation and improvement of the physical environment, including the preservation of buildings of special architectural merit or historic interest; (iii) the movement of traffic therein, including the closure and diversion of any road; and (iv) the phasing of any development, redevelopment or improvement and concentrate on particular aspects or issues within the area that require attention and indicate the manner in which these are to be treated. Local plans must adhere to master plans by setting out “in detail the manner

175 Regional Town and Country Planning Act [Chapter 29:12], No. 22 of 1976, Part IV, Section 14.

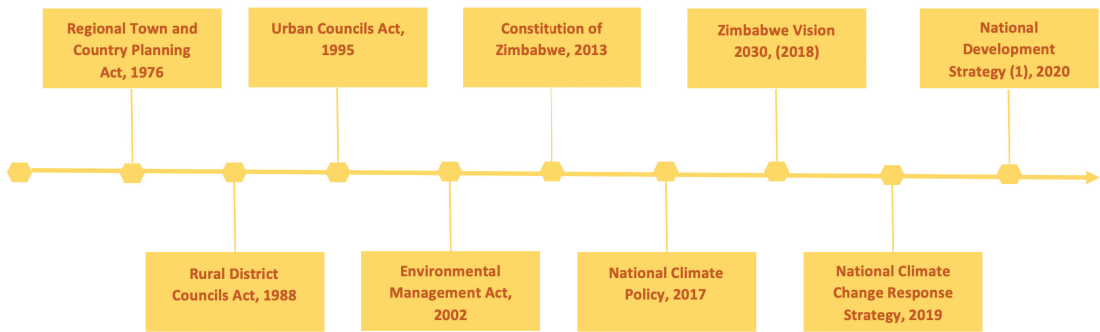


Figure 7: Chronology of Planning Instrument Laws and Policies. Source :
University of Michigan, Taubman College of Architecture and Urban and Regional Planning

in which the policy and general proposals of the master plan are to be implemented within that area”.¹⁷⁶ Furthermore, the Act empowers local planning authorities “to do anything which is necessary to implement an operative master plan or local plan or an approved scheme”, subject to any limitations imposed by the Act.¹⁷⁷

Climate change and environmental risks are not specifically mentioned in the Regional Town and Country Planning Act, however it does repeatedly mention that local authorities should consult with the Minister of the Environment, Climate, Tourism and Hospitality Industry, and that regional, local and master plans shall take “measures for the conservation and improvement of the physical environment”.¹⁷⁸ That Act also requires a local planning authority to “indicate in its master plan any part of the planning area which it has selected for comprehensive development, redevelopment or improvement as a matter of priority”.¹⁷⁹ Part V of the Regional Town and Country Planning Act stipulates controls for development, including for the preservation of trees and woodland. A permit for development or planning permission is required from the local

planning authority in order (a) to reconstruct a building in place of a demolished one; and (b) to enlarge, improve or otherwise alter an existing building.¹⁸⁰ When a proposal for development for State purposes conflicts with an operative master plan, a local plan or an approved scheme, the minister concerned is obliged to consult with the Minister of Local Government, Rural and Urban Development and the local planning authority concerned in relation to the proposed development.¹⁸¹

The **Urban Councils Act** applies to cities, municipalities, local government areas and their respective councils. It enables each urban council to address a range of matters in their plans, namely sewerage and drainage, water infrastructure, buses and other transport systems, roads and electricity. The Urban Councils Act grants councils the power to establish several land-use types including, grazing, farming, markets, hospitals, Government use and open space.¹⁸² The Third Schedule of the Act also establishes property use controls for the urban council. Those controls include uses, occupations, prevention of overcrowding

176 Ibid, Part IV, Section 17.

177 Ibid, Part III, Section 11.

178 Ibid, Part II, Section 6.

179 Ibid, Part IV, Section 14.

180 Ibid, Part V, Section 24.

181 Ibid, Part V, Section 28.

182 Urban Councils Act [Chapter 29:15], No. 24 of 1995, Second Schedule, Section 198.

and mitigating dangerous buildings.¹⁸³ Part IV of the Act pertains to the planning, construction and use of buildings and structures.¹⁸⁴ Other Acts and regulations that govern planning include the Housing Standards Control Act (Chapter 29:08) which provides for the setting of housing standards by local authorities and for the control and demolition of unsatisfactory buildings, harmful use of buildings or to control overcrowding in buildings. The Housing Standards Control (Procedures and Forms) Regulations RGN no. 1091/1973 establishes the way which authorities can demolish or regulate the occupation or use of buildings within their territories. The **Model Building By-laws RGN 125** of 1978 provide for standards to be observed in the construction of buildings in urban areas. While these legal frameworks do not include specific language on climate change, in practice many urban municipalities integrate, or require land developers to consider, climate change issues in planning and land development.

According to the **Rural District Councils Act**, the minister may classify lands into categories, including: “(a) large-scale commercial land; (b) resettlement land; (c) small-scale commercial land; or (d) urban land”.¹⁸⁵ According to Section 159 of the Act, regulations may be made to encourage “urban, economic and other development within areas declared to be developed areas in terms of the Urban Development Corporation Act (Chapter 29, 16)”.¹⁸⁶ The Rural District Councils Act defines an environment committee, which manages climate change issues in various Rural District Councils.

The **Environmental Management Act** gives power to local authorities to develop environmental action plans. These plans have been used by local authorities to plan for climate change and emission reduction. Meanwhile, the **National Climate Policy** of 2017 includes various policy provisions to ensure that urban plans consider climate risks and climate adaptation methods. While these provisions do not delegate planning tasks to lower levels of government, they do define the ways that the Government of Zimbabwe is to help local authorities enhance their plans. The Government will develop “guidelines for the planning and design of climate resilient infrastructure, including guidance to carry out climate impact assessments of proposed projects”.¹⁸⁷ Additionally, the Government shall “develop capacity among technical staff to adapt infrastructure plans to climate change”.¹⁸⁸ The Policy also seeks to promote climate education and training by “providing training to development practitioners in every local authority responsible for climate-sensitive planning, budgeting, public awareness and development.”¹⁸⁹ The Policy fosters collaboration amongst institutions by promoting “institutional collaborations that mainstream climate change into urban and rural planning, infrastructure, investments and service delivery”.¹⁹⁰ This National Climate Policy also aims to strengthen planning measures by considering the future effects of climate change. It calls on the Government to “develop capacity to strengthen modelling and impact studies among technical staff, including in the planning and design of development plans, programmes and projects”.¹⁹¹

The **National Climate Change Response Strategy**

183 Ibid, Third Schedule, Part III, Section 120, 145, 227, 232.

184 Ibid, Part IV.

185 Rural District Councils Act [Chapter 29:13], No. 8 of 1988, Part I, Section 3.

186 Ibid, Part XV, Section 159.

187 National Climate Policy of 2017, Section 2.5.1, p.7.

188 Ibid, Section 2.5.5, p.7.

189 Ibid, Section 4.1.3, p.13.

190 Ibid, Section 7.2.1, p.20.

191 Ibid, Section 5.3.3, p.16.

of 2019 endeavours to plan for the impacts of climate change to create a climate resilient nation. The Strategy includes goals that aim to plan for climate risks and provide climate adaptation options at the urban or local level. These goals seek to “mainstream climate change into urban and rural planning, infrastructure, investment and service delivery”.¹⁹² The Strategy has also identified the need to integrate indigenous knowledge into planning frameworks to enhance local authority decision-making.¹⁹³ It seeks to mainstream climate change into planning by “promoting a multi-stakeholder approach in urban and rural development planning” and by building the “institutional, financial and adaptive capacity of local authorities” to adopt plans that are responsive to climate change.¹⁹⁴

The Climate Response Strategy incorporates ways to improve the climate resilience of energy and infrastructure planning and to “build capacity on climate resilient transport planning and infrastructure development in institutions responsible for transport planning”.¹⁹⁵ It also includes the objective to “train local authorities to develop local environmental action plans”.¹⁹⁶

The **National Development Strategy 1** is a five-year, medium-term strategy to realize the visions outlined in the Zimbabwe Vision 2030 document. This Strategy puts a heavy emphasis on the business environment and economic development; however it does also offer guidelines for planning. The document is a non-binding guiding document meant to be used by the Government as well as the private sector, civil society and other partners.

Many of the goals of the National Development

192 Climate Response Strategy of 2019, p. ix.

193 Ibid, p. 32.

194 Ibid, p.145.

195 Ibid, p.116

196 Ibid, p.122.

Strategy 1 focus on assessing future land needs and identifying land safe from the effects of climate change. One major goal is to ensure future access to affordable housing. The Government aims to address this issue by “taking a holistic approach in planning for housing settlements, which will include planning for provision of key basic infrastructure such as information communications technology for the development of smart settlements for both urban and rural areas”.¹⁹⁷ To do this, the Government plans to acquire 10,000 hectares of urban land for housing development and calls on relevant agencies to provide development plans aligning with local authority by-laws.¹⁹⁸ Addressing housing issues in Zimbabwe also relies on the regularization of informal settlements. This will be supported by a specialized legal framework for informal regularization as well as the legal framework for spatial planning and provision of land. Another goal of the National Development Strategy 1 is to improve monitoring to ensure that municipalities adhere to their approved master plans.¹⁹⁹ Although these housing and planning goals are not strictly and legally delegated to local authorities, they indicate local oversight by outlining the outcomes they wish to achieve through already established systems.

The **Zimbabwe National Development Strategy** also considers the need for growth management strategies. It notes that a secure land tenure and land administration system is key to mitigating land conflicts and preventing urban expansion onto productive agricultural or otherwise protected land. The Strategy incorporates the aim to facilitate access to land and security tenure by strengthening “coordination within

197 Zimbabwe National Development Strategy 1 (2021-2025), 2020, No. 568, p. 137.

198 Ibid, no. 584, p.140.

199 Ibid, No. 617, p.146.

Government and across other sectors in enforcing land use planning regulations”.

RECOMMENDATIONS

National territorial planning:

- Legislation should provide for coordinated national climate plans and a national territorial plan to be established which can guide territorial planning at the regional and local levels.
- Legal and/or policy provisions for national territorial planning should prescribe national land-use classifications, the design of an integrated transport and infrastructure network, climate vulnerability assessments, and greenhouse gas emissions assessments.

Regional territorial planning:

- Regional planning should be made compulsory and ensure balanced urban and rural development within and across provinces in line with Section 13 of the Constitution.
- The Regional, Town and Country Planning Act should include provisions for establishing an integrated transport network and infrastructure system at the regional level. It should outline how the implementation of regional infrastructure and climate-related plans will integrate and coordinate with urban master plans and local plans.
- The Regional, Town and Country Planning Act should require climate vulnerability and greenhouse gas emissions assessments

of proposed regional territorial plans prior to their final approval

Spatial plans for urban areas:

- Master plans and/or local plans, as described in the Regional, Town and Country Planning Act should be required to assess future land needs, identify land safe from the effects of climate change, implement urban growth management strategies (e.g., urban growth boundaries), set a planning horizon of at least 20 years, reassess spatial plans in light of new climate risks, and align with the objectives of national territorial plans and/or national development and climate change strategies.
- Long-term plans of elected councillors should be combined with local authority land-use and management frameworks to enhance accountability and catalyse the implementation of spatial plans at the local level.²⁰⁰
- The legal provisions that provide an opportunity for climate change considerations at the local level should be amended to make measures for climate responsive planning explicit and compulsory. These measures should include climate vulnerability and greenhouse gas emissions assessments of proposed master and local plans.

See table 2 for a list of the laws, regulations, and policies referenced in this chapter.

200 Chigudu and Chirisa, “The Quest for a Sustainable Spatial Planning Framework in Zimbabwe and Zambia”, ScienceDirect (2020), Volume 92, p. 6. <https://www.sciencedirect.com/science/article/abs/pii/S0264837719306209>

TABLE 2. Referenced legislation and policies (Urban and territorial planning)

Legislation	Year
Constitution of Zimbabwe	2013
Environmental Management Act	2002
Regional Town and Country Planning Act	1976
Rural District Councils Act	1988
Urban Councils Act	1995
Policy	Year
National Climate Change Response Strategy	2019
National Climate Policy	2017
National Development Strategy (1)	2020
Zimbabwe Vision 2030	2018

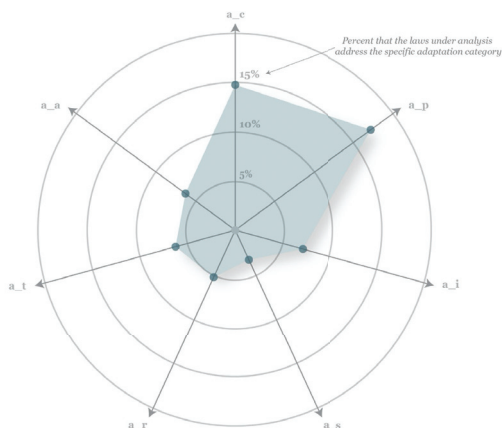


Photo of Cattle Near Chiredzi, Zimbabwe, by ullisanderissson source: Flickr

CHAPTER 3.

PLANNING FOR ADAPTATION

EXECUTIVE SUMMARY



Planning for Adaptation

- a_c Climate risks and vulnerability for planned areas and infrastructure
- a_d Identification and prioritisation of adaptation options
- a_i Implementation of the identified adaptation options
- a_s Adaptation of slums and other vulnerable settlements
- a_r Planned relocations from areas at risk of climate change
- a_a Security of tenure
- a_a Development approval and adaptation

Figure 8: Rating matrix for Zimbabwe on planning for adaptation

The Paris Agreement sets out the requirement for countries to engage in adaptation planning processes and the implementation of actions through, among other things, the “assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems”.²⁰¹ In Zimbabwe, however, there are limited legal and policy provisions regarding climate risks and vulnerability for planned areas and infrastructure. The **Water Act** provides a framework for sustainable water management in the face of

²⁰¹ United Nations Framework Convention on Climate Change (2015), Adoption of the Paris Agreement, 21st Conference of the Parties, Paris: United Nations, Article 7.9 (c).

climate risks such as increasing water scarcity and desertification in Zimbabwe. The Act does not include specific requirements to produce climate risk and vulnerability assessments; however, it does grant the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement powers over water resource allocation in the face of impending or immediate climate risks related to water scarcity. Beyond this, Zimbabwe’s legal framework does not include provisions or regulations that require the consideration of climate risk and vulnerability for planned areas and infrastructure. However, these measures can be found to a certain extent in the policy framework, namely the **Zimbabwe National Human Settlements Policy**. This instrument establishes disaster risk assessments and mapping, which should be produced through a process characterized by the participation of vulnerable communities and inclusion of indigenous knowledge. Despite filling key gaps in the country’s legal framework regarding climate risks and vulnerability assessments, the Zimbabwe National Human Settlements Policy is not a particularly detailed or operational instrument, leaving unformulated the methods and processes to conduct disaster risk assessments. The **National Climate Change Response Strategy** specifically has elements that address climate vulnerabilities related to infrastructure and includes recommendations for the National Meteorological and Hydrological Services to carry out “analysis of atmospheric hazards, forensic analysis and assessments of vulnerabilities of critical infrastructure”. Neither the legal nor policy framework of Zimbabwe

Legal provisions stipulating urban and territorial planning processes should include mandatory climate risk and vulnerability assessments of planned areas which inform a legally-prescribed process of identifying, prioritizing and implementing climate adaption options.

includes an explicit requirement for the following: a list of potential climate hazards that need to be identified in the risk and vulnerability assessments; the identification of the places where climate hazards are most likely to occur through climate hazard maps; or the identification of people, property and economic sectors exposed to risks arising from climate change.

Climate change adaptation is necessary to secure constitutional rights to an environment that is not harmful to one's health or well-being, and to protect the environment for the benefit of present and future generations. Section 73 of the **Constitution** specifically mentions the legal adoption of measures which in effect promote climate change adaptation, including the prevention of pollution and ecological degradation, the promotion of conservation, secure ecologically sustainable development

and use of natural resources while promoting economic and social development.

The **Water Act** contains provisions which facilitate the identification and prioritization of adaptation options related to water shortages and droughts. The law requires the National Water Authority, and the catchment council concerned, to prepare an outline water development plan for every river system in Zimbabwe and to indicate in these plans the priorities in the use and allocation of water, taking into account policy guidelines provided by the Minister for Rural Resources and Water Development. In addition, both the **Urban Council Act** and the **Rural District Councils Act** allow for the establishment of environmental committees that could be tasked with identifying and prioritizing adaptation options. Urban councils in particular are obliged to take measures for climate adaptation which prioritize "the conservation or improvement of natural resources". The **Revised Nationally Determined Contribution** also specifies four prioritized adaptation options, including: (i) to develop, implement and scale-up climate-smart agriculture solutions and strengthen the resilience of agricultural value chains and markets; (ii) to enhance early warning and climate-related disaster risk reduction systems (including information management systems); (iii) to ensure climate-resilient infrastructure and design; and (iv) to develop and promote resilient water resources management. Though all the aforementioned legal and policy provisions provide a basic framework of climate adaptation options, these options are not described in detail nor are they part of a comprehensive prioritization process directly linked to climate or disaster risk assessment processes.

Zimbabwe's legislative framework does not contain specific provisions calling for the

implementation of various climate adaptation options that may be identified for planned areas and infrastructure. However, legal and policy documents do include some guiding frameworks and/or principles that indicate implementation capabilities existing under law. The **Environmental Management Act** clarifies jurisdiction over establishing and managing the buffer zones around environmental protection areas. The Water Act includes considerations such as “control of the use of water when water is in short supply” as well as “the protection of the environment”, however, the Act only provides indirect avenues for adaptation plan implementation. The Zimbabwe National Human Settlements Policy demonstrates a strong commitment to planning for climate change adaptation, however neither it nor other legal or policy documents contain provisions for land buffers around rivers, riparian setbacks, instructions to keep essential infrastructure out of flood prone areas, nature-based stormwater management, evacuation routes or safety areas.

Following slum clearance operations in the mid-2000s, many informal housing and slum areas in Zimbabwe have developed on wetlands, leaving their inhabitants particularly vulnerable to climate risks such as flooding. The **Regional, Town and Country Planning Act** and **Town Planning Circular 70 of 2004** have facilitated the regularization of irregular constructions or land uses on a case-by-case basis by enabling the local planning authority to grant planning permits in respect of such buildings, as well as by introducing low-income housing policies and reducing minimum plot sizes. Several other pieces of legislation, such as the **Housing and Building Act** and the **Rural District Council Act**, provide opportunities for authorities to extend basic infrastructure services to slum areas. However, the Regional, Town and Country Planning Act

does not include differentiated and flexible planning and infrastructure standards for slums and other vulnerable settlements. Moreover, there is no dedicated piece of legislation nor are there substantial legal provisions which describe an explicit process for regularizing entire informal settlement areas which may be vulnerable to climate risks and tenure insecurity. As a result, there are no mechanisms to ensure the participation of all owners and residents of slums and other vulnerable settlements in the process of slum upgrading, nor are authorities required to conduct community-led surveys, maps and household enumerations. There are also no regulations or legal requirements to maintain the affordability of the upgraded settlements for the pre-existing community and prevent its economic displacement.

Legislation in Zimbabwe lacks explicit provisions for the relocation of communities vulnerable to the effects of climate change. Resettlement is almost exclusively provided for in the context of compulsory acquisition, as seen in Section 72 of the **Constitution**, which guarantees the relocation of persons dispossessed of their agricultural land as a result of State expropriation. While the Government could use its powers of compulsory acquisition as a tool to set aside land for the relocation of climate vulnerable communities to promote public safety, public order and public health, in accordance with the Constitution and the **Land Acquisition Act**, it is not necessarily required to identify and set aside land for resettlement in case of extreme weather events. The country’s policy framework does not stipulate a process for climate-based relocations, however the **Human Settlements Policy** does provide the directive that “victims of natural disasters will be relocated to planned settlements that are guided by disaster risk reduction frameworks”.

The **Constitution of Zimbabwe** guarantees the right of every person to acquire, hold, occupy, use, transfer, hypothecate, lease or dispose of all forms of property, either individually or in association with others. It also stipulates civil liberties which protect all people from arbitrary evictions or demolitions and from compulsory deprivations of property, except for those carried out in the public interest in return for just compensation as specified in the **Land Acquisition Act**. This Act includes the process by which compulsory acquisitions and associated evictions should be undertaken, however, it does not include provisions regarding relocation and resettlement. The law also allows for any “owner, occupier, or other party with interests in or rights to a land set to be acquired” to make a claim to deny the acquisition. However, the legal framework does not explicitly recognize a broad range of tenure rights. The primary tenure types recognized by law include: (1) freehold ownerships; (2) occupancy rights to land in communal areas; and (3) leases of land granted by the Government through various redistribution schemes (generally granted for periods of 99 years). These and other real rights such as mortgages, antenuptial agreements, servitudes, leases and subleases are registered in deed registries in accordance with the **Deeds Registries Act**. Informal tenure rights are not formally protected nor are rights holders eligible for compensation in cases of state expropriation or evictions; however, informal tenure holders can apply for a planning permit in line with Section 27 of the **Regional, Town and Country Planning Act**. Customary land rights are protected, and customary rights holders are eligible for compensation in the case of dispossession under the Communal Land Act, with occupancy and land-use permits granted by the competent rural district council. These

rights are not specifically referred to as being registrable in the deeds registries.

The **Regional, Town and Country Planning Act** does not include explicit provisions with regard to planning and design standards to adapt to climate risks and vulnerabilities. However, the Act does link the development approval process to legally approved urban plans and zoning regulations. The Act requires all land developments, including reconstructions and enlargements or alterations, to be granted a development order or planning permission from the local authority. Violators who undertake development works or land uses without the requisite permit are subject to fines and/or up to six months of imprisonment. The **Environmental Management Act** makes provisions with regard to environmental impact assessments which must be undertaken on land that will be developed; it also makes provisions with regard to licenses to discharge effluents and emissions. Zimbabwean law do not presently include provisions that allow governments to charge developers, either in cash or in kind, through conditions to be attached to the approval of planning applications for infrastructure costs associated with their developments. Though the laws prescribe fines for non-compliance with permitting and environmental impact assessment requirements, the exact modalities for monitoring and enforcement are not described.

3.1 CLIMATE RISKS AND VULNERABILITY FOR PLANNED AREAS AND INFRASTRUCTURE

The Declaration of Rights in the **Constitution of Zimbabwe** explicitly states that every person has the right “to an environment that is not harmful

to their health or well-being”.²⁰² This right should inform the planning and development of infrastructure in Zimbabwe, namely, to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects, as well as to facilitate adequate adaptation to climate change.

One of the main environmental challenges in Zimbabwe is the risk of desertification and overall reduction of available water, largely due to climate change. The **Water Act** outlines the required development plans for operations that use water from a river system. There are multiple Government entities listed in this Act, including catchment councils, the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement, and the Zimbabwe National Water Authority. Catchment councils are each responsible for the management of their designated river system.²⁰³ The council can issue or deny permits for water use, even in a declared water shortage area, for an applicant’s use, including “the purpose of his occupation or trade”.²⁰⁴ On the other hand, the functions of subcatchment councils include: to regulate and supervise the activities of permit holders in the use of water, and to monitor water flow and use in line with allocations.²⁰⁵ The minister is granted extensive powers over water resource allocation. (S)he approves or disapproves the required development plans outlined in the Water Act; can reserve a quantity of water for an indefinite period; and can declare a water shortage area.²⁰⁶ Furthermore, the minister can alter membership of the catchment council and can request the National Water Authority to investigate water

202 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 14, Part 2, Section 73.1(a).

203 Water Act [Chapter 20:24], 1998, Part 18.

204 Ibid, Part 64.

205 Water (Subcatchment Councils) Regulations, 2000.

206 Ibid, Part 57.



Little river, Zimbabwe. Photo by Alberto Bizzini, via Flickr

use.²⁰⁷ Thus, power over water resources in land development and planning remains centralized and concentrated amongst a few individuals, although the minister may delegate his or her powers or authority.²⁰⁸

The Zimbabwe National Water Authority is required to encourage and assist catchment councils to plan and coordinate the development and management of water resources in areas under their jurisdiction. Such areas may include planned and serviced areas. The Authority is also mandated to conduct hydrological and geographical surveys and to produce plans, maps or other information necessary in the planning, development and exploitation of water resources, and to publish any such surveys, plans, maps or other information. These could be used in climate risk and vulnerability assessments in planning areas and infrastructure. In terms of the Water Act, Zimbabwe National Water Authority officers have the power to obtain and record information and statistics relating to the hydrological conditions in respect of both surface and ground water. The Act further provides for: the right to use water when volume is insufficient to satisfy demand; for the role of catchment council to revise, reallocate or reapportion the water permits when volume is low; and to put in place conditions that ensure equitable distribution and use of the available water. In terms of the Water Act, catchment councils must specify the “proportion of the available water” that “should be reserved for an indefinite period for future use or for the benefit of the environment”.²⁰⁹ The Act demonstrates the prioritization of water preservation and its future use.

207 Water Act [Chapter 20:24], 1998, Part 20.

208 Ibid, Part 59.

209 Ibid, Part 13.

66

Dedicated legislation facilitating the regularization, adaptation and, when necessary, relocation of informal settlements should be developed.

99

The **Zimbabwe National Human Settlements Policy** establishes disaster risk assessments and mapping, environmental impact assessments and the integration of mitigation into rural and urban settlement planning, development and management.²¹⁰ This Policy ties existing policies, laws and standards to the urban planning process, stating that the “planning, development and management of settlements will be consistent with national and international disaster risk reduction frameworks, environmental and climate change policies, laws and standards”.²¹¹ While the Policy does not include legal requirements for the identification of climate hazard maps, it does include a mapping analysis showing that the majority of the densely populated settlements are in drier parts of the country, which are also inadequately served in terms of road transport.²¹²

The Zimbabwe National Human Settlements Policy also has participatory requirements that attempt to create an inclusive process for vulnerable communities where local

210 Zimbabwe National Human Settlement Policy, p. 10.

211 Ibid, 2.14, No. 108, p. 51.

212 Ibid, 1.3, no. 13, p. 19.

authorities “develop and apply social inclusion policies that are responsive, preventative and transformative covering key decision-making areas”.²¹³ The implementation of the directive should be facilitated through budgets, service delivery approaches and infrastructure design. Indigenous knowledge is another priority of the Policy; it foresees indigenous knowledge serving as a guide in settlement planning, development and management to ensure that “settlements are sited optimally, built safely and do not adversely affect the environment”.²¹⁴ While these directives lay the foundation for participatory engagement in the Zimbabwe National Human Settlements Policy, there is no specific guidance on how vulnerable stakeholders should be reached or engaged.

In addition to the pre-disaster participatory processes established for vulnerable communities, the Policy includes directives for engaging vulnerable communities in the aftermath of disaster. It indicates that the planned relocation of displaced victims should be guided by disaster risk reduction frameworks and states that “the planning process should include the affected communities, the traditional and religious leadership in order to cater for cultural norms and values of the respective communities under the rubric of the local authority”.²¹⁵

The **National Energy Policy** defines the responsibility of the State to advance the goal of “increasing access to socially and environmentally sustainable energy services”²¹⁶ and highlights the importance of energy in providing a high quality of life and sustainable economic growth. However, it does not call

attention to the consideration of climate risks and vulnerability for planned infrastructure. Instead, attention is given to research and technology transfer, which can ultimately lead to greater climate resilience in settlements and infrastructure.

The **Regional, Town and Country Planning Act** does not provide any direct initiatives to address climate vulnerability, however, it does provide environmental considerations that should be integrated with social vulnerability considerations. In Section 17.3.ii, the Act states that local plans should include measures for “the conservation and improvement of the physical environment, including the preservation of buildings of special architectural merit or historic interest”. Other policies such as the Rural District Councils Act and the Urban Councils Act could be amended to provide more social vulnerability considerations in local or urban planning.

The **National Climate Change Response Strategy** of 2019 acknowledges the limited framework for identifying and mitigating vulnerabilities within communities and recognizes that the impacts of climate change will only continue to exacerbate inequalities between social groups.²¹⁷ As such, many of the recommendations in the Strategy are centred on participatory practices that can advance the consideration of climate risk. It suggests “mainstream[ing] climate change in policies for the vulnerable with their active participation at every level”,²¹⁸ and recognizes children and the youth as a vulnerable group which ought to be included in the policy formulation process.²¹⁹ Under the governance section, there is an emphasis on the importance of including the most vulnerable in

213 Ibid, 2.12, no. 102.

214 Ibid, 2.14, no. 110, p. 52.

215 Ibid, 2.4, no. 67, p. 39.

216 National Energy Policy, Introduction, p. ix.

217 National Climate Change Response Strategy of 2019, 3.3.6, p. 53.

218 Ibid, 3.3.6(a), p. 53.

219 Ibid, 3.3.7(b), p. 55.

the monitoring and evaluation of climate change interventions.²²⁰

The National Climate Change Response Strategy also focuses on capacity building to ensure there are sufficient resources and knowledge to make progress in vulnerability planning. The Strategy suggests building capacity by “conduct[ing] comprehensive vulnerability assessments and develop[ing] appropriate response models”²²¹ as well as by training vulnerable communities on how to respond to disasters.²²²

In addition to social vulnerabilities, the Strategy also focuses on infrastructure vulnerabilities. Those stemming from increased flooding and fires are addressed by integrating resiliency planning into infrastructure development. This is complemented by recommendations for the National Meteorological and Hydrological Services to carry out “analysis of atmospheric hazards, forensic analysis and assessments of vulnerabilities of critical infrastructure”.²²³

The **National Environmental Policy and Strategies** of 2009 includes requirements for the country to develop air quality standards “in consultation with the Standards Association of Zimbabwe, industry and other interested and affected parties”.²²⁴

3.2 IDENTIFICATION AND PRIORITIZATION OF ADAPTATION OPTIONS

The **Constitution of Zimbabwe** does not require the identification of climate adaptation options, however, climate change adaptation may be

220 Ibid, 5.1.1(a), p. 63.

221 Ibid, 4.1.1(a), p. 56.

222 Ibid, 4.2.2, p. 61.

223 Ibid, 4.1.2 p. 56.

224 National Environmental Policy and Strategies, 2009, Section 4.1, p. 3.

interpreted as part of the constitutional right to an environment that is not harmful to one’s health or well-being and/ or the right to have the environment protected for the benefit of present and future generations.²²⁵ This right is to be achieved through reasonable legislative and other measures that (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting economic and social development”.²²⁶ To the extent that climate change adaptation is necessary to secure the aforementioned environmental rights, provided in Section 73 of the Constitution, climate change adaptation can be considered part of constitutionally protected environmental rights in Zimbabwe. In terms of Government action prioritizing adaptation, provincial and local authorities must ensure “the equitable allocation of national resources and the participation of local communities in the determination of development priorities within their areas”.²²⁷

The **Zimbabwe Revised Nationally Determined Contribution 2021**, deals heavily with climate change mitigation and specifies four wide-ranging adaptation options:

- Develop, implement and scale-up climate-smart agriculture solutions and strengthen the resilience of agricultural value chains and markets.²²⁸
- Enhance early warning and climate-related disaster risk reduction systems (including information management systems).²²⁹

225 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 4, Part 2, Section 73.1(a), (b).

226 Ibid, Chapter 4, Part 2, Section 73.1(b).

227 Ibid, Chapter 14, Preamble.

228 Zimbabwe Revised Nationally Determined Contribution, 2021, Section 3.4, p. 15.

229 Ibid, p. 16.

- Ensure climate-resilient infrastructure and design.²³⁰
- Develop and promote resilient water resources management.²³¹

The Revised Nationally Determined Contribution outlines climate change exposure and impacts on human, physical, natural, social and financial capital. The four adaptation options address each of those risks, including both environmental and infrastructure-based measures. Because the focus of national policies is on water, the adaptation options more directly address ecosystem risks.

While the Revised Nationally Determined Contribution provides a cost estimate for mitigation tools, it does not include specific costs for the adaptation tools: “The mitigation measures alone will cost an estimated US\$ 4,834.47 million. Zimbabwe’s adaptation measures will be costed in the forthcoming National Adaptation Plan”.²³² With regard to cost, two agencies have been identified to assist the country in accessing international climate finance options: the Environmental Management Agency has been accredited as the National Implementing Entity to the Adaptation Fund, and the Infrastructure Development Bank of Zimbabwe has been accredited as a Direct Access Entity to the Green Climate Fund.²³³

As a national policy, the Revised Nationally Determined Contribution includes requirements for local authorities to carry out adaptation and mitigation priorities. It states that “[i]nstitutional responsibilities for the implementation of the various adaptation and mitigation measures are spread across government ministries, local

authorities and private sector organizations among others”.²³⁴ The document has a breakdown of the roles for various institutions involved, including local authorities,²³⁵ and it specifically requires that local authorities “coordinate the implementation of mitigation and adaptation actions” in the provincial and local authority areas.²³⁶

Stakeholder contributions in prioritizing adaptation options are encouraged in Zimbabwe’s Revised Nationally Determined Contribution. The Minister of the Environment, Climate, Tourism and Hospitality Industry’s introduction closes by stating that “the Government of Zimbabwe calls upon potential partners and stakeholders to come on board to support the implementation of this Revised Nationally Determined Contribution for the country to meet its developmental aspirations and climate change mitigation obligations”.²³⁷ The document repeatedly makes reference to stakeholders but does not specifically name any specific civil society or non-governmental organizations. While stakeholder engagement is encouraged, it is unclear if the engagement of non-governmental entities or individuals is required by law. Since changing political administrations and, consequently, shifting political priorities can create an unreliable budget for climate adaptation agendas leading to issues with implementation, it is recommended to develop a socially just and inclusive national adaptation plan before implementation.²³⁸ A climate adaptation plan of this nature, along with budget allocations, should be included in the country’s Nationally Determined Contribution.

230 Ibid, p. 16.

231 Ibid, p. 16.

232 Ibid, Section 6.2, p. 32.

233 Ibid, Section 6.2, p. 33.

234 Ibid, Section 6.1, p. 30.

235 Ibid, Table 9.

236 Ibid, Section 6.1, p. 31.

237 Ibid, Foreword, p. ii.

238 Zimbabwe’s Intended Nationally Determined Contribution, 2015, Section 2.1.3, p. 5.



Ground nuts and cucumber, Zimbabwe © Georgina McAllister/Garden Africa

The Nationally Determined Contribution functions as a revision of the 2015 **Intended Nationally Determined Contribution**, which focused on agriculture as a major sector vulnerable to climate change that makes up more than 40 percent of the country’s exports. The Intended Nationally Determined Contribution identified climatic risks to agriculture, namely changes in temperature and rainfall, and commits Zimbabwe to “promoting adapted crop and livestock development and climate-smart agricultural practices”.²³⁹ This section also committed the country to strengthening the management of water resources, promoting practices that reduce crop risk, and promoting capacity building.

The Intended Nationally Determined Contribution

.....
²³⁹ Ibid.

identified three primary adaptation goals: (i) “encouraging adapted crop and livestock development and farming practices”; (ii) “building resilience in managing climate related disaster (drought, hail, violent storms/wings, frost heat waves, erratic rainfall and floods) risks”; and (iii) “strengthening management of water resources and irrigation in the face of climate change”.²⁴⁰ The Intended Nationally Determined Contribution based these adaptations options on “their economic, social and environmental benefits coupled with their existence in various plans as well as their feasibility”.²⁴¹ Regarding the implementation of the Intended Nationally Determined Contribution, it stated that “the ministry works in constant liaison with the Office of the President and Cabinet” while “[o]

.....
²⁴⁰ Ibid, Section 2.1.5, p. 7.

²⁴¹ Ibid, Section 1.6, p. 4.

ther relevant ministries and key stakeholders are involved to ensure implementation and alignment with the various sectoral plans and the broader national vision”.²⁴² Though the Intended Nationally Determined Contribution provided infrastructure and ecosystem-based adaptation measures, the document did not legally mandate the identification of further adaptation options. It also did not specifically mention urban areas, however it stated that “Zimbabwe seeks to upscale national planning and implementation of adaptation actions that enhance resilience of all sensitive socioeconomic sectors to improve the national adaptive capacity”.²⁴³

While the **Water Act** does not explicitly mention adaptation, there are several sections that could allow authorities, such as the National Water Authority, Catchment Councils, and the Minister of Rural Resources and Water Development, to make adaptation plans and priorities. These authorities do have powers to protect both natural resources and infrastructure. Specific targets are not identified in the Water Act, however it does state the Minister of Rural Resources and Water Development shall “ensure the equitable and efficient allocation of the available water resources in the national interest for the development of the rural, urban, industrial, mining and agricultural sectors”.²⁴⁴

More specifically, the Act states that the minister is authorized to “develop policies to guide the orderly and integrated planning of the optimum development, utilization and protection of the country’s water resources in the national interest”.²⁴⁵ The water resources planning and development section of the Water Act stipulates that the “National Water Authority and the

catchment council concerned shall prepare an outline water development plan for every river system”.²⁴⁶ Those plans shall indicate “areas for development and measures for the conservation and improvement of the physical environment; and the extent to which the actual volumes or the relative proportions of the potential yield or total annual runoff of any catchment area within the river system concerned should be apportioned between public and private development and the allocation within such apportionment of water for the respective uses of the different sectors of the economy”.²⁴⁷ The water quality control and environmental project section of the Water Act states that “in considering, formulating and implementing any proposal for the use, management or exploitation of water resources, due consideration shall be given to the protection, conservation and sustenance of the environment[...].”²⁴⁸ With regard to water shortages, the Water Act does state that the minister and catchment council have powers related to identifying shortage areas.²⁴⁹

According to the Water Act, the “National Water Authority shall clearly indicate in an outline plan the priorities in the utilization and allocation of water, taking into account policy guidelines provided by the Minister. The plan shall make provision for changes in priorities for the use, development and allocation of water, where they are necessitated by changes in the availability of water or social or economic priorities. The Secretary shall make recommendations to the minister regarding the phasing of any development, the order of priorities in respect of the proposals in the outline plan and the allocation of water to the different sectors of

242 Ibid, Section 2.2.8, p. 12.

243 Ibid, Section 2.1.1, p. 5.

244 Water Act [Chapter 20:24], 1998, Part I.

245 Ibid, Act, Part II.

246 Ibid.

247 Ibid.

248 Ibid, Part VI, Section 67.

249 Ibid, Part V.

the economy”.²⁵⁰ When more than one applicant has requested to use the same water source, the catchment council shall prioritize “the need to achieve, as far as possible, an equitable distribution of the available water resources; the needs of each applicant; and the likely economic and social benefits of the proposed use”.²⁵¹ Catchment councils also shall “determine the priority in the use of water in the water shortage area”.²⁵²

The **National Water Policy** provides an overview of the sources and uses of water, and its importance in the lives of people. It profiles the current status of water resources and provision of water and sanitation services for urban and rural use, including the use of water for agricultural purposes. The impact of climate change on water sources is outlined. Climate change is predicted to alter rainfall patterns and lead to an increase in evaporation and extreme events such as floods and droughts. The Policy states that climate change effects on agriculture, crop and irrigation water demands and on floods needs to be integrated into the planning of water resources and in the design of dams and other water infrastructure, including their operations and management.

The purpose of the **Zimbabwe Wetlands Policy** is to “guide wetland management to become incorporated in development planning by the Government, private sector, development partners, traditional leaders, communities and individuals”.²⁵³ The legal provisions that enforce laws and regulations supporting the maintenance of ecological features are outlined in Section 7 of the Policy. One of the ways foreseen to achieve this in the Policy is through incorporating

250 Ibid, Part II.

251 Ibid, Part III.

252 Ibid, Part V.

253 Zimbabwe Wetlands Policy, 2020, Section 5, p. 9.

wetlands into spatial planning, especially the spatial distribution of wetlands in all districts.²⁵⁴

While the **Zimbabwe National Water Authority Act** does not include a clear adaptation plan, some ways in which the Authority can respond to the effects of climate change are identified. It is the role of the Authority to exploit, conserve and manage the country’s water resources while taking measures to minimize the impact of droughts, floods and other hazards. Clarification and expansion of the methods the National Water Authority will use to achieve these effective adaptation goals in the Water Authority Act could enable it to realize its goal.

The broad goals of the **National Environmental Policy and Strategies** are to avoid irreversible environmental damage, maintain essential environmental processes, preserve biological diversity, enhance food security, reduce poverty and improve the standard of living of Zimbabweans. The National Environmental Policy states that the Government shall promote reforestation as a means of increasing carbon sequestration in the biosphere. Through the Policy, the Government is urged to promote the planting of woodlots as a source of wood fuel to reduce deforestation and is encouraged to observe and support international conventions and protocols designed to promote the use of energy efficient and environmentally friendly energy sources.

The **Regional, Town and Country Planning Act** states that “regional and master plans must include the phasing of any development, the order of priorities in respect of the proposals and the reasons therefore; and the resources likely to be available”.²⁵⁵ With regard to engagement with

254 Ibid, p. 10.

255 Regional Town and Country Planning Act [Chapter 29:12], 1976, Part II, Section 6.

possible stakeholders, plans must be placed on “public exhibition for two months [including] a copy of the draft master plan with a statement indicating the time within which objections to, or representations in connection with, the draft master plan may be made to the Minister, with copies thereof being sent to the local planning authority”. Local authorities must also “give public notice of the place or places at which, and the period for which, the draft master plan will be exhibited... and the time within which objections to, or representations in connection with, the draft master plan may be made”.²⁵⁶ The Act makes a similar requirement for local plans but includes that the “local planning authority shall ensure that there is adequate consultation with the rural council or local board which has jurisdiction over the area concerned in connection with the matters proposed to be included in the local plan”.²⁵⁷

Both the **Urban Council Act** and the **Rural District Councils Act** provide for the establishment of environmental committees that could be tasked with identifying and prioritizing adaptation options. The Urban Council Act says “every council shall appoint an environmental management committee which shall be responsible for environmental matters relating to the council”.²⁵⁸ Moreover, Urban Council Act requires councils “to take measures for the conservation or improvement of natural resources”. Though not explicitly an adaptation measure, the Act allows the council to “establish by resolution a scheme for rationing or restricted use of water” in cases of emergency.²⁵⁹

The **Environmental Management Act** does not specifically address adaptation. It states that

256 Ibid, Part IV, Section 15.

257 Ibid, Section 18.

258 Urban Councils Act [Chapter 29:15], 1995, Part IV, Section 96.

259 Ibid, Part XIII, Section 187.

Government agencies must prioritize the needs of people in environmental management.²⁶⁰ Additionally, Government entities must promote equitable and effective participation of affected parties and provide opportunities to develop understanding, skills and capacity.²⁶¹ The Environmental Management Agency is mandated to undertake environmental management works in the public interest.²⁶² Finally, the Act requires special attention from all persons and Government agencies in management and planning procedures to sensitive, vulnerable and highly dynamic or stressed ecosystems, especially areas under development pressure.²⁶³

The **National Climate Policy** of 2017 incorporates adaptation initiatives throughout. In order to determine available adaptation options, the Policy states that data should be analysed to inform adaptation strategies. Various data analysis methods are outlined in Chapter 5 of the Policy. Additionally, the Government of Zimbabwe is to develop technologies that are relevant to the implementation of adaptation projects.²⁶⁴ In Chapter 7 of the Policy, certain financial barriers to adaptation options are addressed. The Government shall channel funds to support projects in climate change adaptation in every district in the country.²⁶⁵ Additionally, the central Government is to ensure the accreditation of national institutions as national implementing entities in order to directly access the Green Climate Fund and the adaptation fund.²⁶⁶

The National Climate Policy prioritizes adaptation options that enhance agriculture-

260 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part II, Section 4. 2(b).

261 Ibid, Part II, Section 4.2(c).

262 Ibid, Part IV, Section 10.1(b)(xii).

263 Ibid, Part II, Section 4.2(d).

264 National Climate Policy of 2017, Chapter 6.1.

265 Ibid, Chapter 7.1.2.

266 Ibid, Chapter 7.1.5.

based livelihoods that promote food security and poverty alleviation.²⁶⁷ The Policy expresses a commitment to engaging stakeholders as they identify and prioritize adaptation options: the Government of Zimbabwe is to generate new forms of knowledge in order to meet development challenges,²⁶⁸ mainstream indigenous knowledge systems²⁶⁹ and establish connections between indigenous and scientific knowledge.²⁷⁰ Moreover, the Government will promote a bottom-up approach enabling communities to participate in decision making,²⁷¹ and plans to monitor and evaluate adaptation measures to ensure that strategies are socially inclusive.²⁷² Throughout Chapter 2 of the Policy, the Government is tasked with establishing measurable and verifiable benchmarks to improve adaptation measures. These measurement and analysis techniques are provided for the following sectors: water, agriculture, health, forestry and biodiversity, infrastructure and human settlements.

The **National Climate Change Response Strategy** repeatedly discusses adaptation. It provides a framework for strategic approaches to aspects of adaptation that helps inform the Government on how to strengthen climate and disaster risk management policies.²⁷³ Some of the strategies in the document describe ways to build capacity to mainstream climate change adaptation and ways to incorporate these strategies into climate change governance and climate change policy and legal frameworks. The Strategy develops an action plan for monitoring and evaluating progress in meeting these goals. The strategies for adaptation provided create a

useful guide for ways in which Zimbabwe should move forward with incorporating adaptation into national legislation.

The Zimbabwe National Development Strategy also provides suggestions for adaptation strategies in the agriculture sector, food systems and the housing sector and features initiatives to enhance climate resilience by using indigenous agriculture conservation techniques and developing stress-tolerant, high yielding crop varieties.²⁷⁴ Additionally, the Strategy includes initiatives to climate-proof livestock production by commercializing fish, rabbits, bees and small stock.²⁷⁵ In the housing sector, strategies include initiatives to adapt modern housing stock for climate change and resilience.²⁷⁶

The **Zimbabwe National Human Settlements Policy** (2021) incorporates several adaptation measures into its policy recommendations. The Policy includes ways to adapt buildings to be more resilient to climate change by integrating national and international frameworks for climate resilience. It includes provisions on, inter alia, disaster risk assessments and mapping, environmental impact assessments, and integrating climate change response into urban settlement planning, development and management.²⁷⁷ The Policy also aims to align national and international disaster risk reduction frameworks, environmental and climate change policies, laws and standards to plan and manage settlements.²⁷⁸ In rural areas, homestead models are expected to enhance climate proofing and allow for the adoption of smart energy.²⁷⁹

267 Ibid, Chapter 2.2.15.

268 Ibid, Chapter 2.8.8.

269 Ibid, Chapter 4.3.4.

270 Ibid, Chapter 4.3.5.

271 Ibid, Chapter 7.3.3.

272 Ibid, Chapter 7.4.1.

273 National Climate Change Response Strategy of 2019, p. ii.

274 Zimbabwe National Development Strategy, Chapter 4, no. 296, p. 69.

275 Ibid, Chapter 4, no. 297, p.65.

276 Ibid, Chapter 7, no. 576, p.135.

277 Zimbabwe National Human Settlements Policy, 2018, Section 1.1, no. 5.

278 Ibid, 2.14, no. 108.

279 Ibid, 2.6, no. 70.

Throughout the implementation and planning process, the Zimbabwe National Human Settlements Policy incorporates indigenous knowledge on environment and climate change issues and instructs the Government to partner with communities to promote the use of green energy in buildings and support climate resilience.²⁸⁰ Research and development are prioritized in the Policy in order to develop climate proofing building technology to build resilience and foster sustainability.²⁸¹

The Climate-Smart Agriculture Manual for Zimbabwe includes thoughtful recommendations and scientific reasons related to climate adaptation in the agriculture sector. Each topic and section provides a clear synthesis of the relevant literature and recommendations on how to improve crops, livestock and aquaculture in Zimbabwe.²⁸² The primary recommendations tend to highlight public-private partnerships, funding research, training and female empowerment. Making information about the climate risks and weather readily available to local farmers is vital in preparation for seasonal crops. The document recommends the development of the National Framework for Climate Services, which has since been finalized. The manual also summarizes several case studies that could be beneficial in planning funding allocations for climate risk management, for example climate-smart villages in Nkayi that use computer-simulated scenarios to inform development decisions by policymakers.

3.3 IMPLEMENTATION OF IDENTIFIED ADAPTATION OPTIONS

280 Ibid, 2.6, no. 110, 112.

281 Ibid, 2.6, no.113.

282 The Climate-Smart Agriculture Manual for Zimbabwe, 2017.

Much of the legislation of Zimbabwe does not include specific provisions that facilitate the implementation of various climate adaptation options that may be identified for planned areas and infrastructure. However, legal and policy documents do provide some guiding frameworks and/or principles that indicate implementation capabilities existing under law.

The **Zimbabwe Constitution** has no express provision mandating the implementation of any adaptation plans. However, in terms of national development, it mandates that the “formulation and implementation of development plans” involve the very people affected by these programmes.²⁸³ This could be interpreted as applying to the implementation of adaptation plans where the development plans in question are specifically climate-related. Additionally, the Constitution states that provincial or metropolitan councils are responsible for “planning and implementing measures for the conservation, improvement and management of natural resources” in their respective provinces,²⁸⁴ which would require adaptation planning in practice.

The **Biofuels Policy of Zimbabwe** includes an implementation roadmap, including policy harmonization and funding resources. The Inter-Ministerial Biofuels Development Coordination Committee requires representatives from “the private sector, academia and civil society for collaboration and coordination among various Government and non-Government actors.”²⁸⁵ The Policy also discusses financial resources in the biofuels sector and specifically highlights bilateral development financing and foreign investment loans. The Biofuels Policy also makes several recommendations, including

283 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Section 2.13.2.

284 Ibid, Section 14.1.270(c).

285 Biofuels Policy of Zimbabwe, p. 2.

that the “Government should lead by example by putting its vehicles on high blend and publicise the switch”.²⁸⁶

The **Communal Land Forest Produce Act** grants, among other things, the Minister of Environment, Climate, Tourism and Hospitality Industry with the authority to protect areas of natural forest from the exploitation of all major forest produce.²⁸⁷ Within the powers granted to the minister, this Act establishes that before the minister exercises any right or power, he or she must consult “any local authority that will be affected by the exercise of such right or power”.²⁸⁸ Additionally, this Act grants regulatory powers to the minister which are “necessary or convenient” to carry out the provisions in this Act. These regulations include, but are not limited to, how the forest produce may be exploited, precautions required to exploit forest produce, and restrictions on the sale of forest produce for particular purposes.²⁸⁹

There is no specific mention of climate adaptation in the **Land Acquisition Act**, which grants the State power to acquire and repurpose land. However, it grants the President authority to acquire land “for purposes of land reorganization, forestry, environmental conservation or the utilization of wildlife or other natural resources.”²⁹⁰ This Act grants the President power to acquire land for national interest including “any land, where the acquisition is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the utilization of that or any other property for a purpose beneficial to the

public generally or to any section of the public.”²⁹¹ The Act supports the Constitutional provisions of Section 72 on the compulsory acquisition of land for public purposes. In practice however, environmental purposes or forestry may include climate change induced land acquisition.

The **Civil Protection Act** aims to “provide for the operation of civil protection services in times of disaster”.²⁹² The Act defines “disaster” as a “natural disaster...that threatens the life or well-being of the community”.²⁹³ As such, civil protection programmes, which could include adaptation measures, apply to those affected by natural disasters caused by climate change. The Act provides for the creation of a National Civil Protection Committee,²⁹⁴ the functions of which include working alongside the Director of Civil Protection in “the planning and implementation of measures for the establishment, maintenance and effective operation of civil protection”.²⁹⁵ Where civil protection measures can be classified as climate adaptation plans for actions, the Civil Protection Act provides the necessary legal framework for implementing such plans.

The **Environmental Management Act** does not provide any substantial guidelines or incentives for climate adaptation. There are no land use or development restrictions besides the vague requirement that “development must be socially, environmentally and economically sustainable”²⁹⁶ and “vulnerable...ecosystems require specific attention in management and planning procedures”.²⁹⁷ The Act does assert jurisdiction over establishing and managing the

286 Ibid, Part 6.5, p. 25.

287 Communal Land Forest Produce Act [Chapter 19:04], 1988, Section 15.1.

288 Ibid, Section 18.1.

289 Ibid, Section 22.1.

290 Land Acquisition Act [Chapter 20:10], 1992, Part II, Section 3.

291 Ibid, Part II, Section 3.

292 Zimbabwe Civil Protection Act [Chapter 10:06], 1989, p. 1.

293 Ibid, I.2.a.

294 Ibid, III.4.1.

295 Ibid, III.4.4.a.

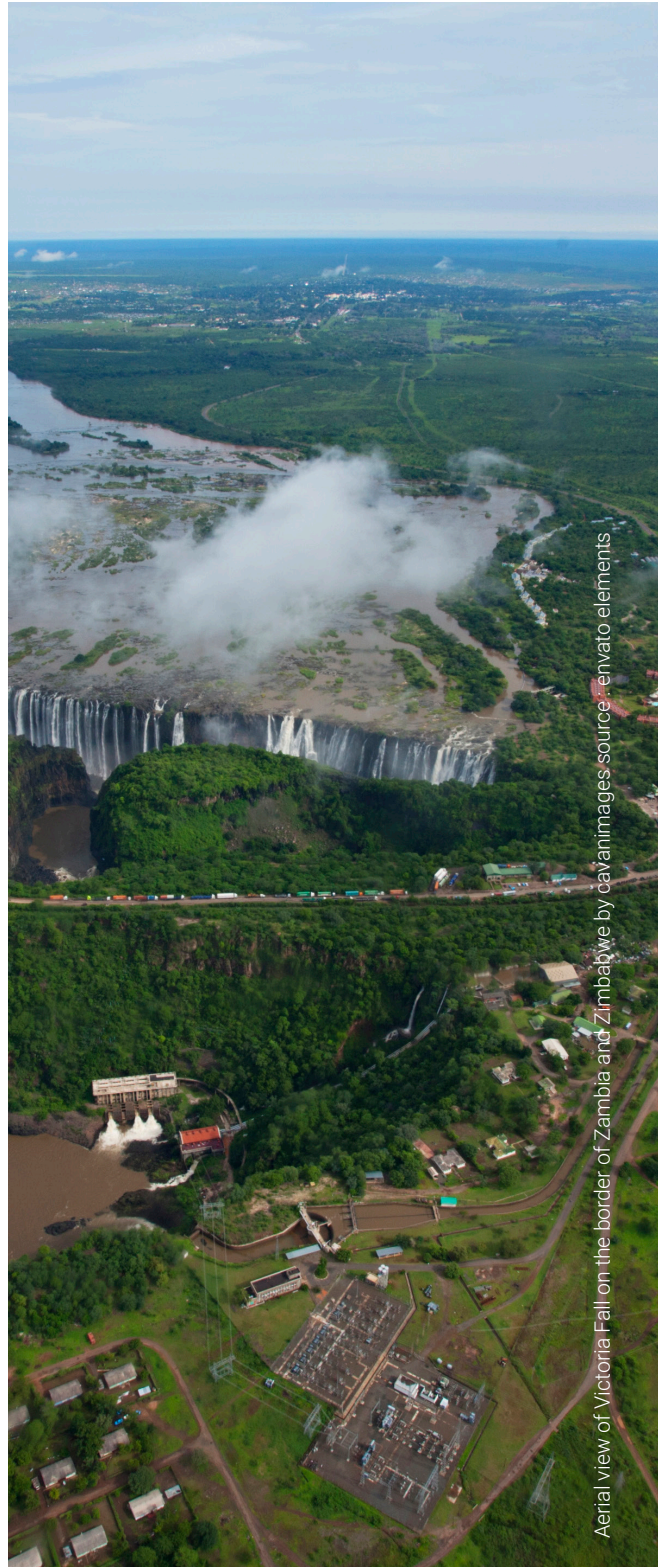
296 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part II, Section 4.2(e).

297 Ibid, Part II, Section 4.2(i).

buffer zones around environmental protection areas,²⁹⁸ however, those are the only buffers mentioned. The Act does not provide guidance on riparian setbacks, planning infrastructure out of flood-prone or high-risk areas, nature-based stormwater management, evacuation routes or extreme weather safety areas.

While the stated purpose of the Water Act includes considerations such as “control of the use of water when water is in short supply” as well as “the protection of the environment”,²⁹⁹ it only provides indirect avenues to adaptation plan implementation. For instance, the Act provides for “outline plans” or outline water development plans³⁰⁰ which, among other things, specify when certain available water in a catchment area “should be reserved for an indefinite period for future use or for the benefit of the environment”.³⁰¹ Such a reservation of water could be used as an adaptation method in the event of severe drought caused by climate change, especially if done on a routine basis. Further, these outline plans “shall make provision for changes in priorities for the use, development and allocation of water” when “necessitated by changes in the availability of water or social or economic priorities”.³⁰² These plans may also require regular updating in response to the impacts of climate change and possibly necessitate the use of prediction software. The Water Act takes environmental considerations into account when setting these priorities, mandating that the consideration, formulation or implementation of “any proposal for the use, management or exploitation of water resources” give due consideration to “the protection, conservation, and sustenance of the

298 Ibid, Part XII, Section 116.2(c).
299 Water Act [Chapter 20:24], 1998.
300 Ibid, Part I, Section 2.1.
301 Ibid, Part II, Section 13.1(c)(ii).
302 Ibid, Part II, Section 13.3.



Aerial view of Victoria Falls on the border of Zambia and Zimbabwe by cavanimages source: envato elements

environment”.³⁰³

The Water Act also includes provisions regarding “wilful damage to, or interference with or theft of water infrastructure and farm irrigation works components”.³⁰⁴ Climate adaptation plans should generally assess and take stock of water infrastructure and farm irrigation systems to see how they must be modified in new, more severe climates. While the Act does not provide for this kind of consideration, it does dedicate an entire provision to detailing the legal consequences for anyone who tampers with these valuable resources.³⁰⁵ This provision could be crucial to adaptation planning as a protection measure safeguarding these resources against any conflicts, hostilities or corruption that may arise out of climate change-induced stress.

The Zambezi River Authority Act gives domestic effect to the bilateral agreement made between Zimbabwe and Zambia regarding the shared use of the Zambezi River.³⁰⁶ The law does not contain any explicit mention of climate change adaptation plan implementation. However, it enables the River Authority to “collect, accumulate and process hydrological and environmental data of the Zambezi River for the better performance of its functions and for any other purpose beneficial” to the two States.³⁰⁷ In so far as a climate change-informed adaptation plan is viewed as achieving a purpose beneficial to the two States, the Act effectively enables the Authority to acquire and use the data necessary to create the informed adaptation plans regarding the Zambezi River.

Much of the implementation of the **Zimbabwe Wetlands Policy** hinges on actions supporting the maintenance and protection of wetlands.

303 Ibid, Part VI, Section 67(a).

304 Ibid, Part IX, Section.111(b).

305 Ibid.

306 Zambezi River Authority Act [Chapter 20:23], 1987.

307 Ibid, Schedule, Section 2.9(d).

Zimbabwe is also bound by the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention), which commits States parties to a framework with three pillars:

- Designate suitable wetlands for the list of wetlands of international importance and ensure their effective management
- Work towards the wise use of all wetlands through national land-use planning, appropriate policies, legislation, management actions and public education
- Cooperate internationally concerning transboundary wetlands, shared wetland systems, shared species and development projects that may affect wetlands

The **Regional, Town and Country Planning Act** establishes regional planning councils³⁰⁸ and makes provisions for the implementation of regional plans³⁰⁹ while doing the same for local planning authorities³¹⁰ and their abilities to implement master and local plans.³¹¹ While adaptation plans in particular are not mentioned, the provisions of the Act can apply to adaptation through the implementation of regional, master, and/or local plans. However, the Act gives these councils the ability to implement these plans rather than specifically mandate that they be implemented. In the event that any part of a regional plan may be deemed incapable of implementation, the Minister of Environment, Climate, Tourism and Hospitality Industry may “take such action as he deems fit to ensure the implementation” of the provision in question.³¹²

308 Regional, Town, and Country Planning Act [Chapter 29:12], 1976, Part II, Section 3.1.

309 Ibid, Part II, Section 7, Part II, Section 9.

310 Ibid, Part III, Section 10.

311 Ibid, Part III, Section 11.

312 Ibid, Part II, Section 9.1.

The same approach towards implementation is seen in the **Rural District Councils Act**. It does not mention adaptation plans or their implementation, but it does establish duties for rural district councils to implement development policies which may include adaptation measures.³¹³ The **Urban Councils Act** does not seem to have any comparable provision or avenue for climate adaptation plan implementation.

The **Zimbabwe National Climate Policy** 2017 recognizes that adaptation is necessary and that the communities in Zimbabwe most at risk to extreme climatic events lack access to adequate funding for adaptation.³¹⁴ Nonetheless, the Policy does not provide any requirements to plan the location of essential infrastructure out of flood prone areas, but only offers a vague goal to “strengthen community-based disaster risk management for communities at risk of extreme climatic events”.³¹⁵ Even for populations less at risk, there are no restrictions on land use or development. The Policy provides directives to “strengthen the...sustainable management of forests”³¹⁶ and “incorporate climate knowledge in the development of climate-resilient infrastructure”.³¹⁷ There are no provisions for land buffers around rivers, riparian setbacks or nature-based stormwater management. The Policy does recognize the vulnerability of the agricultural sector to climate change variability,³¹⁸ however, it does not feature concrete plans to address this besides conducting an analysis of the effects of climate-related interventions on

vulnerable groups.³¹⁹

Likewise, the **Zimbabwe National Climate Response Strategy** of 2019 does not stipulate restrictions on land use and development, a land buffer around rivers, riparian setbacks, instructions to keep essential infrastructure out of flood prone areas, nature-based stormwater management, evacuation routes or safety areas. Rather, the approach to adaptation in the Strategy lies in regulation and technological advancements that still permit the development of vulnerable lands. It recognizes that the “lack of enforcement of policy and by-laws has resulted in some communities settling in endangered areas such as riverbanks, wetlands, gullies, sloppy areas, marginal lands as well as disaster and flood prone areas which are not suitable for human settlements”.³²⁰ However, it does not provide strategies for better enforcement of policies meant to protect land and/or human communities or how to relocate communities that have settled in dangerous areas.

The **Zimbabwe National Development Strategy** of 2020 recognizes that Zimbabwe needs to “strengthen coordination within Government and across other sectors in enforcing land-use planning regulations, orderly resettlements and ensuring that maximum farm sizes are adhered to”.³²¹ It does not, however, provide concrete strategies detailing how to achieve this goal. The Strategy states that poverty and vulnerability have been increasing due to natural disasters exposing citizens to food insecurity³²² however it does not explicitly refer to plans to keep infrastructure and communities out of these

313 Rural District Councils Act [Chapter 29:13], 1988, Part X, Section.74.1(d).

314 Zimbabwe National Climate Policy of 2017, Chapter 7.1, p. 19.

315 Ibid, Chapter 2.6.4, p. 8.

316 Ibid, Chapter. 3.6, p. 11.

317 Ibid, Chapter 4.1.2, p. 13.

318 Ibid, Chapter 2.2, pp. 5-6.

319 Ibid, Chapter 7.1.6, p. 19.

320 Zimbabwe National Climate Response Strategy of 2019, p. 49.

321 Zimbabwe National Development Strategy 1 (2021-2025), 2020, p. 73.

322 Ibid, p. 197.

hazardous areas.

Similarly, the **Zimbabwe National Water Authority Act** grants the National Water Authority the power to “tak[e] appropriate measures to minimize the impacts of droughts, floods or other hazards”,³²³ but does not define what adaptive measures might look like. The Act does not express that these hazards are made worse by climate change.

With regard to future climate hazards, Zimbabwe’s **Revised Nationally Determined Contribution** does not mention planning related to relocations. However, it does say that Zimbabwe will implement actions that “(i) provide the means and incentives for new infrastructure to be planned, designed, built and operated while accounting for future climate change, including extreme weather events; and (ii) facilitate retrofitting of previously built infrastructure to ensure it is resilient to future climate events. This measure applies to infrastructure such as buildings, roads, bridges, telecommunications infrastructure, and water infrastructures such as dams, sewerage, drains, water supply pipes, and pumps. It also includes actions that use energy generating technologies (wind, photovoltaic solar) that are not reliant on climate-sensitive hydrological resources”.³²⁴

Zimbabwe’s Intended Nationally Determined Contribution submitted to the United Nations Framework Convention on Climate Change reflects the country’s ambition to build resilience to climate change³²⁵ and manage climate-related disasters.³²⁶ However, Zimbabwe faces many

challenges in reaching these goals, such as inadequate institutional capacity for providing timely early warning systems, incoherent institutional frameworks (policies) to coordinate disaster risk reduction and lack of financial resources.³²⁷ Recognizing these challenges and conveying them to the Framework Convention on Climate Change communicates to the international community the areas in which Zimbabwe needs support to achieve its climate resiliency goals.

The **Zimbabwe National Human Settlements Policy** has the most extensive guidance on how communities can plan for climate change adaptation. The Policy is intended to prohibit the construction of housing and social amenities on wetlands.³²⁸ It also foresees allowing for victims of natural disasters to be relocated to planned settlements³²⁹ that are consistent with national and international disaster risk reduction frameworks, environmental and climate change policies, laws and standards.³³⁰ While there is room for growth in making provisions for land buffers by rivers, riparian setbacks and nature-based stormwater management, the Policy demonstrates a strong commitment to planning for climate change adaptation.

The National Environmental Policy and Strategies addresses the country’s need for environmentally friendly land use. It stipulates that the national Government will develop and implement integrated land use policies and “ensure that environmental concerns are fully taken into account, particularly in relation to the appropriate land use”.³³¹ Stormwater management is not

323 National Water Authority Act [Chapter 20:25], 2000, Part II, Section 5.1(c)(iii).

324 Ibid, Section 3.4.

325 Zimbabwe’s Intended Nationally Determined Contribution submitted to the United Nations Framework Convention on Climate Change, p. 1

326 Ibid, p. 7.

327 Ibid, p. 7.

328 Zimbabwe National Human Settlements Policy, 2018, Section 2.14.109, p. 52.

329 Ibid, Section 2.4.67, p. 39.

330 Ibid, Section 2.14.108, p. 51.

331 National Environmental Policy and Strategies, 2009, Section 4.3, p. 6.

explicitly mentioned in National Environmental Policy and Strategies, however the policies do provide guidance on water management in a way that stormwater must be included. Participation in catchment and subcatchment water management institutions is encouraged in the document.³³²

3.4 ADAPTATION OF SLUMS AND OTHER VULNERABLE SETTLEMENTS

Several attempts have been made in the recent history of Zimbabwe to address informal housing areas. In 2005, a campaign called Operation Murambatsvina (“Move the Rubbish”) moved to demolish existing illegal structures in all major cities and town. At this time, **the Regional, Town and Country Planning Act** had not been amended to legalize and accommodate illegal structures.³³³ This operation was largely unsuccessful. The mass evictions and demolitions led to the rapid development of squatter camps on the premises of the cleared housing and backyard cottages, which had been built in the poorest and most overcrowded residential areas. The demolition of these slum areas also provided opportunities for corrupt land practices. Politicians took advantage by forming cooperatives and allocated houses in areas without access to roads, electricity, water and basic social amenities and infrastructure. Land barons also emerged who sold land illegally to home seekers without following the requisite urban planning procedures.

Amendments were made to the Regional Town and Country Planning Act in order to regularize

332 National Environmental Policy and Strategies, 2009, Section 4.2, p. 4.

333 Andrew Chigudu and Innocent Chirisa, “The Quest for a Sustainable Spatial Planning Framework in Zimbabwe and Zambia,” Land Use Policy 92 (March 2020): 104442, <https://doi.org/10.1016/j.landusepol.2019.104442>, p. 3.

informal settlements and introduce low-income housing policies.³³⁴ Section 27 of the Act now states that “where any development has been carried out in contravention [of the law’s development control provisions], an application may be made...in respect of that development”. The local planning authority assesses the application and if a planning permit is granted it takes effect from the date on which the buildings were constructed, the operations were carried out or the use was instituted. In addition, the **Town Planning Circular 70 of 2004** contained reduced minimum standards for spatial planning and housing schemes in Zimbabwe, which made more small informal buildings and housing eligible for permitting under the Regional Town and Country Planning Act. However, despite the amendments to the Act and Circular 70, the poor planning which resulted from the mass slum clearance operation has continued to expose people to the negative impacts of climate change, especially flooding, since most have settled on wetlands areas.

The **Constitution of Zimbabwe** implicitly gives urban and rural councils the power to develop urban planning tools, identify land for relocation, charge developers, monitor compliance with approved development conditions and enforce other adaptation policies. The Constitution describes the role of these councils as “urban councils, by whatever name called, to represent and manage the affairs of people in urban areas; and rural councils, by whatever name called, to represent and manage the affairs of people in rural areas within the districts into which the provinces are divided”,³³⁵ The Constitution further provides the right to “equitable sharing

334 Chigudu and Chirisa, p. 2.

335 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 1, Section 5.



Arid landscape, Zimbabwe, Photo by Alberto Bizzini, via Flickr

of national resources, including land”.³³⁶

The **Revised Nationally Determined Contribution** states that “new illegal and unplanned settlements pose social, economic and administrative challenges and generate natural-resource-use conflicts at a local level, and precipitate heightened environmental degradation in fragile ecosystems”. Moreover, the forced migration resulting from mass evictions in slum areas “hinders development by increasing pressures on urban infrastructure and services and increasing competition over scarce resources, thereby increasing the risk of conflict and resulting in worse health, education and other social outcomes among migrants”.³³⁷ The Nationally Determined Contribution lists “women, youths and children, people who are physically handicapped, indigenous peoples, migrants and internally displaced and inhabitants of unfavourable agroecological regions” as being among the most vulnerable populations for climate impacts.³³⁸ The document envisages further Government engagement with these vulnerable groups ensuring that they are accorded the opportunity to contribute to climate change mitigation and adaptation processes.³³⁹

The **Housing and Building Act** defines “essential services” as “a service for the supply, disposal and removal of water, electricity, rubbish and sewage and such other services as the minister, with the approval of the minister responsible for finance, may determine”.³⁴⁰ The Act empowers the Minister of National Housing and Public Construction to both build and buy dwellings and ensure those buildings have essential services.

336 Ibid.

337 Zimbabwe Revised Nationally Determined Contribution, Section 3.2, p. 11.

338 Ibid, p. 8.

339 Ibid, Section 2.1, p. 5.

340 Housing and Building Act [Chapter 22:07], 1979, Part II, Section 5.

The **Water Act** deals primarily with water infrastructure and not with slums, urban areas or potential relocations. However, it does stipulate that the Minister of Rural Resources and Water Development shall “have due regard to the interests of occupants of Communal Land. The minister responsible for the administration of the Communal Land Act [Chapter 20:04] may nominate any fit person to represent the interests of the occupants of any communal land before the catchment council. This applies to “the hearing of any matter affecting the water supply of the Communal Land; or any claim for the grant of a servitude in terms of Part VIII over any portion of Communal Land.”³⁴¹ Furthermore, the Act states that whenever the catchment council makes a decision with respect to an “application for a permit to use water for an irrigation scheme or any other matter is likely, in the opinion of the catchment council, substantially affect the supply of water for primary purposes of the occupants of any Communal Land, the order or other decision, shall not take effect unless approved by the Minister responsible.”

The **Communal Land Act** does not contain any specific provisions regarding slums or new housing resulting from climate change considerations. However, it does contain provisions that may be applicable to such informal or new settlements in rural communities on communal land. The Act allows for a person to “occupy and use Communal Land for agricultural or residential purposes with the consent of the rural district council established for the area concerned”.³⁴² In other words, rural district councils can allow for communal land, normally discretely set aside, to be used for residential purposes “in the interests of inhabitants of the

area concerned”.³⁴³ These residential purposes could meet housing needs in the context of climate change challenges and relocations from other housing due to climate concerns.

The **Energy Act** outlines the importance of converting household and institutional energy sources to electricity in urban areas and biofuels in rural areas to provide greater efficiency while maintaining affordability of the modern energy services. Further, the Act specifically states that the Government will supply 4.5 million compact fluorescent light bulbs. In terms of participatory interventions, the policy only states that the Government will include participation by “forging dialogue and co-ordination among the agencies and communities involved”.³⁴⁴

The **Regional, Town and Country Planning Act** deals with development generally and makes no substantive provisions regarding climate change-related development, adaptation measures or the redevelopment of slums or other vulnerable areas. Nonetheless, several provisions may apply to these concerns. For instance, the Act says a local planning authority may “require any owner of land at his own expense” to take action to “abate any injury caused to the amenities of other land by” either “the ruinous or neglected condition of any building or fence” or “the objectionable or neglected condition of the land”.³⁴⁵ Though the Act does not specifically name slums or informal settlements, it is entirely possible that such dwellings may be poorly kept or in neglected condition such that their repair may be required if they cause injury to other facilities. Such an approach in the application and enforcement of this Act could have the net effect of requiring improvements to slums or other vulnerable

341 Water Act [Chapter 20:24], 1998, Part IV, Section 48.

342 Communal Land Act [Chapter 20:04], 2004, Part III, Section 8.1.

343 Ibid, Part III, Section 9.1(e).

344 Energy Regulatory Act [Chapter 13:23], 2011, Section 8.4.

345 Regional, Town, and Country Planning Act [Chapter 29:12], 1976. Part V, Section 35.1(b).

settlements if such injury can be demonstrated, however, the requirement for these to be done at the owner's expense may put an excessive burden on low-income communities which tend to occupy informal settlements.

The Regional, Town and Country Planning Act also allows a local planning authority to acquire a building subject to a building preservation order if it is shown that the building's owner or manager has received such an order and has not taken proper measures to repair and accordingly preserve the building within a specified period of time.³⁴⁶ Thus, if a slum, informal settlement, or otherwise vulnerable building is served with a preservation order, any failure to repair it accordingly could also have the net effect of repossession and subsequent improvement of these vulnerable areas. However, again, such measures are far from the preferred means to improve and regularize informal settlements and slum areas, since they directly undermine the housing, land and property rights of residents in these areas and may leave them vulnerable to homelessness. Moreover, such measures do not treat the root social and planning issues associated with the development of informal settlements and slum areas.

The **Rural District Councils Act** mentions several possible provisions that support the adaptation of vulnerable settlements. It seems to be, although not stated in a way to be enforceable, that a goal of the council is to upgrade the settlements within the council area. Any area within the council area that "could reasonably be connected" to sewerage, water main, or electricity of the council or serviced for removal of refuse can be made available by the council.³⁴⁷ Both the "owners and occupiers of land...any stand,

³⁴⁶ Ibid, Part VII, Section 48.

³⁴⁷ Rural District Councils Act [Chapter 29:13], 1988, Part 10, Section 75.

lot, premises or other area" may be charged for services and, importantly, these charges shall not exceed the "minimum amount payable to the council by actual users".³⁴⁸ Furthermore, the council and minister can specify "an area for no charges, rents or deposits of any kind" other than electricity.³⁴⁹ These provisions could be used to ease the financial burden of basic services provision on vulnerable populations and facilitate service provision to low-income communities in informal areas.

The National Civil Protection Fund mentioned in the **Civil Protection Act** could also be used to aid in the adaptation of settlements. It can be used to acquire land, equipment and other resources along with paying for the construction of buildings "in order to promote the object of the Fund",³⁵⁰ namely to allow for "development and promotion of civil protection".³⁵¹ While not explicitly referring to climate change adaptation or the adaptation of slums and vulnerable settlements, the objective of the fund would certainly align with such initiatives by paying for upgrades to settlements to improve lives and respond to the impacts of climate change.

The **Zimbabwe National Human Settlements Policy** includes several provisions that work toward adapting informal settlements to create greater climate resilience. Applying to both formal and informal settlements, the Policy states that every local authority will work to mitigate urban sprawl by developing strategies for efficient land use.³⁵² One of the provisions to promote densification is to preserve productive

³⁴⁸ Ibid, Part 10, Section 76.

³⁴⁹ Ibid, Part 10, Section 76.

³⁵⁰ Zimbabwe Civil Protection Act [Chapter 10:06], 1989, Part 9, Section 32(b).

³⁵¹ Ibid, Part 9, Section 31.

³⁵² Zimbabwe National Human Settlements Policy, 2018, Section 2.1.1, no 30, p. 25.

agricultural land.³⁵³ Additionally, the policy states that plans will integrate infrastructure, disaster risk and other aspects that will lead to sustainable developments.³⁵⁴ Plans are further discussed in outlining specific elements of inclusion, which include densification, mixed use and disaster preparedness.³⁵⁵ Within the planning of settlements, the policy includes measures that place community participation at the forefront of planning.³⁵⁶ Additionally, the policy recognizes that the population has exponentially outgrown the capacities of its urban infrastructure such as sewerage and water extraction and treatment plants. In Section 2.1.3, the Policy outlines duties of the Government to provide resources for proper infrastructure, such as fire hydrants, for the advancement of public health and safety.³⁵⁷

The **National Human Settlements Policy** includes a section on urban regeneration which details the reconfiguration of plots. The Policy sets objectives for acquiring derelict buildings, land or space, whether privately or publicly owned, and enhances these land plots with mixed-use high rise buildings or modern and sustainable high rise dwelling units.³⁵⁸ While there is no direct indication if the affordability of these developments will be maintained, it states in Policy Directive 104 that “land and housing allocations will be equitable, transparent and socially inclusive”,³⁵⁹ and the aforementioned reconfigurations of land-uses and land development would likely lead to the economic displacement of affected informal settlement and slum communities. It should be noted

that, in practice, land and housing allocations in most urban areas have not been equitable, transparent or socially inclusive. The sector has been affected by the corruption of local authority officials in the housing department and rise of land barons, especially in Harare.

The **National Climate Policy** includes land management tools to maintain water resources infrastructure. The Government shall “ensure climate change is mainstreamed in water resources infrastructure design including in the development of relevant guidelines”.³⁶⁰ The Policy also establishes a “Centre of Excellence in Water and Climate Change to undertake essential research on the impacts of climate change on water resources”.³⁶¹ The National Climate Policy of 2017 considers specific needs of vulnerable settlements³⁶² by advising the Government to “integrate adaptation into human development programmes for resilient building, with particular focus on the poor and vulnerable groups, through upgrading informal settlements and improved living conditions for all”.³⁶³ Additionally, the Government is compelled to “strengthen community-based disaster risk management for communities at risk of extreme events” and to “ensure that local authorities adopt climate proofed settlement designs”.³⁶⁴

The **National Climate Response Strategy** of 2019 outlines a plan to “mainstream climate change into urban and rural planning, infrastructure, investments and service delivery”.³⁶⁵ In Section 3.1.2, the climate response plan recommends the adoption of more efficient water use practices, specifically through stronger stakeholder

353 Ibid, Section 2.1.4, no 47, p. 33.

354 Ibid, Section 2.1.2, no 33, p. 27.

355 Ibid, Section 2.1.2, no 35, p. 28.

356 Ibid, Section 2.1.1, no 24, p. 24.

357 Ibid, no. 45, p. 32.

358 Ibid, Section 2.9, no 87, p. 44.

359 Ibid, Section 2.12, p. 50.

360 Zimbabwe National Climate Policy of 2017, Section 2.1.6.

361 Ibid, Section 2.1.11.

362 Ibid, Section 2.6.

363 Ibid, Section 2.6.1.

364 Ibid, Section 2.6.4, 2.6.5.

365 National Climate Response Strategy, 2019, Section 5.1 1(a), p. 63.

institutions in water resources management.³⁶⁶

3.5 PLANNED RELOCATIONS FROM AREAS AT RISK OF CLIMATE CHANGE

The Constitution of Zimbabwe does not specifically mention relocation in the context of extreme weather or other climate change-related issues. However, it does make provisions for the compulsory acquisition of property for a purpose in the public interest in return for fair and adequate compensation, provided prior to or “within a reasonable time after the acquisition”. More specifically, it states that compulsory acquisition must be necessary for one of the following reasons: in the interests of defence, public safety, public order, public morality, public health or town and country planning; or in order to develop or use that or any other property for a purpose beneficial to the community. As such, it is foreseeable that compulsory acquisitions could take place when climate change disasters, such as flooding, give rise to public safety or public health concerns related to specific pieces of property. The acquiring authority must give reasonable notice of the intention to acquire the property to everyone whose interest or right in the property would be affected by the acquisition. Property owners can apply to a competent court to contest the acquisition and/or the compensation award. If the acquisition is contested, the acquiring authority must apply to a competent court for an order confirming the acquisition no more than 30 days after the acquisition”.³⁶⁷

The section describing rights to agricultural land establishes mechanisms for relocation that include “...the relocation of persons

³⁶⁶ Ibid, Section 3.1.2 (a)(b), p. 22.

³⁶⁷ Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 4, Part 2, Section 71.

dispossessed as a result of the [compulsory acquisition] of land” for the purpose of (a) the settlement for agricultural or other purposes; or (b) land reorganization, forestry, environmental conservation or the utilisation of wildlife or other natural resources. Compulsory acquisition of agricultural land must take place by notice published in the Gazette identifying the land, right or interest, whereupon the land, right or interest vests in the State with full title with effect from the date of publication of the notice”.³⁶⁸

The Constitution also lays out a system for the compensation of previously acquired agricultural land: “Any indigenous Zimbabwean whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State for the land and any improvements that were on the land when it was acquired. Any person whose agricultural land was acquired by the State before the effective date and whose property rights at that time were guaranteed or protected by an agreement concluded by the Government of Zimbabwe with the Government of another country, is entitled to compensation from the State for the land and any improvements in accordance with that agreement. Any other person whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State only for improvements that were on the land when it was acquired.”³⁶⁹

The **Land Acquisition Act** provides the Government with broad discretion to acquire land as needed in the public interest, which can be used for climate change-induced relocation purposes. The Act allows the President or a minister to acquire land for reasons of public safety and public health.³⁷⁰ To the extent that

³⁶⁸ Ibid, Chapter 4, Part 2, Section 72.

³⁶⁹ Ibid, Chapter 16, Section 295.

³⁷⁰ Land Acquisition Act [Chapter 20:10], 1992, Part II.3.1(a).

climate change impacts are viewed as public safety and/or public health issues, the Act could facilitate the provision of land for the resettlement of populations at risk or otherwise vulnerable to the effects of climate change due to the location of their primary residence. Reflecting the aforementioned provisions of the Constitution, this acquisition capability also extends to rural land “for the relocation of persons dispossessed in consequence of the utilization of land”³⁷¹ for such purposes as agricultural settlements,³⁷² land reorganization, forestry, environmental conservation or wildlife/natural resource uses.³⁷³

Legislative support for planned relocations under the **Regional, Town and Country Planning Act** is quite broad. The Act allows for “land within the area of a local planning authority” to be acquired “for the implementation of any proposal, including development, redevelopment or improvement, contained in an operative master plan or local plan or an approved scheme”.³⁷⁴ To the extent that climate change-induced relocation or development plans are incorporated into these plans and schemes, land could be acquired for the purpose of facilitating planned relocations.

The **Communal Land Act** does not specifically outline provisions for the relocation of populations from disasters or risks; however, there are sections that give authority to the minister to make decisions that could facilitate relocation efforts. Section 10.2 specifies that the “minister may set aside any land contained within communal land, which he considers is in the interest of inhabitants of the area concerned or in the public interest or which he considers

will promote the development of communal land generally or of the area concerned”.³⁷⁵

The **Land Commission Act** primarily deals with agricultural land rather than residential areas.³⁷⁶ However, there are provisions in the law that could broadly allow for the repurposing of agricultural land for resettlement purposes in the context of climate change-induced relocations. For instance, the Act allows for the Minister of Minister for Lands, Agriculture, Fisheries, Water, Climate and Rural Resettlement to “establish schemes or make other provision for [...] the settlement of persons on and the alienation to such persons of agricultural land”.³⁷⁷ This, in essence, gives the minister discretion over allowing people to settle on agricultural land. This power could become critical if, due to effects of climate change on various lands, certain areas of agricultural land are deemed to be optimal sites for the relocation of persons from other climate-impacted lands. More pointedly, the Act has a provision that allows the President to repossess land “for State, local authority or public purposes”,³⁷⁸ which affords the President discretion to regain possession of former State land and repurpose it for relocation exigencies.

The **National Environmental Policy and Strategies**, 2009 requires the Government to take environmental conditions into account when assigning land uses. Regarding resettlement, the document stipulates that the Government must assist communities resettled to areas not suitable for agriculture to use the natural resources available to the best of their ability.³⁷⁹

The **Human Settlements Policy** does not

371 Ibid, Part II, Section 3.1(b)(iii).

372 Ibid, Part II, Section 3.1(b)(i).

373 Ibid, Part II, Section 3.1(b)(ii).

374 Regional Town and Country Planning Act [Chapter 29:12], 1976, Part VII, Section 45.1(a).

375 Communal Land Act [Chapter 20:04], 2004, Section 10.2.

376 Land Commission Act [Chapter 20:29], 2017, Preamble.

377 Ibid, Part V, Section 22(a).

378 Ibid, Part V, Section 27.1.

379 National Environmental Policy and Strategies, 2009, Section 4.3, pp. 6-7.

specifically outline a process for relocation; however, the policy does state that the “victims of natural disasters will be relocated to planned settlements that are guided by disaster risk reduction frameworks”. The directive continues to state that the affected communities should be included in the relocation process to ensure cultural norms and values of the communities can be catered for by “the rubric of the local authority”.³⁸⁰

The **National Climate Policy** of 2017 briefly acknowledges the growing need to accommodate moving populations as a result of climate stress on the environment. The Government of Zimbabwe is compelled to “develop the capacity of local authorities (urban and rural) to manage demographic challenges associated with migration as an adaptation practice”.³⁸¹ However, there is no legal requirement to set aside land for these populations or protect resettlement land from future climate hazards.

3.6 SECURITY OF TENURE

The property rights entitlements found in Section 71 of the **Constitution of Zimbabwe** provide a constitutional basis for the right to security of tenure as it guarantees the right of every person to acquire, hold, occupy, use, transfer, hypothecate, lease or dispose of all forms of property, either individually or in association with others. It states that “no person may be compulsorily deprived of their property, except where the deprivation is in terms of a law of general application and the deprivation is necessary for the interests of defence, public safety, public order, public morality, public health or town and country planning”. Furthermore, Section 74 protects all persons from arbitrary eviction or demolition of

their home without an order of court made after considering all relevant circumstances. Section 28 obliges the State to take reasonable legislative and other measures to enable every person to have access to adequate shelter. With respect to land tenure systems, the Constitution provides the Zimbabwe Land Commission with the power to make recommendations to the Government regarding “systems of land tenure”.³⁸²

The **Housing and Building Act** provides the minister with powers to purchase land and buildings, however there are no provisions for protecting informal rights and interests in housing.

The **Zimbabwe National Human Settlements Policy** establishes the policy objective of ensuring security of tenure for individuals. In Section 2.1.1, no. 26, the Policy states that “clear and defensible tenure rights will be defined for all land categories and mechanisms for guaranteeing security of tenure set up”.³⁸³ Further, no. 28 of the Policy says that rural areas will be title surveyed to “ensure security of tenure, enable investment and guarantee objective land valuation”.³⁸⁴ The Policy also states that a legal framework should be developed to grant security of tenure to individual inhabitants during the regularization process.³⁸⁵ This includes actions such as defining roles for land acquisition, allocation and administrative authority.³⁸⁶ Section 2.3 additionally makes measures to revoke the policy of incremental and parallel development which prevents the illegal parcelling out of land. Regarding evictions and resettlement, the policy states that “displacement without negotiated alternatives

380 Zimbabwe National Human Settlements Policy, 2018, Section 2.4, no 67, p. 39.

381 Zimbabwe National Climate Policy of 2017, Section 2.6.2.

382 Constitution of Zimbabwe Amendment Act, No. 20 of 2013, Chapter 16, Section 297.

383 Zimbabwe National Human Settlements Policy, 2018, p. 25.

384 Ibid, Section 2.1.1, p. 25.

385 Ibid, Section 2.3, no 60-61, p. 37.

386 Ibid, Section 2.4, no 65, p. 38

will be a last resort and in all instances conducted in adherence with the Constitution and relevant laws”.³⁸⁷

The **Land Acquisition Act** of 2018 states that any land can be acquired that furthers the interests of town and country planning, public morality, public health and public order, and has been duly authorized by the President. Additionally, Section 3.1(b) authorizes land acquisition for any rural land that is reasonably necessary for agricultural settlement, land reorganization or the relocation of persons dispossessed.³⁸⁸ The Land Acquisition Act provides dispute-resolution mechanisms during potential contestations over compulsory land acquisitions made by the President or a minister. If an owner, occupier or other party with interests in or rights to a land set to be acquired wishes to make a claim to deny an acquisition order, the person may object in writing to the acquiring authority, which could include a claim for compensation.³⁸⁹ The Act explicitly outlines the duty of the acquiring authority to pay fair compensation to owners of acquired land or any person who “suffers loss or deprivation of rights as a result of any action taken by the acquiring authority in respect of the acquisition of that land”.³⁹⁰ This specifically applies to tenure over not specially Gazetted land, but this duty also applies to “the owner of any specially Gazetted land and to any other person whose right or interest in the land has been acquired in terms of this Act”.³⁹¹

The **Communal Land Act** recognizes the occupancy and use rights of inhabitants of Communal Land, which until 1983 was Tribal

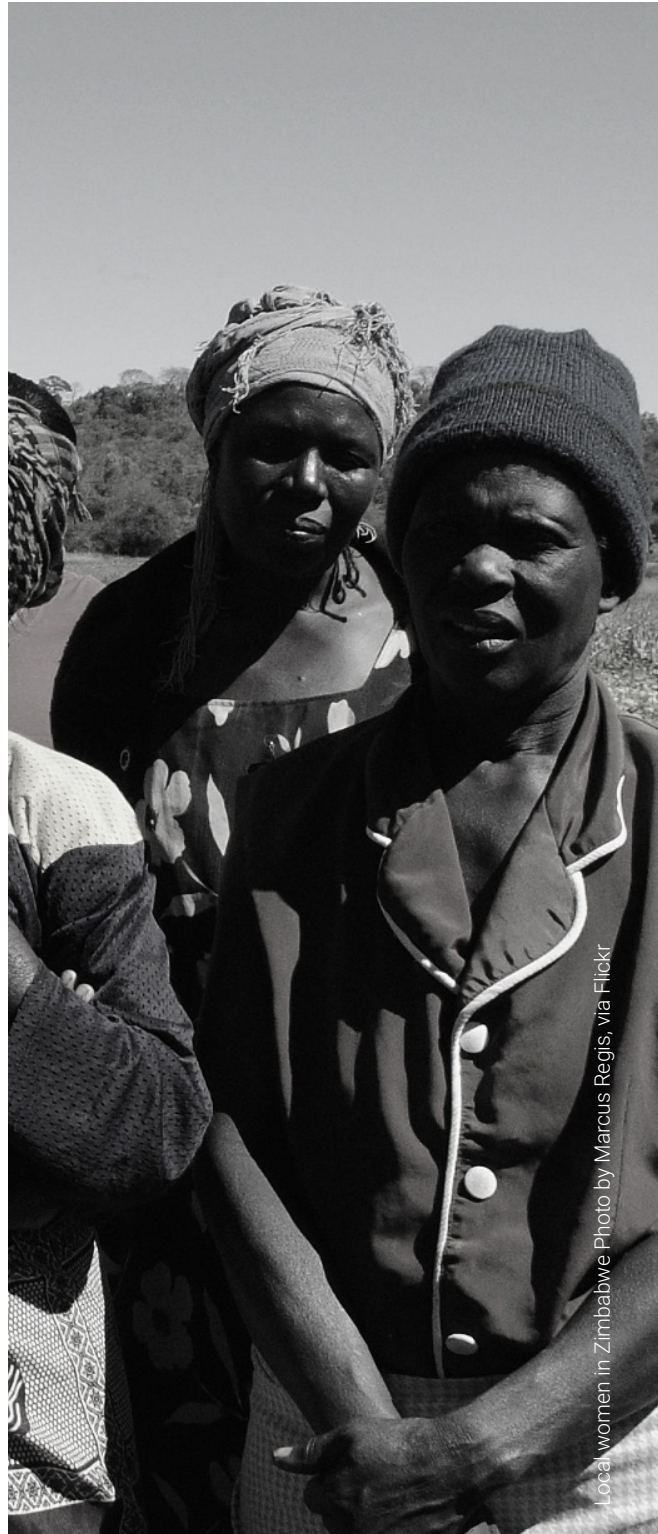
387 Ibid, Section 2.3, no 62-63, p. 37.

388 Land Acquisition Act [Chapter 20:10], 1992, Part II, Section 3.1(b).

389 Ibid, Part III, Section.5.1(a)(iii).

390 Ibid, Part V, Section16(a).

391 Ibid, Part V, Section 16(b).



Local women in Zimbabwe Photo by Marcus Regis, via Flickr

Trust Land under the Tribal Trust Land Act of 1979. The Communal Land Act authorizes rural district councils to grant individuals permissions to occupy and use communal land; rural district councils can also allocate communal land having regard to customary law relating to the allocation, occupation and use of land in the area concerned. In granting such permissions or allocations, the council must consult and cooperate with the chief appointed to reside in the community concerned in accordance with the Traditional Leaders Act. The Act also requires that the Minister of Local Government, Rural and Urban Development approves permits given by a rural district council to persons who have not traditionally and continuously occupied and used the land in the communal land area concerned. The Act provides guarantees that individuals who are dispossessed of or suffer diminution of their right to use or occupy land will receive reasonable and practicable compensation.³⁹²

The **Regional, Town and Country Planning Act** calls for a local planning authority to provide compensation for people “whose property is injuriously affected by [...] the imposition of a building preservation order”.³⁹³ In other words, in the event that someone’s property is a slum or other informal settlement in need of repair and has been, accordingly, served with a building preservation order, there appears to be protection for the property owner in case the costs of repairing and/or preserving the building under the order proves injuriously costly. However, the Act also considers informal housing in slums as a “nuisance” and establishes guidelines for their demolition.

The **Land Commission Act** ensures that a

392 Communal Land Act [Chapter 20:04], 2004, Part V, Section 12.1.

393 Regional Town and Country Planning Act [Chapter 29:12], 1976, Part VIII, Section 50.1(a)(iii).

lessee or grantee is entitled to compensation if their land is retaken for possession under the President’s orders.³⁹⁴ Additionally, in determining the amount of compensation in these cases, there is an option to engage in alternative dispute resolution by taking the case to arbitration.³⁹⁵

The **Zimbabwe Vision 2030** includes regressive provisions regarding security of tenure. These provisions specify that “security of land tenure is a prerequisite for enhanced investment of farms and agriculture production”³⁹⁶ and note that the Government will increasingly enforce this requirement.³⁹⁷ It further states that security of tenure applies to “99-year leases, A1 permits and planned communal grazing land”,³⁹⁸ and that the Government will enforce stern penalties against illegal settlements.³⁹⁹

3.7 DEVELOPMENT APPROVAL AND ADAPTATION

The **Housing and Building Act** gives the Minister of National Housing and Public Construction the power to establish a special rate fund for specified districts. Among other sources, the rate fund draws revenue from “rates, fees, rents, charges and any other revenue of any kind whatsoever derived in respect of occupation or residence in the declared area concerned; licence and other fees accruing under any enactment to the declared area concerned”.⁴⁰⁰

The **Regional, Town and Country Planning Act** does not include explicit provisions regarding planning and design standards to adapt to

394 Land Commission Act [Chapter 20:29], 2017, Part V, Section 27.1.

395 Ibid.

396 Zimbabwe Vision 2030, no. 99.

397 Ibid, no.100.

398 Ibid, no.100.

399 Ibid, no.101.

400 Housing and Building Act [Chapter 22:07], 1979, Part IV, Section 19.

climate risks and vulnerabilities. However, the Act does prevent people from carrying out any developments not approved under a development order.⁴⁰¹ Part V of the Act stipulates controls for development, including for the preservation of trees and woodland. A permit for development or planning permission is required from the local planning authority (a) to reconstruct a building in place of a demolished one, and (b) to enlarge, improve or otherwise alter an existing building.⁴⁰² When a proposal for development for State purposes conflicts with an operative master plan or local plan or an approved scheme, the minister concerned is obliged to consult with the Minister of Local Government, Rural and Urban Development and the local planning authority concerned in relation to the proposed development”.⁴⁰³ These provisions should protect against developments that are not compliant with formally submitted and approved development plans. There is also an enforcement mechanism protecting against non-compliant plans: violators are subject to certain fines and/or up to six months of imprisonment.⁴⁰⁴

The **Rural District Councils Act** provides for the establishment of a rural district development committee that makes recommendations to the council for long-term plans for the district and investigates their implementation.⁴⁰⁵ This committee can help to ensure that plans for long-term development are enforced and can enable the public, through the rural district development committee, to voice concerns over the impacts of climate change.

The **Zimbabwe Wetlands Policy** broadly defines

401 Regional Town and Country Planning Act [Chapter 29:12], 1976, Part V, Section 24.1.

402 Ibid, Part V, Section 24.

403 Ibid, Part V, Section 28.

404 Ibid, Part V, Section 24.4.

405 Rural District Councils Act [Chapter 29:13], 1988, Part 8, Section 60.5.

how adaptation principles related to wetlands should be within the development approval process to ensure sustainable development; however, the Policy does not include specific language on the development approval processes to achieve this.⁴⁰⁶ For example, the policy does not include provisions that give statutory authority for governments to take actions such as charging developers and including conditions within the approval process of developments.

In the **Communal Land Act**, statutory authority is given to the minister to regulate the land through charges and deposits. Section 10.4 states that “charges and deposits to be made for any services, amenities or facilities provided by the State within or for any such land, whether or not any such service is used or not”.⁴⁰⁷

The 2019 **Zimbabwe National Climate Response Strategy** is based on adaptation considerations such as updating building standards/codes and investing in resilient social infrastructure to make policies more adaptive to climate change,⁴⁰⁸ but falls short of providing guidance on how these recommendations should be implemented and monitored in the context of development. The Strategy does feature language that emphasizes the need for enforcement, such as in Section 3.1.3(a), where it the need to “develop and enforce policies that regulate change from one land-use to another”⁴⁰⁹ is highlighted,

The **Environmental Management Act** includes information regarding procedures for conducting environmental impact assessments on land that will be developed. These assessments have the potential to set development standards and address the growing risks and vulnerabilities

406 Zimbabwe Wetlands Policy, 2020, Section 5, p. 9.

407 Communal Land Act [Chapter 20:04], 2004, Section 10.4.

408 Zimbabwe National Climate Response Strategy, 2019, Executive Summary, p. vii

409 Ibid, p. 23.

associated with climate change. However, the Environmental Management Act should be amended to include specific ways that environmental impact assessments can factor in the increasing stress climate change will place on the built environment. When a developer is preparing a project, they submit a prospectus to the Director General of the Environmental Management Authority describing the method of conducting the environmental impact assessment.⁴¹⁰ The Director General examines the prospectus and determines whether the proposed assessment “will be capable of evaluating the project’s impact on the environment.”⁴¹¹ If so, the Director General would then “approve the prospectus and ask the developer to proceed to prepare an environmental impact assessment.”⁴¹² If unsatisfied with the prospectus, the Director General provides the necessary direction for the new prospectus.⁴¹³ While deciding whether to approve a project with an environmental impact assessment, the Director General “shall take into account any likely impact of the project on the environment and the actual impact of any existing similar project on the environment”.⁴¹⁴ Throughout the development process, developers shall “take all reasonable measures to prevent or, if prevention is not practicable, to mitigate any undesirable effect on the environment that may arise from the implementation of his project”.⁴¹⁵

The Environmental Management Act and the attendant environmental regulations include several land management tools that can promote adaptation to create more resilient communities

410 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Section 88.1.

411 Ibid, Section 2(b).

412 Ibid.

413 Ibid, Section.88.2(c).

414 Ibid, Section.100.3(a).

415 Ibid, Section 107.1.

in the face of climate change. The requirement to obtain licences to discharge effluents can help to address public health concerns and the increased strain of discharge on the built environment. Before issuing a licence, the Environmental Management Board takes into consideration the water requirements of human settlements.⁴¹⁶ The same is true for emissions licences. Before issuing such a licence, the board shall “give due regard to the requirements of residents, human settlements and other industrial and commercial activities”.⁴¹⁷ The Environmental Management Act does not include special provisions for vulnerable or informal settlements.

The **National Climate Policy** includes provisions guiding the development of climate resilient infrastructure. However, they include no mechanisms for charging developers for these improvements. The Government is compelled to develop planning and design guidelines for “climate resilient infrastructure, including guidance to carry out climate impact assessments of proposed projects”.⁴¹⁸ The Government should also “develop a climate resilient hydro-energy infrastructure that incorporates...increases in climatic variability”.⁴¹⁹

The **Energy Act** includes a range of mechanisms crafted for each specific energy source that links development approval processes to adaptation. One of is for the enforcement of current and proposed regulations with the goal of protecting natural forests. Another is a recommendation that if a regulation mandates the installation of solar geysers in all new homes, and if there is non-compliance, higher electricity prices will

416 Ibid, Section.60.4(d).

417 Ibid, Section 65.2(c).

418 National Climate Policy of 2017, Section 2.5.1.

419 Ibid, Section 2.5.2.

be imposed.⁴²⁰

RECOMMENDATIONS

Climate risks and vulnerability for planned areas and infrastructure:

- Requirements for both disaster risk assessments and, more broadly, climate risk and vulnerability assessments, should be incorporated into urban and territorial planning laws, such as the Regional, Town and Country Planning Act and Urban Councils Act, as well as environmental management and climate change laws such as the Environmental Management Act. These legal provisions should specifically describe the methods and processes to conduct risk and vulnerability assessments in an inclusive and participatory manner, as foreseen in the Zimbabwe National Human Settlements Policy, and should include a list of potential climate hazards that need to be identified in the risk and vulnerability assessments.
- These legal provisions should require climate hazard mapping which identifies where climate hazards are most likely to occur. Such climate hazard maps should be publicly accessible and reviewed at least every ten years.

Identification and prioritization of adaptation options:

- A legal framework for prioritizing climate adaptation options in urban planning should be formulated with climate adaptation options described in greater detail and required to be assessed based on time, cost, benefits and barriers to

implementation. Adaptation options should be both infrastructure-based (focusing on climate-resilient infrastructure and design) as well as ecosystem-based (focusing on conservation and the prevention of ecological degradation). Stakeholder engagement should be a key element in the process of identifying and prioritizing climate adaptation options. Finally, adaptation actions should be formalized as concrete targets with measurable and verifiable benchmarks against which progress can be assessed.

- The National Development Strategy focuses more on technological modernization, conservation of current natural resources and climate resiliency as opposed to climate adaptation. Adaptation should be another key tenet in the strategy leading development in Zimbabwe.
- While some laws, such as the Water Act, Urban Councils Act and the Regional, Town and Country Planning Act, clearly vest powers in ministers, councils and other bodies; those powers should explicitly mention requirements for climate change adaptation.
- It is recommended that the National Climate Policy direct the Government of Zimbabwe to specifically consider the unique ways that climate change impacts the water resource infrastructure of informal and vulnerable human settlements and develop a list of climate adaptation options in response to the impacts identified.

Implementation of identified adaptation options:

- Explicit provisions for the implementation

420 Energy Regulatory Act [Chapter 13:23], 2011, Section 5.5.5.

of climate adaptation options through restrictions on land use and development, land buffers around rivers, riparian setbacks, instructions to keep essential infrastructure out of flood prone areas, nature-based stormwater management, evacuation routes or safety areas need to be integrated into the country's urban and territorial planning framework and/or its environmental law and forthcoming overarching climate change legislation.

- The land information system of Zimbabwe should integrate climate hazard mapping when available to inform and enforce planned climate adaptation measures.
- The Water Act provides several initiatives that could be further developed and strengthened in preparation for the increased depletion of water resources due to climate change. For example, a proportion of the available water in each river system could be reserved based on the refill rate of the catchment area. Another improvement in the management of water as outlined in the Water Act would be to require the members of the catchment council be local representatives who are voted into their position and have a management role equal to that of the minister. Given that the Water Act determines the governance of a vital resource, there should be more clear provisions in the Act that make the suggested avenues for adaptation plan implementation easier to directly implement.
- The methods the National Water Authority can use to minimize the impacts of droughts, floods and other hazards should be expanded and clarified in the Zimbabwe National Water Authority Act.
- The Government of Zimbabwe should clarify and expand on ways it will incorporate adaptation plans into their mining operations in the Zimbabwe Vision of 2030.
- Rigid urban planning and development frameworks which impede the delivery of urban housing combined with a lack of legal enforcement in some areas have allowed informal settlements to develop on climate vulnerable sites that are especially prone to extreme weather events. It is necessary to develop a legal and policy framework which outlines the adaptation and regularization of these areas or, where impossible, the equitable resettlement of these communities.

Adaptation of slums and vulnerable settlements and security of tenure:

- The law should be reformed to strengthen the tenure security of informal tenure holders and improve the climate resilience of slum areas and other vulnerable settlements. The Regional, Town and Country Planning Act should elaborate on its provisions for regularizing informally constructed buildings or unpermitted land uses.
- Dedicated legislation facilitating the regularization, adaptation and, when necessary, relocation of informal settlements should be developed. This should include mechanisms to ensure the participation of all owners and residents of slums and other vulnerable settlements and the requirement to conduct community-led surveys, maps and household enumerations in the regularization process.
- Differentiated and flexible planning and infrastructure standards for slums and

other vulnerable settlements should also be elaborated in a manner similar to the Town Planning Circular 70 of 2004.

- Regularization should facilitate the incremental integration of informal tenure rights into official deed registries and land information systems, such that the rights are protected by law and entitlements to just compensation for expropriations and evictions apply. The Zimbabwe Vision 2030 can also promote the legal recognition of a variety of land tenure modalities and create a process to regularize a wider range of tenure forms.
- It is recommended that the Zimbabwe Vision 2030 specify how the Government or local authorities will develop resilient housing. Additionally, it should make special provisions for informal or vulnerable settlements and provide mechanisms for monitoring compliance and enforcement for the development of resilient housing.
- The National Development Strategy does not specifically address slums or vulnerable settlements besides mentioning “illegal settlements”⁴²¹ in the context of threats to agricultural land. Therefore, there are no provisions for the adaptation of slums and other settlements vulnerable to the effects of climate change.
- Work with slum dwellers in Dzivarasekwa Extension has shown the power of positive engagement between the local authorities and slum dwellers. The project highlights the importance of genuine partnerships between low-income communities and city governments. These partnerships become platforms through which pro-

poor settlement responses (such as slum upgrading) can be initiated and collectively implemented as climate change threatens vulnerable populations. Alternative off-grid urban services have the potential to make incremental slum upgrading a reality and to help urban areas adapt to the effect of climate change. The lessons learned from this project should be formalized in law or policy to help more vulnerable communities in Zimbabwe.⁴²²

Planned relocations:

- Legal provisions for the relocation of communities vulnerable to the effects of climate change need to be incorporated into the country’s forthcoming overarching climate change law or, otherwise, into the Regional, Town & Country Planning Act. These should require local planning authorities to set aside land which is safe from current and future climate hazards for relocation in case of extreme weather events. Relocation sites should be situated in areas such that they provide livelihood opportunities, water and food security, sanitation, education and accessible health facilities.

Implementation of climate adaptation strategies through development approval:

- The law should include provisions that allow governments to charge developers, either in cash or in kind, through conditions to be attached to the approval of planning applications for infrastructure costs associated with their developments. The National Climate Policy should contain a direction for the Government of Zimbabwe to explore methods of charging fees for development climate impact assessments.

421 Zimbabwe National Development Strategy 1 (2021-2025), 2020, Section 313, p. 73.

422 Dzivarasekwa Slum Upgrading Project, Zimbabwe.

- The exact modalities for monitoring and enforcing development and planning permit compliance should be further elaborated in the Regional, Town and Country Planning Act and in the Environmental Management Act.
- The Environmental Management Act should specify ways that environmental impact assessments can be changed to factor in the increasing stress that climate change will put on the built environment.

See table 3 for a summary of the main laws, regulations, and policies referred to in this chapter.

TABLE 3. Referenced legislation and policies (Planning for adaptation)

Legislation	Year
Constitution of Zimbabwe	2013
Civil Protection Act	1989
Communal Land Act	1983
Energy Regulatory Act	2011
Environmental Management Act	2003
Housing and Building Act	1979
Land Acquisition Act	1992
Land Commission Act	2018
National Water Authority Act	2000
Rural District Councils Act	1988
Regional, Town, and Country Planning Act	1976
Town Planning Circular 70	2004
Urban Council Act	1995
Water Act	1998
Zambezi River Authority Act	1987
Policy	Year
Biofuels Policy	2020
Climate-Smart Agriculture Manual for Zimbabwe	2018
Intended Nationally Determined Contribution	2015
National Climate Policy	2017
National Climate Change Response Strategy	2019
National Energy Policy	2012
National Environmental Policy and Strategies	2009
National Human Settlements Policy	2020
National Wetlands Policy	2020
Revised Nationally Determined Contribution	2021
Zimbabwe Vision of 2030	2018



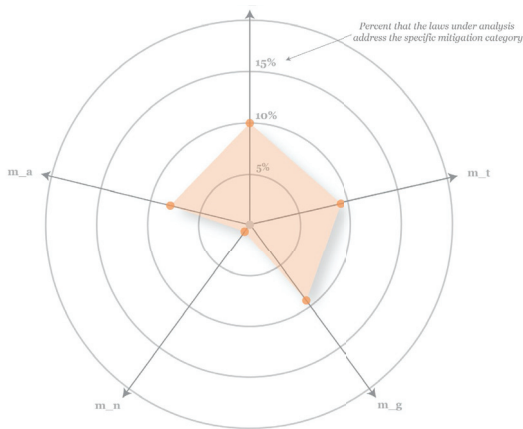
Fetching water at a local well, Zimbabwe. Photo by Ulrika Andersson, via Flickr

CHAPTER 4.

PLANNING FOR MITIGATION



EXECUTIVE SUMMARY



Planning for Mitigation

- m_o Urban plans and greenhouse gas emissions
- m_t Urban form and reduction of greenhouse gas emissions from transportations and infrastructure
- m_g Green spaces for environmental and climate services
- m_n Neighborhood design and energy saving in buildings
- m_a Development approval and mitigation

Figure 9: Rating matrix for Zimbabwe on planning for Mitigation

Urban law can play an important role in helping cities reduce greenhouse gas emissions by defining urban forms; determining where land, infrastructure and basic services can be built, and laying out rules for planning and decision making. Climate change mitigation considerations should be integrated into urban planning processes by ensuring that urban plans have mitigation in mind as well as putting emphasis on assessing greenhouse gas emissions associated with the implementation of final approved plans. While the urban law framework in Zimbabwe does not include legal provisions or regulations that require assessing of the greenhouse gas emissions of different

urban planning options, there exist several climate policies and strategies that require the assessment and monitoring of such emissions across industries and sectors, including those related to urban planning and infrastructure. The **Long-term Low Greenhouse Gas Emission Development Strategy** (2020-2050) assesses the greenhouse gas emissions of transit systems, land use and waste management systems. The **National Climate Policy** of 2017 tasks the Government with establishing a monitoring and verification framework for monitoring greenhouse gas inventories in compliance with the Policy’s reporting requirements. These and other policies provide a baseline for assessing greenhouse gas emissions in urban planning and governance, however, it can be much improved. There are no measures which explicitly require the assessment of such emissions associated with the existing urban form, nor that require the estimation of existing carbon sinks. Further, there are no legal or policy provisions which require the creation of different planning scenarios comparing their greenhouse gas emissions and carbon sink potential. Finally, such greenhouse gas emission targets related to planned urban areas, including measurable benchmarks to assess progress, are not provided for in law or policy.

Zimbabwean legislation lacks specific mandates to “promote a connected, accessible and dense urban form that reduces car trips, promotes walkability and the efficient use of public infrastructure”.⁴²³ However, the **Zimbabwe Road**

⁴²³ United Nations Environment Programme, United Nations Framework Convention on Climate Change, UN-Habitat and the

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The Zimbabwe Model Building By-laws Regulation (1978) should be reformed, or a new set of model by-laws developed, which better promote climate change mitigation in neighbourhood design and building construction.

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Act promotes the creation of an integrated and efficient road transport network, while **Circular 70** of 2004 was issued to promote compact urban development in the wake of increased urban sprawl in Zimbabwe. The **National Human Settlements Policy** also attempts to combat sprawling settlements with, among other actions, the promotion of a densification model of development through the vertical construction of walk-up flats. Nonetheless, urban planning laws and regulations fail to explicitly promote connectivity and walkability by establishing minimum standards for streets, street design standards for walkability and cycling, plot design rules, mixed land use and optimal urban density.

There are very limited provisions in Zimbabwe's legislation which promote a network of green spaces for environmental and climate services. Urban councils have powers to plant, cultivate or remove trees and to take measures for conservation or improvement of natural resources under the **Urban Councils Act**. They can also introduce by-laws to promote a network of green spaces in urban areas. The

Environmental Management Act enables the President to set aside State land or acquire other land for environmental purposes, which could include providing green spaces in urban areas. However, there are no specific requirements establishing minimum quantitative standards for green spaces or ensuring the adequate distribution of such spaces across the city. There are also no provisions of law or regulation that require connecting and planning together networks of green areas and water bodies.

The **Urban Councils Act** provides scope for neighbourhood design and energy saving in buildings by empowering urban councils to make by-laws for the nature, design and appearance of buildings, supply of electricity and the planning, construction and use of buildings. However, the legal framework for urban planning does not include provisions concerning neighbourhood planning. Climate mitigation could be realized in neighbourhood planning through requirements to consider wind and sun direction when deciding the orientation and the layout of streets, the thermal properties of urban surfaces, or the optimal orientation of the buildings for the purpose of energy saving

Commonwealth Secretariat, The Law and Climate Change Toolkit, Urban Law Module, p.7.

in buildings. The **Model Building By-laws** also do not include provisions that encourage energy saving in buildings through building orientation and the thermal properties of building materials.

Enforcement mechanisms exist in Zimbabwe's urban planning and environmental law frameworks which could support compliance with planning and design standards for climate change mitigation. The **Environmental Management Act** in particular can ensure compliance with climate change mitigation measures in planned areas through its provisions requiring environmental impact assessments to be undertaken on land that will be developed. The law also makes provisions regarding issuing licences to discharge effluents and emissions, which can control for climate change mitigation standards in urban development processes. The **Regional, Town and Country Planning Act** links the development approval process to legally approved urban plans and zoning regulations by requiring all land developments, including reconstructions and enlargements or alternations, to be granted a development order or planning permission from the local authority. However, planning and design standards that mitigate the emissions of greenhouse gases will need to be better defined in legislation in Zimbabwe to be specifically enforced through this development approval process.

4.1 URBAN PLANS AND GREENHOUSE GAS EMISSIONS

Urban form is not a specific measure in the leading strategy to combat climate change: the **Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050)**. Nevertheless, this Strategy provides

for an assessment of the greenhouse gas emissions of transit systems, land use and waste managements, and for assessments to be conducted through to 2050 for transport fuel, such as gasoline/petrol, diesel and ethanol, and makes predictions related to future car use. The Strategy also includes graphs which break down emissions by mode of transport, including buses and motorcycles.⁴²⁴

The Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050) establishes two scenarios: one for planning a "business as usual" scenario that assumes no change and a "mitigation scenario" that estimates lower emissions based on changes to vehicle use and other pollution factors. The Strategy provides an estimation of carbon sinks in one of its sections featuring a discussion on conservation agriculture as a strong tool for mitigation.⁴²⁵ This section includes a prediction of the carbon sink through 2050 assuming a strong mitigation policy is followed. The section does not contain a requirement for scenario planning related to carbon sinks, however.

The Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050) does not require benchmarking but does have recommendations on measurable assessments of greenhouse gas emissions for all different sectors. The strongest language appears in the explanation of the mitigation scenario modelling and its financing mechanisms:

"The alternative GHG mitigation pathway presented in this document is based on a strong climate-financing framework. The underlying assumption is that LEDS implementation is supported by a national Climate Finance Facility

424 Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050), pp. 77-85.

425 Ibid, pp. 25-36.

(Figure 7-5), which offers debt capital and concessional lending rates based on sustainable and measurable GHG emissions reductions. This would eliminate the gap between the economically viable abatement potential and those measures that may be financially viable/ attractive. The Marginal Abatement Cost (MAC) functions were used to prioritize the mitigation options. The modelling of a mitigation scenario (MIT) is based on brief sectoral studies for i) Reduction of load dependent technical losses in the electricity transmission and distribution system, ii) introduction of Minimum Energy Performance Standards (MEPS), iii) abatement potential in the Solid waste subsector, iv) transport, v) cement and vi) AFOLU [Agriculture, Forestry and Other Land Use].⁴²⁶

Later the document states that it is “recommended that the Ministry of Industry and Commerce and the MLAWCRR work to develop reference performance benchmarks for the existing clinker and cement production facilities and for new installation permits”.⁴²⁷ Also related to the cement industry, the strategy says “any mitigation programme for the sector should therefore be focused on reducing emissions whilst delivering measurable and cost-effective co-benefits to the industry”.⁴²⁸ This language serves as a recommendation rather than a requirement.

With regard to greenhouse gas emissions, the **National Environmental Policy and Strategies**, 2009 states that the Government of Zimbabwe will introduce emissions standards and will enforce and monitor vehicle emissions. The transport section also stipulates that emission control measures will be encouraged along with

cleaner fuel sources.⁴²⁹ The air quality section describes weather-related changes associated with greenhouse gas emissions, stating that the Government will “promulgate regulations to control gaseous and particulate emissions from point sources” and “encourage the reduction of emissions from widespread multiple point sources, such as domestic fires, by promoting the switch to cleaner-burning fuels or the use of more efficient and better ventilated stoves”.⁴³⁰ Furthermore, the industry section of the National Environmental Policy and Strategies of 2009 discusses emissions and the Government is tasked with “develop[ing] local environmental standards, including specified permissible pollution levels for emissions into water, air and land, based on international standards but taking into account Zimbabwe's sustainable development needs” and “introduc[ing] measures to encourage companies to adopt the best practicable means of limiting emissions, effluents and solid waste production”.⁴³¹ Further, the National Environmental Policy and Strategies of 2009 tasks the Government with developing “environmental standards as a priority for use as benchmarks in assessing environmental impacts”.⁴³² Carbon sinks are not discussed specifically in the Strategy, however, the policy says the Government shall “promulgate regulations to discourage widespread and unnecessary deforestation, and provide incentives to encourage reforestation and, where appropriate, afforestation, to increase carbon storage in the vegetation and soils”.⁴³³

The **National Development Strategy** recognizes the importance of different Government levels,

426 Ibid, Section 2.4, p. 4.

427 Ibid, p. 101.

428 Ibid, pp. 93-94.

429 National Environmental Policy and Strategies, 2009, Section 6.2.7, p. 23.

430 Ibid, pp. 3-4.

431 Ibid, Section 6.2.4, p. 21.

432 Ibid, Section 6.2.4, p. 21.

433 Ibid, Section 4.1, p. 3.

as well as private and community entities, working together to reduce greenhouse gas emissions. It stipulates baseline greenhouse gas emissions and sets targets to lower them.⁴³⁴ These targets also specifically outline different Government and community partners as well as the laws and policies that support these emissions reduction goals.⁴³⁵ However, the Strategy does not elaborate on how emissions levels were assessed in the first place or how they will be assessed moving forward in order to determine how Zimbabwe is making progress in accordance with the stated emissions targets. The Strategy only focuses on carbon emissions and does not explicitly address other strategies such as carbon sinks. There are related goals such as reducing the number of hectares of land burned and increasing the area of forest cover. The National Development Strategy also fails to produce different scenarios, the greenhouse gas emissions or carbon sink potential associated with each scenario.

The **National Climate Change Response Strategy** of 2019 does not specifically require the estimation of existing carbon sinks, but it does state that it should “maintain, account for and expand carbon sinks”.⁴³⁶ The Strategy additionally touches on the process of maximizing carbon sinks potential with crops that are more adaptable to high CO₂ intensities,⁴³⁷ and to create traceable offsets through carbon sinks.⁴³⁸ While the plan steps through different scenarios that relate to greenhouse gas, it does not specifically make a recommendation that calls for the requirement of creating planning

scenarios.

Zimbabwe’s Nationally Determined Contribution document defines the ways to reduce or mitigate greenhouse gasses; however, the policy does not have requirements for assessments of greenhouse gasses in line with existing urban forms. Further, nothing in the document requires spatial plans to set emissions targets, however the Nationally Determined Contribution does mention that the proposed mitigation options will be implemented “in line with the country’s national plans and programmes”. The Revised Nationally Determined Contribution is similar in that it does not require assessments of greenhouse gas relating to existing urban forms. It also calls for a coordinated and aligned effort among various governmental levels through the country’s national budget, plans, capital projects and programmes.

The **Revised Nationally Determined Contribution’s** target is to reduce emissions to 40 per cent per capita across all sectors of the economy, something the original National Determined Contribution does not foresee. In setting this objective, the document describes two scenarios: the first is the “business-as-usual” scenario, which is the baseline projection if no mitigation action is taken, and the second scenario is where key mitigation policy measures have been implemented.⁴³⁹ For the second scenario to prevail, the document states that the support of the international community will be necessary to meet the 40 per cent emissions reduction target.⁴⁴⁰

The Intended Nationally Determined Contribution further states that “models used to evaluate the different mitigation options included the

434 National Development Strategy 1 (2021-2025), 2020, p. 296.

435 Ibid, p. 297.

436 National Climate Change Response Strategy, 2019, Section 3.1.3, p. 28.

437 National Climate Change Response Strategy, 2019, Section 3.2, p. 38.

438 Ibid, Section 3.1.3, p. 26.

439 Revised Nationally Determined Contribution, 2021, Section 1, p. 1.

440 Ibid, Section 1, p. 1.

Zimbabwe Load Forecast, LEAP [Lowveld Environmental Awareness Programme] and GACMO [Greenhouse Gas Abatement Cost Model] models. The selected options were presented to various stakeholders including Government, the business community and development agents such as UNDP [United Nations Development Programme], UNIDO [United Nations Industrial Development Organization], SNV [Netherlands Development Organization], HIVOs [Humanist Institute for Development Cooperation], among others”, and “to ensure technical compliance with key stakeholders, the project identified strategic technical Government technical experts who were consulted regularly throughout the whole development process for real-time alignment of the findings with the national vision”.

The **National Climate Policy** of 2017 does not include provisions regarding greenhouse gas emissions associated with urban form and urban plans. However, it includes general goals surrounding greenhouse gas emissions. The Government aims to reduce “greenhouse gas emissions by 33 per cent per capita below business-as-usual by 2030” as stated in the country’s Nationally Determined Contribution and in line with the Paris Agreement on climate change.⁴⁴¹ The Policy compels the Government to “establish and regularly update a national inventory of anthropogenic emissions by sources and removal by sinks of greenhouse gases.⁴⁴² The Government should track these efforts by setting “emissions targets for each sector that are in line with the Nationally Determined Contribution (NDC) in a transparent manner and updating the status of meeting targets in each sector every five years”.⁴⁴³ The Government of Zimbabwe shall also “establish a monitoring,

reporting and verification (MRV) framework for monitoring GHG inventories towards compliance with NDCs requirements one year before global reporting”.⁴⁴⁴ Finally, the Government should facilitate and authorize local organizations to participate in climate funding projects. These include the Clean Development Mechanism, the Green Climate Fund, and the Nationally Appropriate Mitigation Actions.⁴⁴⁵

The **Environmental Management Act** addresses climate and pollution concerns, but rarely specifies the ways that urban form and urban plans affect greenhouse gas emissions. The Act holds those responsible for pollution accountable, stating that “any person who causes pollution or environmental degradation shall meet the cost of remedying such pollution or environmental degradation and any resultant adverse health effects, as well as the cost of preventing, controlling or minimizing further pollution, environmental damage or adverse health effects”.⁴⁴⁶ Subject to this Act, the Environmental Management Agency is responsible for regulating and monitoring “the discharge or emission of any pollutant or hazardous substance into the environment”.⁴⁴⁷ The aim of the Act is to reduce existing sources of air pollution through the redesign of plants and the implementation of new technology to meet stricter air quality standards.⁴⁴⁸ In order to coordinate strategies and facilitate these plans, the minister “shall prepare a National Environment Plan” that includes measures for the “mitigation of activities contributing to global climate change and the protection of the ozone layer”.⁴⁴⁹ This Act

441 National Climate Policy of 2017, Introduction.

442 National Climate Policy of 2017, Section 3.1.1.

443 Ibid, Section 3.1.2.

444 Ibid, Section 3.1.7.

445 Ibid, Section 7.2.5.

446 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Section 4.2(g).

447 Ibid, Section 10.1(b)(iii).

448 Ibid, Section 63.1(c).

449 Ibid, Section 87, 88.

stipulates that the minister, in consultation with the Agency, is in charge of making the regulations surrounding “the control or prohibition of activities and practices likely to deplete the ozone layer”.⁴⁵⁰ Related to those regulations, the Act gives the minister the power to establish “the procedure for conducting environmental impact assessments”,⁴⁵¹ which can be used to assess the greenhouse gas emissions of new projects. However, the Act does not stipulate exactly what those assessments should contain or how long they should take to be completed. The Environmental Management Agency also has the power to regulate, monitor, review and approve environmental impact assessments.⁴⁵²

Part of the purpose of the **Zimbabwe Roads Act** is “to provide for the regulation of the standards applicable in the planning, design, construction, maintenance and rehabilitation of roads with due regard to safety and environmental considerations”.⁴⁵³ However, there is no focus on or explicit mention of greenhouse gas emissions considerations or carbon sinks. The Act makes it an offence to cut down, burn, damage, or interfere with “any tree, shrub or other plant growing on any road.”⁴⁵⁴ As such, it may be possible that this Act could effectively protect large groups of trees or other vegetation along roads that, if removed en masse, could contribute to increased greenhouse gas emissions or interfere with a carbon sink.

Lastly, the **National Industrial Development Policy** is not directly related to considerations of urban planning or the urban form since it focuses more on economic policy. The Policy does, however, state that the Government

will “ensure that industrial transformation is pursued in a manner that ensures environmental sustainability, hence it will encourage the use of technologies that minimize industrial emissions and discharges”.⁴⁵⁵ Therefore, to the extent that industrialization plans are entangled with urban planning options, the policy calls for assessing potential emissions in those planning processes.

4.2 URBAN FORM AND REDUCTION OF GREENHOUSE GAS EMISSIONS FROM TRANSPORT AND INFRASTRUCTURE

Legislation in Zimbabwe lacks specific mandates to “promote a connected, accessible and dense urban form that reduces car trips, promotes walkability and the efficient use of public infrastructure”.⁴⁵⁶ However, the **Zimbabwe Roads Act** gives the Minister of Transport and Communications (or another equivalent minister) duties that broadly cover environmentally efficient uses of roads.

The minister must ensure that “all roads are recognised as forming part of a single integrated network”,⁴⁵⁷ which at least establishes that all roads must endeavour to have some use as part of a general framework, reducing inefficiencies to some degree. The Act also says that the minister must “ensure that roads are planned, designed, constructed, maintained, utilised and managed subject to, and in a manner consistent with, national environmental requirements”.⁴⁵⁸ As such, the Act mandates the minister to work alongside and within the bounds of any

450 Ibid, Section 140.

451 Ibid.

452 Ibid.

453 Zimbabwe Roads Act [Chapter 13:18], 2001, Preamble.

454 Ibid, Part VIII, Section 47.2(j).

455 National Industrial Development Policy (2019-2023), p. 32.

456 UNEP, UNFCCC, UN-Habitat and the Commonwealth Secretariat, The Law and Climate Change Toolkit, Urban Law Module, p.7.

457 Zimbabwe Roads Act [Chapter 13:18], 2001, Part II, Section 3.2(a).

458 Ibid, Part II, Section 3.2(b).

environmental requirements that may focus on considerations of emissions, infrastructure use efficiency and other climate change adaptation and mitigation measures. Perhaps most explicitly, the Act requires the minister to “ensure that roads are utilised at all times in an efficient manner having special regard to their value and the economic, social and other benefits that may be derived from them”.⁴⁵⁹ Thus, the Act creates a framework establishing that all roads must be used efficiently, which could be bolstered by specific urban plans that promote a connected, accessible and dense urban form.

The **Environmental Management (Atmospheric Pollution Control) Regulations, Statutory Instrument 72** of 2009 prohibit activities that may emit substances or pollutants into the atmosphere above prescribed levels. The allowable threshold and emission standards for certain activities are prescribed in the regulations. The regulations also prescribe emission standards for motor vehicles and the powers of motor vehicle inspectors. Different classes of emissions licences are described in the regulations, including the application process, the prescribed structure of the application form, general conditions for licences and payment of fees for licences. The regulations further provide for monitoring of solid fuel-burning appliances and approval of installations. Other provisions include emission testing or monitoring methods, issuance of notification of accidental discharge of emissions, publication of information by the Agency and offences associated with hindering the work of inspectors and officers. The regulations also provide for payment of carbon tax for the importation of fuel or production of fuel. **Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone**

⁴⁵⁹ Ibid, Part II, Section 3.2€.

Depleting Substances and Greenhouse Gases Dependent Equipment) Regulations, Statutory Instrument 131 of 2016 prohibit and control ozone depleting substances, greenhouse gases, ozone depleting substances and greenhouse gases dependent equipment.

The **Long-term Low Greenhouse Gas Emission Development Strategy** (2020-2050) notes that shifting from private vehicle ownership to another mode of transport would have a substantial impact on greenhouse gas emissions, however there is also an acknowledgement that this shift is difficult. The Strategy says that new policies could shift modes with an “equal split between the two modes e.g., covering bus rapid transport activities and promotion of cycle lanes, green walkway and pedestrianisation projects”.⁴⁶⁰ However, this is a suggestion and does not appear to be a legally binding requirement.

In order to promote connectivity and accessibility, the **National Development Strategy** establishes targets setting the percentage of roads to be improved to meet the Southern Africa Transport and Communications Commission (SATCC) standards.⁴⁶¹ The Strategy also extensively discusses upgrading and increasing investments in road and transport infrastructure. However, these investments seem to be focused on vehicle traffic, as designs promoting walkability and cycling are not explicitly mentioned. And while economic growth and investment in jobs, housing and social services are other large goals contained in the Strategy, strategies based on spatial planning methods (such as promoting urban density and mixed land use) are not specifically mentioned. Considerations of urban and population densities, especially around infrastructure development, are also not

⁴⁶⁰ Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050), p. 84.

⁴⁶¹ National Development Strategy 1 (2021-2025), 2020, p. 256.

featured.

Low carbon transport represents the largest share of mitigation potential laid out in the Strategy. Following goals of the **National Climate Change Response Strategy** of 2015, the Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050) analyses a number of mitigation measures, including “increased public transport use, with modal shift from passenger car use to modern buses and NMT [non-motorized transport] (e.g., walking and bicycles)”.⁴⁶² While the analysis does show a reduction in emissions, it does not use language that requires this mitigation strategy to be used.

The **National Human Settlements Policy** attempts to combat sprawling settlements with, among other actions, the promotion of a densification model of development through the construction of walk-up flats and utilization of vertical space.⁴⁶³ The Policy also calls for the regeneration of derelict housing units and the renewal of city buildings with high-rise flats or multi-story apartments, which could promote more sustainable urban forms by making cities, towns or neighbourhoods more walkable and serviced by increased transit service.⁴⁶⁴ In the settlement planning and governance principles section, the Policy states that mixed-use zoning classification with higher density should be incentivized.⁴⁶⁵ This includes the densification of small- to medium-enterprise workspaces to accommodate more entrepreneurs in the same space.⁴⁶⁶ Compact and mixed-use urban form contributes to climate change mitigation by reducing the need for high emissions transport.

462 Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050), p. 76.

463 Zimbabwe National Human Settlements Policy, 2018, p. 8.

464 Ibid, p. 13.

465 Ibid, Section 1.6, p. 23.

466 Ibid, Section 2.1.4, p. 33.

The **National Climate Change Response Strategy** states that policy frameworks encouraging the use of transport with low carbon emissions such as bicycles and walking should be promoted. The promotion of transport connectivity and urban form could be made more explicit.

The **National Climate Policy** includes provisions on ways to shape urban form and transport to reduce emissions. It states that Zimbabwe shall “develop climate proofed and environmentally sustainable transport infrastructure”⁴⁶⁷ and “adapt infrastructure plans to climate change”.⁴⁶⁸ The Policy also aims to mainstream climate change into land-use planning.⁴⁶⁹ Although this provision is vague, it could be leveraged to promote urban density and connectivity. Finally, the Policy holds that Zimbabwe shall “promote sustainable road and rail transport infrastructure for efficient transportation of goods and people”.⁴⁷⁰

The **Zimbabwe Vision 2030** provides some guidance in terms of urban transport systems. It includes provisions that encourage the “re-introduction or efficient mass urban transit transportation systems...to decongest urban centre road networks.”⁴⁷¹ Additionally, the document proposes investing in “light rail transportation systems in the major urban centres of Harare and Bulawayo, which already benefit from existing rail line infrastructure”.⁴⁷²

467 National Climate Policy of 2017, Section 2.5.3.

468 Ibid, Section 2.5.5.

469 Ibid, Section 3.1.4.

470 Ibid, Section 3.2.2.

471 Zimbabwe Vision 2030, p. 209.

472 Ibid, p. 210.

4.3 GREEN SPACES FOR ENVIRONMENTAL AND CLIMATE SERVICES

The Urban Councils Act provides for establishment and administration of municipalities, towns, local boards, municipal and town councils and their functions and powers. A council has powers to plant, cultivate or remove trees and to take measures for conservation or improvement of natural resources. Urban councils have powers to make by-laws applicable in council areas. By-laws may provide for the nature, design and appearance of buildings, water supply, drainage, vegetation, conservation of natural resources, supply of electricity and the planning, construction and use of buildings.

Similar to the **Land Commission Act, the Environmental Management Act** describes the power of the President to “set aside State land or acquire other land for environmental purposes” in order to meet the interests of the public or for the improvement or proper management of the environment.⁴⁷³

4.4 NEIGHBOURHOOD DESIGN AND ENERGY SAVING IN BUILDINGS

The **Urban Councils Act** provides that a council has powers to make by-laws for the nature, design and appearance of buildings, supply of electricity and the planning, construction and use of buildings. The Act provides scope for neighbourhood design and energy saving in buildings, although in practice energy saving measures in buildings are rarely being implemented due to cost restrictions on

designing energy saving buildings. Further, the **Model Building By-laws RGN 125** of 1978 provide for standards to be observed in the construction of buildings in urban areas. The **Housing Standards Control Act** provides for, among other things, the setting of housing standards by local authorities.

The National Climate Change Response Strategy does not specifically cite considerations such as sun direction and thermal properties of urban surfaces, but it does broadly state that building standards and codes should be reviewed and updated to make them adaptive to climate change. It also contains calls for the introduction of sustainable energy policies.

The **National Climate Policy** does not directly refer to solar capture and thermal properties; however, it does include the policy goal to “promote renewable energy and adoption of energy efficient technologies and practices across all socio-economic sectors of the economy and the built environment”.⁴⁷⁴

The **National Industrial Development Policy** also does not contain an explicit discussion on wind/sun direction, thermal properties or optimal orientation in the plot design of buildings for energy-saving considerations. However, it broad promotes energy-saving programmes through the Green Industry Initiative. The Initiative “seeks to re-orient industries to adopt cleaner and more efficient technologies” with targeted programmes, including “resource (energy and water) efficient management” programmes.⁴⁷⁵ Resource efficient management programmes could fall under the umbrella of neighbourhood and building design considerations. The policy is also a call for efficient energy use and energy innovations such as a focus on renewable energy

473 Environmental Management Act [Chapter 20:27], No. 13 of 2002.

474 National Climate Policy of 2017, Section 3.2.1.

475 National Industrial Development Policy, p. 17.

to develop the industrial sector.⁴⁷⁶ If certain industries have an impact on neighbourhood planning, then this part of the policy would be relevant. An aim of the National Industrial Development Policy is also to “complement the National Energy Policy by ensuring that research and development results in the development of other alternative sources of energy as well as making available the requisite consumables such as electric cables, solar panels and batteries, energy saving bulbs and pipes”.⁴⁷⁷ These provisions are relevant to energy-efficient neighbourhood planning and building designs.

4.5 DEVELOPMENT APPROVAL AND MITIGATION

The **National Human Settlements Policy** states that developments on wetlands, under electricity pylons, servitudes and way leaves are illegal. While it does not directly provide regulations for the development approval process, Section 1.6 outlines eight principles that should be followed for managing, regularizing and renewing developments. Some of these principles include the pursuit of clear outcomes in terms of spatial efficiency, environmental sustainability and economic density. The policy further states that settlements will fully involve the local authorities and concerned communities, which is another measure in the development approval process that can promote greater mitigation mechanisms.⁴⁷⁸

The **National Climate Policy** includes very little about the connections between the planning process and the development approval process. In the climate change mitigation and low carbon development section, one policy goal

is to “formulate and implement programmes containing measures to mitigate climate change”.⁴⁷⁹ The Policy also states that Zimbabwe shall “promote the adoption and utilization of market-based instruments to mitigate climate change”.⁴⁸⁰

The **Environmental Management Act** includes regulations specifying the environmental impact assessment required for developers. These environmental impact assessments shall describe the impacts of the projects, including the “direct, indirect, cumulative, short-term and long-term effects of the project” and specify what they will do to mitigate anticipated adverse effects.⁴⁸¹ The minister has the power, in consultation of the Environmental Management Agency to make regulations regarding the procedure for conducting environmental impact assessments.⁴⁸²

RECOMMENDATIONS

Greenhouse gas emissions and planning:

- The Regional, Town and Country Planning Act or subsidiary regulations should be amended to include provisions that require the production of different planning scenarios for both master and local plans, with the estimations of greenhouse gas emissions and carbon sink potential associated with each scenario. This can serve as a powerful tool in determining the urban planning strategies and timelines for mitigating the effect of climate change.
- The Government of Zimbabwe should focus on increasing carbon sink potential

476 Ibid, p. 20.

477 Ibid, p. 28.

478 Zimbabwe National Human Settlements Policy, 2018, Section 2.1.1, p. 24.

479 National Climate Policy of 2017, Section 3.1.3.

480 Ibid, Section, 3.1.6.

481 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Section 99.

482 Ibid, Section 2(e).

in addition to greenhouse gas emission reduction through its legislative framework. Such provisions would require the estimation of current urban sinks and producing urban planning scenarios with options associated with carbon sinks, such as tree planting and urban forests.

- Legal or policy provisions related to urban planning should set targets to reduce greenhouse gases in planned areas with measurable benchmarks against which progress can be assessed.

Connectivity and walkability:

- Urban planning regulations should be developed which explicitly promote connectivity and walkability by establishing minimum standards for streets and street design, stipulating plot design rules, encouraging mixed land use zoning, and prescribing optimal urban density.

Urban Green Spaces:

- Regulations associated with the Regional, Town and Country Planning Act and/or Urban Councils Act, such as Town Planning Circular 70 of 2004, should be amended or new regulations developed to better promote a network of green spaces for environmental and climate services in urban areas. These provisions should establish minimum quantitative standards for green spaces; ensure the adequate distribution of such spaces across the city; and require connecting and planning together networks of green areas and water bodies such that urban green spaces protect water sources.
- The Zimbabwe National Human Settlements Policy can also be reformed to better include policy goals related to promoting urban

green spaces.

Neighbourhood design and energy saving in buildings:

- Current legislation and policy should include a more explicit consideration of neighbourhood design, including street orientation and plot design, to encourage energy savings.
- The Model Building By-laws Regulation should be reformed, or else a new set of model by-laws developed, which better promote climate change mitigation in neighbourhood design and building construction. It is recommended that this model by-law regulation includes provisions that require the consideration of the thermal properties of urban surfaces and plot design to achieve optimal orientation of the buildings for the purpose of energy saving in buildings.

Enforcement of design standards for climate change mitigation:

- Planning and design standards that mitigate the emissions of greenhouse gases will need to be better defined in the Regional, Town and Country Planning Act and the Environmental Management Act to ensure that compliance tools such as development permits, environmental impact assessments and licences to discharge effluents and emissions are controlling development to meet national climate change mitigation goals, as specified in the Revised Nationally Determined Contribution and other climate change policy documents.
- Stronger and more direct language should

be used in enforcing laws and regulations in the planning of developments at all levels of government.

See table 4 for a summary of the main laws, regulations, and policies referred to in this chapter.

TABLE 4. Referenced legislation and policies (Urban planning and design for mitigation)

Legislation	Year
Constitution of Zimbabwe	2013
Environmental Management Act	2005
Environmental Management (Atmospheric Pollution Control) Regulations, Statutory Instrument 72	2009
Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulations, Statutory Instrument 131	2016
Land Commission Act	2017
Model Building By-laws RGN 125	1978
Housing Standards Control Act	1972
Urban Councils Acts	2016
Zimbabwe Roads Act	2001
Policy	Year
Intended Nationally Determined Contribution	2015
Long-term Low Greenhouse Gas Emission Development Strategy	2020
National Climate Change Response Strategy	2015
National Climate Policy	2017
National Development Strategy (2021-2025)	2020
National Environmental Policy and Strategies	2009
National Human Settlements Policy	2020
National Industrial Development Policy (2019-2023)	2013
Revised Nationally Determined Contribution	2021
Zimbabwe Vision 2030	2018

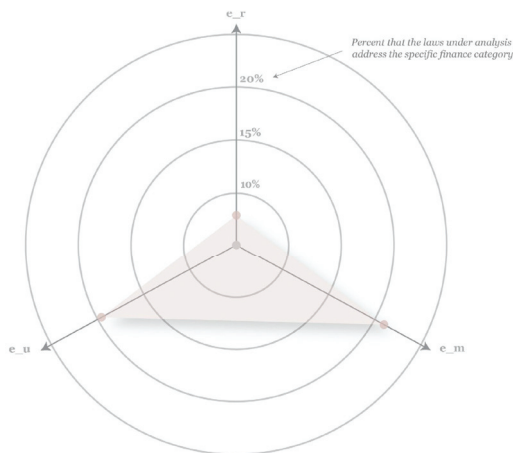


Zimbabwe Landscape by Alberto Bizzini source: flickr

CHAPTER 5.

ECONOMIC AND NON-ECONOMIC INSTRUMENTS FOR CLIMATE-FRIENDLY URBAN PLANNING

EXECUTIVE SUMMARY



Economic & Financial Instruments

- e_r Resources for urban planning and climate change
- e_m Incentives for mitigation and adaptation in urban planning
- e_u Incentives that promote unsustainable urban land uses

Figure 10: Rating matrix for Zimbabwe on Economic and Non-Economic instruments for Climate-Friendly Urban Planning

Effective climate change action in urban areas requires local governments to be adequately financed to carry out their functions. Zimbabwe lacks a comprehensive set of provisions of law or regulations that create a flow of resources to finance climate change mitigation and adaptation in urban planning. Instead, various laws and policies create a piecemeal flow of financial resources which could, but are not required to, be used to finance climate change mitigation and adaptation in urban planning. An aim of the **Infrastructure Development Bank of Zimbabwe Act**, for example, is to “to lend or advance

money to any person or organization proposing to establish or expand or modernize any infrastructure, undertaking or enterprise in any sector of the economy”. As such, it could finance infrastructure-based climate adaptation which produces climate resilient urban infrastructure. The **Environmental Management Act** allows the minister to “impose an environment levy on any person or class of persons whose activities impact the environment”, and the funds thus collected are paid into the Environment Fund, recirculating as finances used in adaptation and mitigation activities. The **Housing and Building Act** establishes a rate fund which draws revenue “from “rates, fees, rents, charges and any other revenue of any kind whatsoever derived in respect of occupation or residence in the declared area concerned” and can be used to cover the “costs of providing, developing and maintaining essential services or any other services for the benefit or the welfare of the occupants or residents of such declared area”. The **Urban Councils Act**, however, limits the discretion of local authorities in how to spend locally generated revenues. For example, revenue derived from paid parking spots or garages established by an urban council can only be expended on certain items, such as “the payment of subsidies for any transport system”. However, the Act also provides that urban councils use their discretion to invest funds “which are not immediately required for the payment of expenditure payable from that fund or account”, conditional upon the approval of the competent minister. The **Zimbabwe Investment and Development Agency Act** includes provisions that create an enabling

The Zimbabwe Urban Council Act (1995) should be amended to grant local councils greater powers to generate local revenues through land value capture mechanisms such as property taxes, development fees and other licensing fees.

environment that facilitates the mobilization of investment capital and that create frameworks for public private partnerships by establishing the Public Private Partnership Unit. However, neither of these initiatives explicitly discuss climate change mitigation or adaptation as a motivating factor.

Despite the discrete opportunities created by these various pieces of legislation, the legal framework for financing climate mitigation and adaptation in urban planning has major gaps. It lacks establish earmarked inter-governmental fiscal transfers to local governments for climate change mitigation and adaption in urban planning, though the National Climate Policy foresees that Zimbabwe will “establish a National Climate Fund that is supported by a 10% budgetary allocation from the national budget”. The legal framework also does not give local governments sufficient capacity and authority to generate substantial revenues and to allocate funding in accordance with the discretion of urban councils. Furthermore, the Urban Council Act does not require urban councils or local governments to earmark resources for urban planning and climate change.

Several legal and policy documents provide economic and non-economic incentives for climate change mitigation and adaptation in urban planning. The **Zimbabwe National Climate Change Response Strategy** provides broad incentives, such as industries that adopt resource-use efficiency, to more narrow incentives, such as increasing the use of stress-tolerant crop types with incentive-based policies. In addition, the Response Strategy attempts to provide incentives that encourage companies to invest in technologies that reduce greenhouse gas emissions from their production process through the leveraging of tax reliefs. The **National Energy Policy** includes incentives such as subsidies and tax concessions for investment in renewable energy. An aim of the **Zimbabwe Integrated Solid Waste Management Plan** is to provide “economic instruments or incentives in the form of tax and duty rebate for companies acquiring cleaner production technologies and encourage the financial sector to help finance such initiatives”. The **National Climate Policy** includes various, albeit vague, provisions to establish incentives to reduce emissions and promote low-carbon development. The **Environmental Management Act** entrusts the Environmental

Management Agency with “develop[ing] and implement[ing] incentives for the protection and management of the environment; and the conservation and sustainable utilization of natural resources”. The **National Water Policy** includes a water pricing provision, which “will be used as a demand management instrument to encourage efficient use of scarce water resources”. In addition, the policy establishes that the Ministry of Environmental and Natural Resources Management will adopt a zero-tolerance approach towards polluters, using “real deterrents and real incentives not to pollute” to better adhere to the polluter pays principle.

5.1 RESOURCES FOR URBAN PLANNING AND CLIMATE CHANGE

The Finance Act includes statutory language that requires users of motor vehicles to pay a carbon tax contingent on the engine capacity of the vehicle, that ranges from Z\$ 20,000 to Z\$ 50,000. It is also required for all visitors to Zimbabwe who use a motor vehicle.⁴⁸³ Section 22E of the Carbon Tax was amended in 2020 with the repeal of Subsection 1. In its place, the Act states that the carbon tax will be paid at the rate of Z\$ 2.29 per litre of petroleum product.⁴⁸⁴

The alternative greenhouse gas mitigation pathway, outlined in the **Zimbabwe Long-term Low Greenhouse Gas Emission Development Strategy**, requires a strong climate-financing framework. The Strategy foresees that those policies will be supported by a national Climate Finance Facility, which offers debt capital and concessional lending rates based on sustainable and measurable emissions reductions. The Zimbabwe Long-term Low Greenhouse Gas Emission Development Strategy does not legally establish this Climate Finance Facility but it does

483 Finance Act, No. 8 of 2020, Chapter 1, Section 22(e).

484 Ibid, Section 8.

provide a framework for its creation. This vision is “based on the use of a national, economy-wide low-emission development financing facility, hosted by the Infrastructure Development Bank of Zimbabwe and funded by the Green Climate Fund, with substantial contributions from the Government of Zimbabwe”.⁴⁸⁵ The alternative climate mitigation development scenario envisioned in the Strategy requires US\$ 6.5 billion. This Section of the Strategy also estimates carbon and tobacco tax revenue through 2030.

The **Infrastructure Development Bank of Zimbabwe Act** does not specifically discuss climate change, mitigation or adaptation. However, as a Government-owned bank, the provisions outlined in the Act allow funds to be used for either mitigation or adaptation. Specifically, the Act states that the purpose of the bank is “to promote economic development and growth, and to improve the living standards of Zimbabweans, through the development of infrastructure including, but not limited to, roads, dams, water reticulation, housing, sewerage, technology, amenities and utilities; (b) to develop institutional capacity in under-takings and enterprises of all kinds in Zimbabwe”.⁴⁸⁶ An aim of the Act is also “to lend or advance money to any person or organization proposing to establish or expand or modernize any infrastructure, undertaking or enterprise in any sector of the economy”.⁴⁸⁷

Objectives of the Infrastructure Development Bank of Zimbabwe Act include “mobilizing internal and external resources from the public

485 Zimbabwe Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050), Section 7.2, p. 38.

486 Infrastructure Development Bank of Zimbabwe Act [Chapter 24:14], 2005, Part IV, Section 16.

487 Ibid, Part IV, Section 17.

and private sectors”.⁴⁸⁸ The Act also states that the bank’s goal is to facilitate “participation of the private sector and community organizations in development projects and programmes”.⁴⁸⁹

With regard to spurring climate adaptation or mitigation changes within the private sector, the **National Environmental Policy and Strategies** establishes the goal that the Government of Zimbabwe “provide economic instruments or incentives in the form of tax and duty rebates for companies acquiring cleaner production technologies, and encourage the financial sector to help finance such initiatives”.⁴⁹⁰ The National Environmental Policy and Strategies mentions “incentives” frequently but does not provide specific economic or financing mechanisms or stipulations related to urban planning. The Strategies requires that the Government “promote joint ventures between communities and both public and private-sector enterprises to maximise the sustainable economic benefits of Natural Resources Management”.⁴⁹¹

While not specifically mentioning climate change mitigation and adaptation considerations, the **Urban Councils Act** does provide opportunities to fund such initiatives. The Act gives localities, namely urban councils, limited discretion and authority on how to use certain funds. Namely, councils that create paid parking spots or garages can establish a parking account to store the revenue from these facilities.⁴⁹² Additionally, money credited to this account can only be expended on certain items, including “the payment of subsidies for any transport

system”.⁴⁹³ In sum, councils have the option to use locally generated funds from parking facilities to subsidize public transport systems, which would support spatial planning for climate change mitigation and adaptation.

Similarly, the Urban Councils Act allows councils to “establish, acquire, construct, maintain and carry on [...] an omnibus service”⁴⁹⁴ by “enter[ing] into an agreement with any person for the establishment or acquisition of any omnibus service”.⁴⁹⁵ Since an omnibus service is presumably under the umbrella of public transport, this provision also allows for councils to take advantage of running a transport system that supports climate change response in the urban context. The ability to enter into agreements to create these services also implies an opportunity for public private partnerships. Additionally, the Act also allows councils to grant subsidies to such omnibus services.⁴⁹⁶

The Urban Councils Act also enables urban councils to establish and manage public transport services by “enter[ing] into agreements for the provision and working of a transport service, other than an omnibus service”.⁴⁹⁷ The Act also notes that in accordance with such agreements, councils may incur related expenditures, including “guaranteeing of the capital cost thereof and interest thereon and the granting of subsidies in respect thereof”.⁴⁹⁸ Ultimately, this serves as yet another avenue for public private partnerships and, in this particular case, an opportunity for mobilizing investment capital.

Finally, the Act provides even broader all-

488 Ibid, Part IV, Section 16.

489 Ibid.

490 National Environmental Policy and Strategies, 2009, Section 6.2.4, p. 21.

491 Ibid, Section 6.2.6, p. 23.

492 Urban Councils Act [Chapter 29:15], 1995, Part XIV, Section 191.1.

493 Ibid, Part XIV, Section 191.4(i).

494 Ibid, Part XIV, Section 192.1(b).

495 Ibid, Part XIV, Section 192.1(c).

496 Ibid, Part XIV, 192.1(e).

497 Ibid, Part XIV, Section 197.

498 Ibid.

encompassing provisions for managing finances. It states that “if a council has in any fund or account moneys which are not immediately required for the payment of expenditure payable from that fund or account”⁴⁹⁹ then the council can either leave those funds untouched in the account or invest them in a series of ways, including “such other manner as the minister and the minister responsible for finance may approve”.⁵⁰⁰ These rules give leeway for investment in not only public transport initiatives as mentioned above but also anything more directly related to mitigation or adaptation measures, as long as the minister approves.

The **Water Act** gives the minister the authority to impose a water levy on any person who holds a permit. All revenues collected from the levy flow into a fund that is used for administrative costs, distribution of payments to the catchment councils to continue their operations, and any other purpose that promotes the development of water resources.⁵⁰¹ Additionally, the Act allows for measures for any additional money not immediately required to be invested by the National Water Authority.⁵⁰² While it does not set guidelines for the type of investment, these funds could reasonably be used to invest in measures that promote adaptation and mitigation options in Zimbabwe.

The **National Water Policy**, while not creating public private partnership frameworks, does note that the Government promotes these partnerships “as a vehicle for improved financing” of water supply and sanitation.⁵⁰³ Additionally, the Policy states that public and private investors will “be involved” in ensuring funding for initiatives

created by the urban authorities to “promote, adopt and invest in technologies that convert garbage into a valuable resource of useful material and composting”.⁵⁰⁴ Such innovative funding mechanisms are in line with climate change mitigation and adaptation goals.

Part of adaptation planning includes building the resilience of vulnerable resources. Accordingly, the National Water Policy discusses Government investment in “simple, well-known measures that reduce risk and vulnerability” of water resources to “build resilience to disasters”.⁵⁰⁵ The measures to be adopted include “effective insurance and micro-finance initiatives”.⁵⁰⁶ Additionally, the Policy promotes investment in hydropower generation, specifically calling for the Government to “facilitate private sector participation and investment”, as well as to “facilitate and participate in bilateral and regional investments” in hydropower generation.⁵⁰⁷

The **Housing and Building Act** has a number of provisions that could allow for the financing of climate change mitigation and adaptation in urban planning. Some of these financing mechanisms allow the minister to borrow moneys on security of mortgages of property, purchase or lease dwellings, and acquire land for the construction of dwellings.⁵⁰⁸ While it is not stated how these tools ought to be used, the mechanisms do offer pathways to achieve climate resilience. Furthermore, the Act states that money can be advanced to local authorities where there is an approved scheme.⁵⁰⁹

The Act also gives the Minister of National Housing and Public Construction the power

499 Ibid, Part XX, Section 302.1.

500 Ibid, Part XX, Section 302.1(j).

501 The Water Act [Chapter 20:24], 1998, Part III, Section 24.

502 Ibid.

503 National Water Policy, 2012, Section 7.1.2.

504 Ibid, Section 7.4.4.

505 Ibid, Section 7.6.6.

506 Ibid.

507 Ibid, Section 7.6.7.

508 Housing and Building Act [Chapter 22:07], 1979, Section 5(h).

509 Ibid, Section 5(a).

to establish a rate fund for specified districts. Among other sources, the rate fund draws revenue from “rates, fees, rents, charges and any other revenue of any kind whatsoever derived in respect of occupation or residence in the declared area concerned; licence and other fees accruing under any enactment to the declared area concerned”. These funds can be used for “costs in connection with supervising and administering the declared area concerned and the costs of providing, developing and maintaining essential services or any other services for the benefit or the welfare of the occupants or residents of such declared area as well as costs in connection with the acquisition or construction of buildings and the maintenance of such buildings.”⁵¹⁰ Some of this fund could be allocated to the development of a community-based waste management and recycling project similar to the Dajopen Waste Management Project in Kenya or the Ciudad Saludable model in Cerro el Pino, Lima. Both these projects required initial funding but have since become financially self-sustaining. Implementing similar projects in Zimbabwe could lead to the creation of locally available materials and contribute to a cleaner town and to the preservation of the broader environment. The Ciudad Saludable model has already been successfully transferred to other various communities as well.

The **Zimbabwe National Climate Change Response Strategy** defines the need for better financial and economic instruments, as many sites lack the financing to properly prepare and mitigate against disaster risk. As such, the Strategy outlines the various financing mechanisms that can be leveraged to implement and support projects such as carbon financing, clean development mechanisms, voluntary

510 Ibid, Section 19.2(a).

carbon markets, and the UN-REDD Programme.⁵¹¹ It further discusses that Zimbabwe is not able to take full advantage of the Green Climate Fund due to the limited human resource capacity and lack of accredited financial institutions.

The **Human Settlements Policy** does not include specific statutory authority allowing for any financial or economic mechanisms, but it does state that Zimbabwe will need to address fiscal challenges in local and national human settlement development to “unlock investment across the subsectors of land and housing markets, building materials, land servicing or development, operation, maintenance and expansion or renewal”.⁵¹² This includes investments for developing climate-proofing technologies, which can “help to build resilience and sustainability without overlooking affordability”.⁵¹³

The **Nationally Determined Contribution** identifies that the lack of financial investment is a primary challenge in reducing greenhouse gas emissions. To address this challenge, the Nationally Determined Contribution highlights multiple funding sources that can assist in implementing its goals. These include the Green Climate Fund, Climate Technology Centre and Network, Adaptation Fund, Global Environmental Facility and continued domestic investment.⁵¹⁴

The **Revised Nationally Determined Contribution** builds on its predecessor by stating that the Government of Zimbabwe “will be mainstreaming climate change mitigation and adaptation efforts across policies and programs at national and

511 REDD, currently REDD+, is the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries.

512 Zimbabwe National Human Settlement Policy, 2018, Section 3, no. 123, p. 55.

513 Ibid, Section 2.14, no. 113, p. 52.

514 Zimbabwe National Determined Contribution, 2015, Section 2.1.9, p. 12.

National Economic Planning Instruments of Climate Change

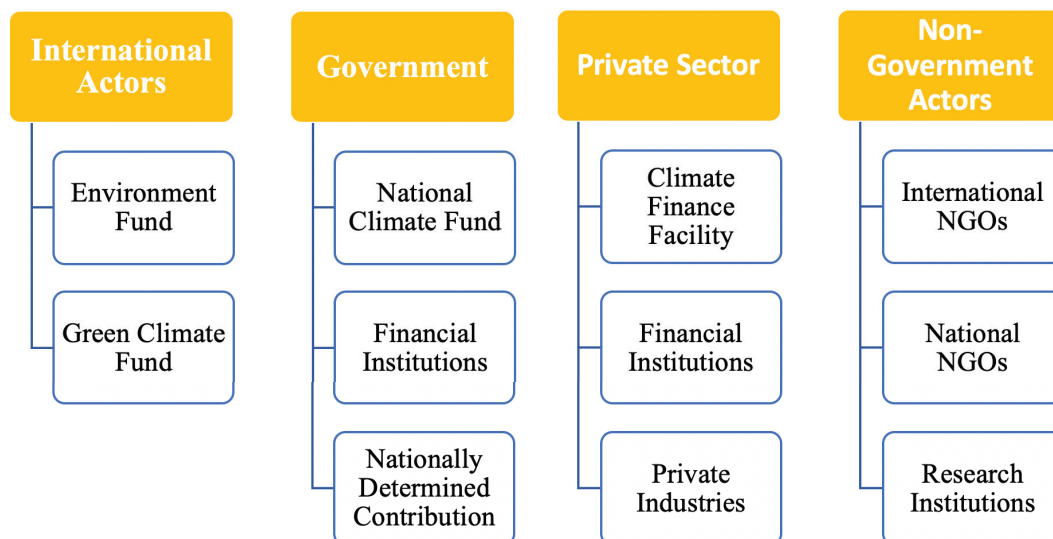


Figure 11: National Economic Instruments of Climate Change in Zimbabwe. Source : University of Michigan, Taubman College of Architecture and Urban and Regional Planning

subnational levels”.⁵¹⁵ While this does not directly address financing, by integrating mitigation and adaptation efforts across all policies, projects furthering these goals will have more access to financing opportunities. In the Revised National Determined Contribution, a range of financing frameworks to fund and support its mitigation and adaptation efforts are identified. The National Climate Change Fund is highlighted as being integral to “mobilize climate change resources from different financing sources, including public and private, international and domestic resources to support country-driven climate change priorities based on national circumstances and realities”.⁵¹⁶ Another source of finance would be the Climate Finance Facility,

which “provides a platform to crowd in various climate finance sources and private sector investment for green infrastructure projects”.⁵¹⁷ It does this through leveraging grants, loans, equity and guarantees.

The **National Energy Policy** outlines the policy measures which need to be taken to achieve its goals of increased usage and investment in renewable energy. In the Policy, the use of Independent Power Providers (IPPs) and public-private partnerships to adopt and sustain long-term renewable energy technologies is encouraged and the Policy calls for the introduction of innovative funding mechanisms such as Clean Development Mechanisms, feed-in tariffs, and microcredit institutions for renewable energies.⁵¹⁸ Throughout the Policy, there is a

515 Zimbabwe Revised National Determined Contribution, 2021, Section 6.1, p. 30.

516 Ibid, Section 6.2, p. 33.

517 Ibid, Section 6.2, p. 33.

518 National Energy Policy, Section 7.5.4, p. 27.

consistent discussion of the challenges of the lack of investment; however, the Policy does not make recommendations regarding specific financial mechanisms that could achieve greater investments to address these challenges.⁵¹⁹

However, the **National Renewable Energy Policy** outlines a wide-ranging set of financial mechanisms to “attract private funds and finance the development” of off-grid electrification technologies as well as other clean energy projects.⁵²⁰ These financial mechanisms include grants, concessional loans, grace periods in loans, subsidies, budgetary allocations, certain tax exemptions and awareness programmes to further assist in attracting investors.⁵²¹ While the Policy does focus on the expansion of electricity to less accessible rural areas, it also encompasses clean energy projects as related to urban plans as well.⁵²²

The **Energy Regulatory Authority** receives revenues from the charging of fees, levies and licences. It must separate its financial activities into three separate accounts: the electricity account, the petroleum account and the general energy account. Funds not immediately required for specified allocations can be invested after consultation with the minister.⁵²³

The **National Development Strategy** prioritizes fiscal and monetary coordination⁵²⁴ with local authorities and public-private partnerships.⁵²⁵ It explicitly mentions the desire to transfer 5 per cent of national revenues to lower tiers of

government.⁵²⁶ However, it does not mention climate change mitigation or adaptation as the motivation for this policy. Locally generated revenues are not mentioned and the Strategy identifies the capacity gaps of subnational governments which hinder their ability to establish viable revenue streams; specifically the absence of effective revenue collection mechanisms and inadequate financial management skills are said to be major hurdles to achieving national economic goals.⁵²⁷

The **Zimbabwe Investment and Development Agency Act** includes provisions that create an enabling environment that facilitates the mobilization of investment capital and that creates frameworks for public private partnerships by establishing the Public Private Partnership Unit. However, neither of these initiatives feature an explicit discussion on climate change mitigation or adaptation as a motivating factor. In practice, the City of Harare signed a Joint Venture or Public Private Partnership Agreement with a foreign company for the construction of the Pomona Waste To Energy Power Station, which was approved by the Cabinet in accordance with the Zimbabwe Investment and Development Agency Act. The project includes climate change and energy aspects.

The **National Climate Policy** has provisions describing the flow of resources to financing climate change mitigation and adaptation. In the section on Climate Change Mitigation and Low Carbon Development, one policy states that Zimbabwe shall develop the “national capacity to design carbon projects for accessing carbon financing”.⁵²⁸ Additionally, in the section on “Governance and Institutional Framework:

519 Ibid.

520 National Renewable Energy Policy, 2019, Sections 10.1.3-10.1.4.

521 Ibid.

522 Ibid, Section 10.1.

523 Energy Regulatory Authority Act [Chapter 13:23], 2011, Section 18.

524 National Development Strategy 1 (2021-2025), 2020, Section 9, pp. x-xi.

525 Ibid, Section 728, p. 182.

526 Ibid, Section 118, p. 23.

527 Ibid, Section 709, pp. 178-179.

528 National Climate Policy of 2017, Section 3.6.7.

Financial Resource Allocation, Mobilization and Management”, means of accessing and allocating various funding sources are described. The Policy states that Zimbabwe shall “establish a National Climate Fund that is supported by a 10% budgetary allocation from the national budget which will finance the climate strategies and implementation of this policy”.⁵²⁹ More specifically, the Policy states that funds shall support climate change mitigation, adaptation and disaster risk reduction projects.⁵³⁰ The Policy is also intended to increase the country’s participation in the global carbon market. It states that Zimbabwe shall “develop, review and implement policies to enhance the country’s capacity to engage in carbon market activities, strengthen the viability of domestic carbon asset production and increase access to international carbon markets and green bonds”.⁵³¹ Finally, the Policy foresees increasing access to international climate funds. It provides that Zimbabwe should build its access to these funds by “upscaling REDD+ (Reducing Emissions from Deforestation and Forest Degradation, Clean Development Mechanism, Green Climate Fund and Global Environment Facility-financed projects”.⁵³² The Policy also proposes that Zimbabwe shall “establish a 0.0005% levy of net profit for industries towards national green growth”. In the section on “Gender, Social Inclusion and Climate Change”, one policy directs Zimbabwe to “provide new and innovative energy financing mechanisms that are user friendly, accessible and affordable to women, especially rural women and vulnerable or disadvantaged groups”.⁵³³

The **Environmental Management Act** addresses how financial resources can be used for climate

529 Ibid, Section 7.1.1.
 530 Ibid, Section 7.1.2.
 531 Ibid, Section, 7.1.3.
 532 Ibid, Section 7.1.4.
 533 Ibid, Section 7.4.5.

change mitigation and urban planning. The Act outlines the ways the Environment Fund can be used and includes objectives to “rehabilitate degraded environment; to clean up polluted environments; [and] to promote public awareness of environmental management issues”.⁵³⁴ Additionally, the Environmental Management Act describes appropriate uses of the Environment Levy. The minister (in consultation with the Environmental Management Board and Minister of Finance), can “impose an environment levy on any person or class of persons whose activities impact the environment”.⁵³⁵ All of the funds collected through this levy should be paid into the Environment Fund, recirculating as finances used in adaptation and mitigation activities.⁵³⁶

The **Zimbabwe Vision 2030** provides some guidance for directing financial resources towards adaptation and mitigation strategies. It specifies that the Zimbabwe Vision 2030 document shall be implemented through the “Transitional Stabilization Programme (2018-2020), and successive Five-Year Medium-Term Development Strategies (2021-2025) and (2026-2030), centring on the provision of key public infrastructure and services delivery”.⁵³⁷ The Five-Year Medium-Term Development Strategies will be operated by the annual national budgets, alongside private investment.⁵³⁸ These financial sources are used to fund adaptation and mitigation urban planning projects defined throughout the rest of the document. For example, the plan envisions an urban mass transit system that will be realized through “competent vehicle traffic management systems, underpinned by [the] re-introduction

534 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part VIII, Section 52(g-j).
 535 Ibid, Part VII, Section 50.1.
 536 Ibid, Part VII, 50.2.
 537 Zimbabwe Vision 2030, Section 16.
 538 Ibid, Section 17.

of efficient mass urban transit transportation systems” in order to decongest urban centre road networks.⁵³⁹ Additionally, the Zimbabwe Vision foresees investment in “light rail transport systems in the major urban centres of Harare and Bulawayo, benefiting from already existing rail infrastructure”.⁵⁴⁰ According to the Zimbabwe Vision 2030, investments are already underway for the development of rail infrastructure.⁵⁴¹

Some existing laws, including the **Prohibition and Control of Ozone Depleting Substances**, require a permitting application, which in turn requires a fee.⁵⁴² The majority of the funds from collecting this fee go to the consolidated revenue fund. Ideally, some of this money would find its way back into conservation programmes, although it is evident that the money is not flowing back into environmental programmes since the Government is struggling financially. It is important to track the flow of these funds and ensure compliance when it comes to administering the application and fees.

5.2 INCENTIVES FOR MITIGATION AND ADAPTATION IN URBAN PLANNING

The **Zimbabwe National Climate Change Response Strategy** discusses economic instruments in connection with the use of incentives in different sectors. These range from broad incentives, such as industries that adopt resource-use efficiency, to more narrow incentives, such as increasing the use of stress-tolerant crop types with incentive-based policies.

539 Ibid, Section 209.

540 Ibid, Section 210.

541 Ibid, Section 211.

542 Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulations [Chapter 20:27], 2001, Section 5.2.

In addition, there is an attempt in the Response Strategy to provide incentives that promote companies to invest in technologies that reduce greenhouse gas emissions from their production process through the leveraging of tax reliefs.

The **National Energy Policy** promotes the use of incentives in a number of scenarios to move toward greater energy efficiency. These include incentives such as subsidies and tax concessions for investment in renewable energy.⁵⁴³

An aim of the **Zimbabwe Integrated Solid Waste Management Plan** is to reduce solid waste through a number of initiatives. One way is to provide “economic instruments or incentives in the form of tax and duty rebate for companies acquiring cleaner production technologies and encourage the financial sector to help finance such initiatives”.⁵⁴⁴ Further, the Plan also includes a strategy that will improve the separation of solid waste at the source. While it does not specify if it is a financial incentive, the Policy does state that this practice should leverage incentives for waste prevention and greater participation by residents and industry in the separation of solid waste.⁵⁴⁵

The **National Climate Policy** includes various incentives to reduce emissions and incentivize low carbon development. In the section on “Climate Change Mitigation and Low Carbon Development: Industrial Processes”, one policy states that the Government shall “provide financial and economic incentives to use cleaner technologies and practices”.⁵⁴⁶ Additionally, the Government shall “provide incentives for activities relating to emission reduction from deforestation, land use change and forest

543 National Energy Policy, 2012, Section 7.5.4, p. 28.

544 Zimbabwe Integrated Solid Waste Management Plan, 2014, Section 4.1(b), p. 23.

545 Ibid, Section 5.1(a), p. 25.

546 National Climate Policy of 2017, Section 3.3.3.

degradation”.⁵⁴⁷ Finally, the Policy states that the Government shall “provide incentives for economic entities engaging in low carbon development”.⁵⁴⁸ No further details are provided to define these incentives or define low carbon development.

The **Environmental Management Act** also includes provisions that provide incentives to achieve climate change mitigation and adaptation objectives, although these are not specifically tied to urban environments or urban planning. It is the role of the National Environmental Council to “review and recommend incentives for the protection of the environment”.⁵⁴⁹ Additionally, the function of the Environmental Management Agency is to “to develop and implement incentives for the protection of the environment”.⁵⁵⁰ Finally, the minister determines “fiscal, economic or social incentives as are necessary for promoting the protection and management of the environment; and the conservation and sustainable utilization of natural resources” and the measures that are necessary to prevent “the unsustainable use of natural resources and controlling the generation of pollutants”.⁵⁵¹

The **Urban Councils Act** creates avenues for subsidies for transport systems,⁵⁵² including omnibus services⁵⁵³ and beyond.⁵⁵⁴ The Renewable Energy Policy calls for several financial mechanisms, and some of these would be considered as incentives, such as grants, subsidies, budgetary allocations and certain tax

exemptions.⁵⁵⁵

The **National Water Policy** strives to adhere to mitigation and adaptation planning concerns by providing certain pricing incentives. For instance, the policy includes a water pricing provision, which specifically notes that such pricing “will be used as a demand management instrument to encourage efficient use of scarce water resources”.⁵⁵⁶ Further, it “should be based on the quantity of water used by volume to manage demand and encourage conservation”.⁵⁵⁷ The Policy also calls for a lowering in tariffs “as an incentive for efficient water utilization” which is to be “studied and adopted where appropriate”.⁵⁵⁸

Perhaps most importantly as a framework, the Policy establishes that the Ministry for Environmental and Natural Resources Management will adopt a zero-tolerance approach towards polluters, using “real deterrents and real incentives not to pollute” to better adhere to the polluter pays principle.⁵⁵⁹ Such a framework is aligned with goals related to climate change mitigation foreseen in urban planning mechanisms. Deterrents include forcing polluters to “restore the environment, undertake clean-up operations and pay damages to third parties for incidental costs such as loss of income and health impacts”.⁵⁶⁰ The Policy also calls for penalties for “repeat offenders”, which includes criminal prosecution.⁵⁶¹ But while the policies are strong, they still lack the probative force of legislation and other enforceable legal documents.

547 Ibid, Section 3.6.5.

548 Ibid, Section 6.1.3.

549 Environmental Management Act [Chapter 20:27], No. 13 of 2002, Part III, Section 8.1(g).

550 Ibid, Part IV, Section 10.1(b).

551 Ibid, Part XIV, Section 135(a-b).

552 Urban Councils Act [Chapter 29:15], 1995, Part XIV, Section 191.4(i).

553 Ibid, Part XIV, Section 192.1(e).

554 Ibid, Part XIV, Section 197.

555 National Renewable Energy Policy, 2019, Section 10.1.3-10.1.4.

556 National Water Policy, 2012, Section 6.14.

557 Ibid.

558 Ibid, Section 7.1.2.

559 Ibid, Section 7.8.

560 Ibid.

561 Ibid.

5.3 INCENTIVES THAT PROMOTE UNSUSTAINABLE URBAN LAND USES

Regarding land-use incentives, the **National Environmental Policy and Strategies** states the Government shall “where appropriate, encourage payments for environmental services by consumers to those individuals and communities whose legitimate land-use practices would otherwise diminish the provision of the services, so as to secure future supplies of the services”.⁵⁶²

The **Finance Act** amends the Twenty-Eighth schedule, stating that the minister may “exempt any power generation project from liability for carbon tax under this paragraph for a temporary or indefinite period and may backdate such exemption”.⁵⁶³

The **Regional Town and Country Planning Act** does not provide support for unsustainable urban land uses. In fact, the legislation may disincentivize unsustainable urban land uses by refusing compensation “for any injurious affection of land arising from the operation of any provision of an operative master plan or local plan or an approved scheme” that has to do with any of several enumerated reasons, including “restricting the purposes for which land [...] may be used or reserving or allocating any particular land or land in a particular area for buildings or for a particular class or classes of use, including [...] the conservation of natural resources”.⁵⁶⁴ In other words, if an operative master or local plan calls for certain land to be

562 National Environmental Policy and Strategies, 2009, Section 7.1.4, p. 28.

563 Finance Act, No. 8 of 2020, Section 17.

564 Regional Town and Country Planning Act [Chapter 29:12], 1976, Part VIII, Section 52.1(h).

designated for such reasons as the conservation of natural resources, compensation need not be given to anyone who is and/or claims to be affected by this land designation or repurposing. Accordingly, this may help avoid unsustainable land uses by assuring that conservation land planning will not come at an extra expense through such compensation.

In addition to specifying funding sources for mitigation and adaptation goals, the Zimbabwe Vision 2030 also specifies “fiscal and other incentives” provided through Special Economic Zones.⁵⁶⁵ These incentives could encourage industries that have the potential to degrade the environment in urban areas. In Bulawayo, these incentives propped up heavy industry, focussing on leather, footwear, textiles and engineering businesses. In Harare, these incentives propel information communication technology and health services.

RECOMMENDATIONS

Resources for urban planning and climate change

- Legal provisions requiring earmarked inter-governmental fiscal transfers to local governments for climate change mitigation and adaption in urban planning should be adopted. The goal foreseen in the National Climate Policy to “establish a national climate fund that is supported by a 10 per cent budgetary allocation from the national budget which will finance the climate strategies and implementation of this policy” should be implemented and codified in law as needed.
- The Urban Council Act should be amended to grant local councils greater powers to

565 Zimbabwe Vision 2030, Section 190.

generate local revenues through land value capture devices such as property taxes, development fees and other licensing fees. Urban councils should also be granted greater discretion in how they can spend locally derived revenue so that they can choose to allocate funds for mitigation and adaptation purposes as needed. However, urban councils should also be required to earmark resources for urban planning and climate change.

- The framework for a national climate finance facility laid out in the Zimbabwe Long-term Low Greenhouse Gas Emission Development Strategy should be codified into law along with regulatory support for implementation.
- The Infrastructure Development Bank of Zimbabwe Act should be reformed to include language specifically about lending for climate change adaptation and mitigation, such as for climate-resilient and low-emission infrastructure projects.
- Provisions in the Environmental Management Act should specify the way that the environment fund can be used in urban settings and in urban plans.

Incentives for mitigation and adaptation in urban planning

- The National Climate Policy would benefit from more clearly defined, low carbon development measures, including possible incentives to encourage low carbon development.

Incentives that promote unsustainable land use

- It is recommended that Zimbabwe Vision 2030 be mindful of the ways that

investments in Special Economic Zones may encourage industry and development that could degrade the environment.⁵⁶⁶ Zimbabwe should acknowledge ways to promote sustainability within the listed sectors.

See table 5 for a summary of the main laws, regulations, and policies referred to in this chapter.

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566 Ibid.

TABLE 5. Referenced legislation and policies (Economic and non-economic incentives for climate-friendly urban planning)

Legislation	Year
Constitution of Zimbabwe	2013
Energy Regulatory Authority Act	2011
Environmental Management Act	2002
Environmental Management (Prohibition and Control of Ozone Depleting Substances, Greenhouse Gases, Ozone Depleting Substances and Greenhouse Gases Dependent Equipment) Regulation, Statutory Instrument 131	2016
Finance Act	2020
Housing and Building Act	1979
Infrastructure Development Bank of Zimbabwe Act	1983
Regional Town and Country Planning Act	1976
Urban Councils Act	1995
Water Act	2000
Zimbabwe Investment and Development Agency Act	2020
Policy	Year
National Climate Change Response Strategy	2019
National Climate Policy	2017
National Environmental Policy and Strategies	2009
National Energy Policy	2012
National Human Settlements Policy	2018
National Renewable Energy Policy	2019
National Water Policy	2012
Revised National Determined Contribution	2021
Zimbabwe Integrated Solid Waste Management Plan	2014

PROJECT ON URBAN LAW FOR RESILIENT AND LOW CARBON URBAN DEVELOPMENT IN MALAWI, NAMIBIA, AND ZIMBABWE

ASSESSMENT OF ZIMBABWE LEGISLATION THROUGH THE URBAN LAW MODULE OF THE LAW AND CLIMATE CHANGE TOOLKIT

Urban areas account for two thirds of greenhouse gas emissions and energy consumption, making them major contributors to climate change. In particular, Zimbabwe cities are already suffering from extreme weather events, flooding, heat waves, water scarcity, among other climate change effects.

Urban law has an important role to play in supporting climate action, increasing cities' resilience and in reducing emissions. Law defines urban forms, where infrastructure and basic services can be built; lays out rules for planning and decision making; and sets the context within which urban authorities, local governments and communities are expected to fulfil their mandate and react to emerging challenges.

UN-Habitat, the Konrad Adenauer Foundation, and the University of Michigan (US), through the project on Urban Law for Resilient and Low Carbon Urban Development, were able to assess the capacity of climate laws and policies in Zimbabwe to adapt to climate change. The assessment was done through the UN-Habitat Urban Law Module of the Law and Climate Change Toolkit – an innovative online tool designed to help countries establish legal frameworks necessary for effective domestic implementation of the Paris Agreement. The assessment was based on the five key performance indicators namely, i) governance framework for urban and climate planning; ii) urban and territorial planning; iii) urban planning and design for adaptation; iv) urban planning and design for mitigation; and v) economic and non-economic instruments for climate friendly urban planning. It is hoped that this assessment and the impending climate law reform will be instrumental in fulfilling the potential of urban areas in Zimbabwe to lead the way and be truly transformative spaces for climate action.

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