



# ZIMBABWE SUMMARY REPORT

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

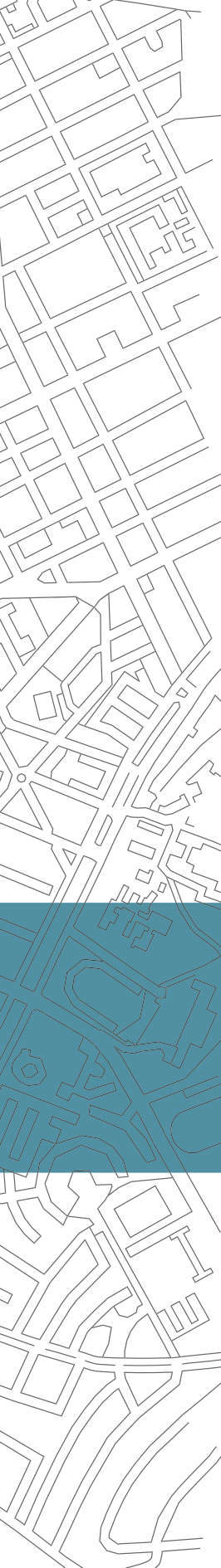
<https://climatelawtoolkit.org/>

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

**URBAN CLIMATE LAW SERIES | VOLUME 1**







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

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

First published in Nairobi in 2022 by UN-Habitat

Copyright © United Nations Human Settlements Programme, 2022

United Nations Human Settlements Programme (UN-Habitat)

P.O. Box 30030, 00100 Nairobi GPO, Kenya

Tel: 254-020-7623120 (Central Office)

[www.unhabitat.org](http://www.unhabitat.org)

**HS Number: HS/040/22E**

#### **ACKNOWLEDGEMENTS:**

**Coordinators:** Remy Sietchiping and Anne Amin

**Main Authors:** University of Michigan, Taubman College of Architecture and Urban and Regional Planning (US): Brooke Troxell, Catherine Plank, Clarissa Lotson, Jon Haadsma, Luke Ranker, Rebeka Rooks

**Contributors:** Anne Amin (UN-Habitat); Shamiso Mtisi (UN-Habitat local expert); Samuel Njuguna (UN-Habitat); Prof. Ana Paula Pimentel Walker and Nana-Yaw Andoh (University of Michigan); Christiana Sullivan (UN-Habitat).

**Editing support:** Vicky Quinlan and Christiana Sullivan

**Layout and Design:** Martin Achar

#### **DISCLAIMER:**

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city, or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The information provided in this publication does not, and is not intended to, constitute legal advice; instead, all information, content and materials are for general informational purposes only. Information on this publication may not constitute the most up-to-date legal or other information and no liability is assumed for the accuracy or use of information provided. Readers of this publication should contact their legal counsel to obtain advice with respect to any legal matter.

Excerpts may be reproduced without authorization on condition that the source is indicated.



**COVER PHOTO:**

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

# 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 summary version of the country legal assessment for Zimbabwe in the five assessment areas of the UN-Habitat Urban Law Module of the Law and Climate Change Toolkit 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.



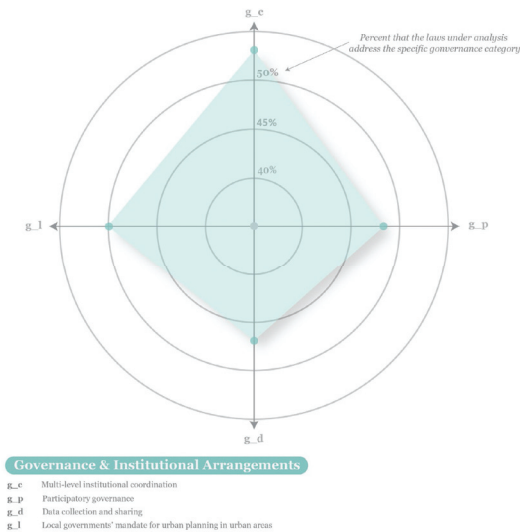


Aerial view of Victoria Falls on the border of Zambia and Zimbabwe by Steve Allen/Photo995. Source: iStockphoto.com



# 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.<sup>1</sup> Multilevel governance characterized by intergovernmental (between different levels of government) and intra-governmental (within the same level of government) cooperation built around broad consultative processes and mechanisms for vertical and horizontal cooperation will be necessary to achieve climate-responsive

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

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 for steering and controlling climate-friendly urban planning and land use.<sup>2</sup>

In Zimbabwe, inter-institutional coordination among national and subnational governments is foreseen in the 2013 Constitution of Zimbabwe, which obliges the Government to implement the country's development goals across all levels of governance,<sup>3</sup> and prescribes intergovernmental cooperation between public institutions and agencies at all levels of government.<sup>4</sup> Subnational authorities<sup>5</sup> are compelled to cooperate with one another by "informing [...] and consulting one another on matters of common interest" and "harmonizing and coordinating their activities".<sup>6</sup> The Urban Councils Act enables local governments to forge cooperation agreements "with the State or with any other local authority or other person" to carry out any matter under the urban council's jurisdiction "in which the contracting parties are mutually interested".<sup>7</sup>

2 UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). "Urban Planning Law for Climate-Smart Cities: Urban Law Module", Law and Climate Change Toolkit, p. 13.

3 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 8.

4 Ibid. Section 194 (1) (g).

5 Multilevel coordination in this Constitutional provision is specifically foreseen between provincial and metropolitan councils, which operate at the regional level, and local authorities, which include urban and rural councils.

6 Ibid. Section 265 (1) (d) and (3).

7 Urban Councils Act (No. 24 of 1995). Section 223 (1).



*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.*

This power of local governments to contract urban management and development functions of “mutual interest” promotes cooperation not only between national and subnational levels of government, but also among jurisdictions within the same metropolitan area as well as between neighbouring cities and rural areas that are part of the same economic, social and environmental functional areas. The Regional, Town and Country Planning Act includes provisions which can require a local planning authority to consult with any competent regional planning council or other local planning authority when preparing, altering or replacing a master or local plan.<sup>8</sup> With respect to climate change and environmental management, the establishment of the “Ozone Office” through the Environmental Management

Regulations<sup>9</sup> fosters collaboration between urban and rural councils on climate change-related issues. Additionally, the National Environment Council, established through the Environmental Management Act, supports multilevel coordination in the area of environmental management, as the council is mandated to promote cooperation between local authorities and other public departments<sup>10</sup> and to make recommendations regarding the harmonization of functions related to the environment.<sup>11</sup> The National Climate Change Response Strategy of 2019 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”.<sup>12</sup> However, despite the rich body of legal and policy provisions promoting inter- and intragovernmental coordination in Zimbabwe, in practice interinstitutional coordination related to climate change has often been impeded by politics and overlapping mandates within State institutions.

With respect to participatory governance, the Constitution of Zimbabwe stipulates binding national goals which guarantee and encourage public participation in various spheres of government. It states 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”.<sup>13</sup> The national

8 Regional Town and Country Planning Act (No. 22 of 1976). Section 13 (1) and (2).

9 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.

10 Environmental Management Act (No. 13 of 2002). Section 8 (1) (c).

11 Ibid. Section 8 (1) (d).

12 Zimbabwe National Climate Change Response Strategy (2019). Section 3.3.3.

13 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 13 (2).

objective of “good governance” entails the promotion of public participation in politics through a free, fair and representative electoral system;<sup>14</sup> moreover, it specifically includes provisions mandating popular elections of local authorities.<sup>15</sup> The Constitution also contains provisions to promote the inclusion and participation of specific constituent groups, namely women, youths, elderly persons, and persons with disabilities, in societal affairs, including governance and public decision-making.<sup>16</sup> Provisions for stakeholder and community identification are present in the Environmental Management Act, which states that the equitable and effective participation of “all interested or affected parties” is a fundamental principle of environmental governance.<sup>17</sup> However, these parties are not more specifically identified. With respect to access to information, the Constitution guarantees citizens and permanent residents the right to access 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” or “required for the for the protection or exercise of a right.”<sup>18</sup> Participation in urban and territorial planning processes is prescribed in the Regional, Town and Country Planning Act, which requires the regional planning council to “consult with such persons as it may consider appropriate or as the Minister may direct”<sup>19</sup> and the local planning authority to “take such steps as will, in its opinion, ensure that there is adequate consultation in connection with the matters proposed to be included in the master

plan”.<sup>20</sup> The law also prescribes a two-month public review period where members of the public can object to and make representations concerning a draft regional, master or local plan; these representations must be acknowledged and addressed by the competent planning authority during the plan approval process.<sup>21</sup> Finally, the Constitution guarantees the right of access to dispute-resolution mechanisms, such as the courts, tribunals and other forums.<sup>22</sup> In the Regional, Town and Country Planning Act, individuals can appeal to the Administrative Court decisions pertaining to planning permissions, building preservation orders, enforcement orders, prohibition orders, the discontinuation or land-uses or operations, land subdivision or consolidation permits, and compulsory building demolition, removal or alteration orders.<sup>23</sup> Decisions of the Administrative Court can be appealed to the Supreme Court on a point of law.<sup>24</sup>

Presently there are limited legal requirements for the collection and sharing of climate data between the different governmental levels in Zimbabwe. The Ozone Office is required to collect data on emissions under the Environmental Management Regulations. However, the Ozone Office and the Climate Change Management Department are not supported by a comprehensive legal framework that sets out their functions and duties, apart from the regulations that provide for their establishment.<sup>25</sup> Recognizing this gap, the National Climate Change Response Strategy

14 Ibid. Section 3 (2) (a) and (b).

15 Ibid. Section 265 (2).

16 Ibid. Section 3 (2) (i).

17 Environmental Management Act (No. 13 of 2002). Section 4 (2) (c).

18 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 62.

19 Regional Town and Country Planning Act (No. 22 of 1976). Section 7 (1).

20 Ibid. Section 15 (1).

21 Ibid. Sections 7 (2) and (3), 18 and 19.

22 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 69 (3).

23 Regional Town and Country Planning Act (No. 22 of 1976). Sections 38 and 44.

24 Ibid. Section 61.

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

calls for the establishment of “an enabling framework for sharing and disseminating information on climate change”.<sup>26</sup> Likewise, the National Climate Policy includes a chapter on “Technology Transfer and Information Sharing” which instructs the Government of Zimbabwe to set up “climate information hubs in every province to collect primary information” and distribute the climate knowledge they collect.<sup>27</sup>

The Constitution of Zimbabwe emphasizes the devolution of governance to the local level whenever possible and appropriate,<sup>28</sup> and gives provincial and local authorities the power to determine development priorities in their respective districts.<sup>29</sup> The Urban Councils Act mandates local authorities with managing and planning the areas under their jurisdiction,<sup>30</sup> and empowers urban councils to make by-laws regulating the planning, construction and use of buildings in urban areas.<sup>31</sup> The Regional, Town and Country Planning Act appoints municipal councils, town councils, and rural district councils or local boards as the “local planning authorities” for the areas under their respective jurisdictions and clearly defines their roles and responsibilities.<sup>32</sup> Local planning authorities are responsible for preparing master plans, which are approved by the Minister of Local Government, Rural and Urban Development; they are also responsible for both preparing and approving local plans, though the Minister can order that a local plan will not become operative until his

or her own approval is given.<sup>33</sup> The Regional, Town and Country Planning Act empowers local planning authorities “to do anything which is necessary to implement an operative master plan or local plan or approved scheme”,<sup>34</sup> which can indirectly compel local governments to build and improve their capacities to implement their mandates. The act also includes provisions which facilitate inter-municipal collaborations for urban and infrastructure planning when administrative boundaries do not correspond to functional boundaries and morphological boundaries. It provides that any two or more local planning authorities may (and if so directed by the Minister, must) collaborate for the purposes of carrying out any duties defined in the Act as agreed by the parties or directed by the Minister.<sup>35</sup>

---

26 Zimbabwe National Climate Change Response Strategy (2019). Section 4.1.2

27 Zimbabwe National Climate Policy (2017). Section 6.2.3.

28 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 3 (2) (l).

29 Ibid. Section 264.

30 Urban Councils Act (No. 24 of 1995). Section 7 (1).

31 Ibid. Section 276 (2) (a).

32 Regional Town and Country Planning Act (No. 22 of 1976). Section 10 (1).

---

33 Ibid. Section 14 (1), Section 16 (4), and Section 17 (1), (4), and (5).

34 Ibid. Section 11.

35 Ibid. Section 10 (2).





Dried Zimbabwe Baobab Tree by Linda Polik source : flickr

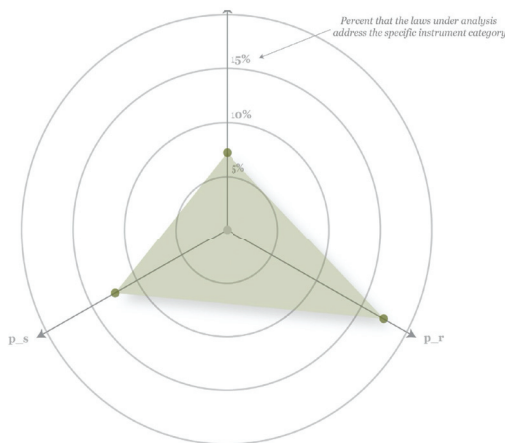


# CHAPTER 2.

## 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 2: Rating matrix for Zimbabwe on Urban and Territorial planning**

Urban and territorial planning establishes long-term, sustainable frameworks for social, territorial and economic development.<sup>36</sup> The New Urban Agenda specifically sets out the requirement for the integration of climate change adaptation and mitigation considerations and measures into urban and territorial development and planning processes in recognition that cities are both major contributors to climate change and primary subjects of its effects

<sup>36</sup> UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). "Urban Planning Law for Climate-Smart Cities: Urban Law Module", Law and Climate Change Toolkit, p. 27.

and risks.<sup>37</sup> 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. While most countries have a three-tiered planning hierarchy operating at the national, regional and local levels, in Zimbabwe spatial planning is primarily done at the subnational levels, through regional plans, and urban master plans and local plans, as prescribed in the Regional, Town and Country Planning Act.

At the national level, the legal framework for spatial planning in Zimbabwe 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 subnational spatial planning and national development goals. Nonetheless, there is no national territorial plan which classifies national land according to its use or establishes an integrated national inland transport and infrastructure network. However, the Environmental Management Act contains provisions establishing the National Environmental Plan, which is aimed at "promoting and facilitating the co-ordination of strategies, plans and activities relating to the environment and ensuring the protection and sustainable

<sup>37</sup> New Urban Agenda (2016). Paragraph 101.

management of Zimbabwe's environment".<sup>38</sup> When a National Environmental Plan has been confirmed by the Minister of Environment and Tourism and entered into effect, it is held to be binding on all persons including the State.<sup>39</sup> Moreover, the law explicitly states that a National Plan that has come into operation shall be taken into account in the preparation and implementation of regional and master plans in terms of the Regional, Town and Country Planning Act.<sup>40</sup>

Regional planning councils have the duty to create regional plans<sup>41</sup> that "ensure the coordinated development of the region",<sup>42</sup> by, inter alia, indicating major land uses including those designated for major utilities, communication, and transport infrastructure or as recreational areas. Moreover, regional plans and associated land use designations should include measures for the conservation and improvement of the physical environment.<sup>43</sup> However, the Regional, Town and Country Planning Act does not make regional planning prima facie compulsory across the country; instead, regional planning councils must be established by presidential proclamation for each region on an individual basis, when and "wherever the President considers it desirable".<sup>44</sup> While there is no requirement to coordinate regional plans with national territorial planning mechanisms, due to the absence of the latter, the President can approve or reject regional plans<sup>45</sup> to ensure compliance with national-level development strategies. Moreover, the National

*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.*

Environmental Plan must be taken into account during the preparation and implementation of regional plans.<sup>46</sup> The Regional, Town and Country Planning Act does not require that greenhouse gas emissions assessments or climate vulnerability assessments of regional territorial plans be undertaken during the plan preparation process. However, the act does state that before preparing a regional plan, the regional planning council must prepare "an inventory of the assets and resources of the region", which could entail the assessment of risks, including climate risks, affecting such assets and resources.

The Regional, Town and Country Planning Act requires local planning authorities to formulate two types of spatial plans for urban areas: master plans and local plans. Master plans are intended to formulate the policies of the planning authority and its general proposals for the planning area in respect of the coordinated and harmonious development or redevelopment and other uses

38 Environmental Management Act (No. 13 of 2002). Section 87 (1).

39 Ibid. Section 91.

40 Ibid. Section 92 (3) (a).

41 Regional Town and Country Planning Act (No. 22 of 1976). Section 5 (1).

42 Ibid. Section 6 (2).

43 Ibid. Section 6 (2) (a).

44 Ibid. Section 3 (1).

45 Ibid. Section 7 (1).

46 Ibid. Section 92 (3) (a).

of land.<sup>47</sup> The local plan applies to any part of the area under the planning authority's jurisdiction and it must set out in detail the manner in which the policy and general proposals of the master plan are to be implemented within that area.<sup>48</sup> Both plans prescribe "(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".<sup>49</sup> As such, both plans classify land based on what is and what is not allowed within each category thorough land use designations. And while the law does not explicitly require either of these plans to assess future land needs with a view to identifying land safe from the effects of climate change or prescribe any other specific urban growth management strategies, the law does require the local planning authority to "undertake a study of the planning area and, to the extent it considers necessary, of any neighbouring area, examining matters [...] likely to affect the development or redevelopment of the area" before preparing or altering any master plan or local plan. Such provisions could facilitate the assessment of climate vulnerability in planned areas and the identification of land safe from the effects of climate change. The law does not set a prescribed planning horizon for either master or local plans; however, it does indirectly require reviews of urban master or local plans if new climate risks or new climate adaptation options are identified. Specifically, it states that the local planning authority "shall keep under constant examination and review factors which affect or are likely to affect the planning area

47 Ibid. Section 14 (2) (a).

48 Ibid. Section 17 (3) (c).

49 Ibid. Section 14 (2) (a) and Section 17 (3) (a).

and if, as a result of such examination or review, the assumptions upon which the master plan or local plan are based are found to be no longer valid, the local planning authority shall consider appropriate proposals for the alteration, repeal or replacement of such plan".<sup>50</sup> Under the Environmental Management Act, both urban master plans and local plans must be developed with due regard given to the National Environmental Plan.<sup>51</sup> Moreover, local authorities must draft local authority environmental action plans and environmental management plans for the area under their jurisdiction.<sup>52</sup>

Apart from provisions and policies falling under environmental planning, protection or pollution language, or land preservation, planning issues 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, because planning instruments for land-use predate more recent climate change legislation and policy.

50 Ibid. Section 20 (1) (a).

51 Environmental Management Act (No. 13 of 2002). Section 92 (3) (a).

52 Ibid. Sections 95 and 96.





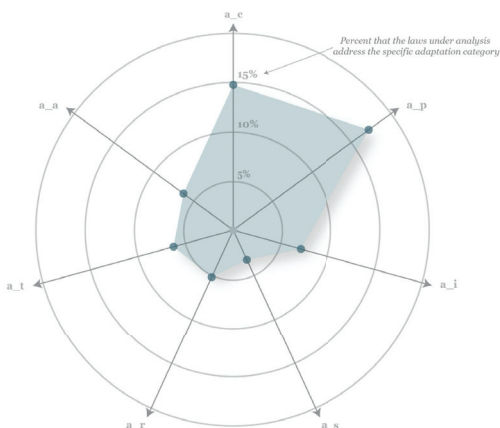
Photo of Cattle Near Chiredzi, Zimbabwe, by ullisanderissson source: Flickr



# 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 3: Rating matrix for Zimbabwe on planning for adaptation**

Urban areas stand to be acutely affected by climate change due to their concentration of people, economic activities, assets and social and cultural institutions, and impacts are already being felt by millions of urban dwellers throughout the world.<sup>53</sup> Considering that 55 per cent of the world’s population lives in urban areas and this share is projected to increase to 68 per cent by 2050,<sup>54</sup> there is a very strong and urgent need for urban areas

53 UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). “Urban Planning Law for Climate-Smart Cities: Urban Law Module”, Law and Climate Change Toolkit, p. 42.

54 United Nations Department of Economic and Social Affairs (2018). Revision of World Urbanization Prospects.

to adapt to the effects of climate change.<sup>55</sup> Urban law can support cities in becoming more climate-resilient through provisions on climate risks and vulnerability for planned areas and infrastructure; identification and prioritization of adaptation options; implementation of the identified adaptation options; adaptation of slums and other vulnerable settlements; planned relocations from areas at risk of climate change; strengthening security of tenure; and development approval and adaptation.

The Paris Agreement requires countries to engage in adaptation planning processes and to implement climate 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”.<sup>56</sup> In Zimbabwe, however, there are limited legal and policy provisions requiring the consideration of climate risks and vulnerability for planned areas and infrastructure. The Regional, Town and Country Planning Act does not include provisions that require the consideration of climate risks and vulnerability for planned areas and infrastructure. Though the Act requires local planning authorities to conduct a study of a planning area before preparing any master plan or local plan,<sup>57</sup> this study is not

55 UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). “Urban Planning Law for Climate-Smart Cities: Urban Law Module”, Law and Climate Change Toolkit, p. 43.

56 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).

57 Regional Town and Country Planning Act (No. 22 of 1976).

*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.*

explicitly required to assess climate risks and vulnerabilities in the planning area. Instead, the law provides that the study must “examin[e] such matters as the [planning authority] considers may be likely to affect the development or redevelopment of the area or the planning of its development or redevelopment”.<sup>58</sup> As such, this provision requiring the study of a planning area could facilitate climate risk and vulnerability assessments, but only where the local planning authority considers climate risks likely to affect the development of the area, allowing for a large degree of local discretion. Moreover, the Regional, Town and Country Planning Act does not include requirements concerning methods and processes to conduct the study of the planning area, nor does it require that such a process to be inclusive and participatory. There are no legal requirements or policy provisions

Section 13.

58 Ibid. Section 13 (1) (a).

in Zimbabwe regarding strategic environmental assessments of plans and policies such as urban and regional territorial plans, which could assess for climate risks and vulnerabilities. However, the Environmental Management Act includes provisions requiring that environmental impact assessments be undertaken for infrastructure projects and housing developments (inter alia).<sup>59</sup> The Water 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 and desertification.<sup>60</sup> Beyond this, the legal framework in Zimbabwe does not include provisions or regulations that require the consideration of climate risk and vulnerability for planned areas and infrastructure. The Zimbabwe National Human Settlements Policy has provisions for disaster risk assessments and mapping, which should be produced through a participatory process including vulnerable communities and indigenous knowledge.<sup>61</sup> The National Climate Change Response Strategy includes specific provisions 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”.<sup>62</sup> However, neither the legal nor policy framework of Zimbabwe includes explicit requirements for listing potential climate hazards that need to be identified in the risk and vulnerability assessments; for the identification

59 Environmental Management Act (No. 13 of 2002). First Schedule.

60 Water Act (No. 31 of 1998). Part 20.

61 Zimbabwe National Human Settlements Policy (2018), p. 10.

62 Zimbabwe National Climate Change Response Strategy (2019). Section 4.1.2.

of the places where climate hazards are most likely to occur through climate hazard maps; or for the identification of people, property and economic sectors exposed to risks arising from climate change.

Since Zimbabwe lacks legal provisions which explicitly require planning authorities to identify and assess climate risks and vulnerabilities when preparing spatial development plans; likewise, there are no legal provisions which oblige planning authorities to identify and prioritize adaptation options corresponding to extant risks and vulnerabilities. However, the Constitution describes the government's obligation to adopt measures which, in effect, promote climate change adaptation. These include preventing pollution and ecological degradation, promoting environmental conservation, and securing ecologically sustainable development and use of natural resources while promoting economic and social development.<sup>63</sup> The Water Act contains provisions which facilitate the identification and prioritization of adaptation options related to water shortages and droughts. Specifically, 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.<sup>64</sup> In addition, the Urban Councils Act requires every urban council to appoint an environmental management committee "which shall be responsible for environmental matters relating to the council" and prioritize "the conservation or improvement of natural resources" in area under the urban council's jurisdiction.<sup>65</sup> The Revised Nationally

Determined Contribution specifies prioritized adaptation options for the country which are both ecosystem-based and infrastructure-based. These include enhancing early warning and climate-related disaster risk reduction systems (including information management systems); ensuring climate-resilient infrastructure and design; and developing and promoting resilient water resources management.<sup>66</sup> Additionally, the Zimbabwe National Human Settlements Policy identifies adaptation options relevant to urban and territorial planning, namely the adoption of climate-proofing building technology,<sup>67</sup> and international disaster risk reduction frameworks.<sup>68</sup> Though all the aforementioned legal and policy provisions provide a basic framework for climate adaptation in spatial planning and urban management, these options are not described in detail nor are they part of a comprehensive prioritization process directly linked to the climate or disaster risk assessment processes. The urban law framework lacks provisions requiring local planning authorities to assess identified adaptation options based on time, cost, benefits and barriers to implementation; to prioritize the adaptation options and select the preferred ones; to engage stakeholders in the process of identification and prioritization of the adaptation options; or to have targets to improve the adaptation of urban areas with measurable and verifiable benchmarks against which progress can be assessed.

As the process of formulating a method for the identification and prioritization of adaptation options is still being undertaken in Zimbabwe, and legal provisions which require the implementation of adaptation options for

63 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 73.

64 Water Act (No. 31 of 1998). Part 1.

65 Urban Councils Act (No. 24 of 1995). Section 96.

66 Zimbabwe Revised Nationally Determined Contribution (2021). Section 3.4.

67 Zimbabwe National Human Settlements Policy (2018). Section 2.6, no.113.

68 Ibid. Section 2.14, no. 108.

planned areas and infrastructure have yet to be established. Nonetheless, certain law and policy provisions may facilitate the implementation of climate adaptation measures related to urban planning and management. The Regional, Town and Country Planning Act does not explicitly provide for total and partial restrictions on land use and development in hazard prone areas, however, it does require regional and local planning authorities to “indicate major land uses [...] including measures for the conservation and improvement of the physical environment”.<sup>69</sup> Moreover, planning authorities are obliged to take the National Environmental Plan into account when preparing or altering regional plans, master plans or local plans,<sup>70</sup> which can indirectly lead to land-use restrictions for areas protected in the national environmental plan, where such areas are identified. The Environmental Management Act states that “vulnerable [...] ecosystems require specific attention in management and planning procedures”<sup>71</sup> and enables the President to restrict land use and development by setting aside State land, Communal land or acquiring other land for environmental purposes.<sup>72</sup> The Minister of the Environment and Tourism can restrict development in flood-prone areas by “declar[ing] any wetland to be an ecologically sensitive area” and “impos[ing] limitations on development in or around such area”.<sup>73</sup> The Minister can also restrict development in hazard prone areas by making an order for the protection of the environment. This order can require a landowner, lawful occupier or user to “undertake or adopt such measures” or “refrain from carrying

out such activity as the Minister considers necessary to protect the environment”.<sup>74</sup> However, such orders are primarily intended to prevent activity which is detrimental to the environment, rather than to prevent development which would leave individuals and communities vulnerable to climate hazards. The Environmental Management Act also empowers the Minister of Environment and Tourism to “establish and manage buffer zones around environmental protection areas”,<sup>75</sup> however, the Act does not provide specific measures with respect to riparian or lakeshore setbacks. Regarding the consideration of nature-based stormwater management to manage increasing volumes of stormwater, the Environmental Management Act authorizes the Minister of the Environment and Tourism to “cause works to be constructed for [...] the disposal or control of stormwater”.<sup>76</sup> There are no policy provisions or legal requirements to plan sewerage systems, storm drains, and wastewater treatment plants based on predicted rainfall, flooding (sea/river) and densification. However, Zimbabwe’s Revised Nationally Determined Contribution calls for 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”.<sup>77</sup> The Water Act includes considerations such as “control of the use of water when water is in short supply” and provides for the drafting of “outline plans” or outline water development plans<sup>78</sup> which, among

69 Regional Town and Country Planning Act (No. 22 of 1976). Section 6 (2) (a), Section 14 (2) (a) (ii), and Section 17 (3) (a) (ii).

70 Environmental Management Act (No. 13 of 2002). Section 92 (3) (a).

71 Ibid. Section 4 (2) (i).

72 Ibid. Sections 109 and 110.

73 Ibid. Section 113 (1).

74 Ibid. Section 114 (1) (a) and (c).

75 Ibid. Section 116 (2) (c).

76 Ibid. Section 11 (2) (b).

77 Zimbabwe Revised Nationally Determined Contribution (2021). Section 3.4.

78 Water Act (No. 31 of 1998). Section 2 (1).



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”.<sup>79</sup> The Zimbabwe National Climate Policy offers a broad goal to “strengthen community-based disaster risk management for communities at risk of extreme climatic events”,<sup>80</sup> however neither this policy nor any other law or policy in Zimbabwe requires the planning of evacuation routes and identification of locations for low-risk safety areas in case of extreme weather events. Furthermore, there are no provisions that allow the land information system to integrate vulnerabilities and exposure of land parcels to climate hazards in Zimbabwe.

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. An amendment to the Regional, Town and Country Planning Act issued by Town Planning Circular 70 of 2004 allows for 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.<sup>81</sup> In addition, the Town Planning Circular 70 of 2004 contains reduced minimum standards, such as minimum plots sizes, for spatial planning and housing schemes, which made more small informal buildings and housing eligible for permitting under the Regional Town and Country Planning Act.<sup>82</sup> Several other pieces of legislation, such as the Housing and Building

79 Ibid. Section 13 (1) (c) (ii).

80 Zimbabwe National Climate Policy (2017). Chapter 2.6.4.

81 Regional Town and Country Planning Act (No. 22 of 1976). Section 27.

82 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. 2.



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

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

Act<sup>83</sup> and the Rural District Council Act,<sup>84</sup> 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 that describe an explicit process for regularizing and upgrading 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 legal provisions which aim to maintain the affordability of the upgraded settlements for the pre-existing community and prevent the community's economic displacement.

#### Legislation in Zimbabwe lacks explicit provisions

83 Housing and Building Act (1979). Section 5.

84 Rural District Councils Act (No. 8 of 1988). Sections 75 and 76.

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 described in Section 72 of the Constitution, which guarantees the relocation of persons dispossessed of their agricultural land by reason of State expropriation.<sup>85</sup> 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<sup>86</sup> and the Land Acquisition Act,<sup>87</sup> it is not necessarily required to identify and set aside land for resettlement in case of extreme weather events. However, Section 28 of the Constitution obliges the State to take reasonable legislative and other measures to enable every person to have access to adequate shelter; this right could form the basis of a claim for resettlement in cases where climate risks and disasters have compromised the habitability of vulnerable areas. 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".<sup>88</sup>

Lack of tenure security undermines the effectiveness of adaptation actions in urban contexts by increasing the climate sensitivity of affected populations. Security of tenure is thus a critical component of not only adaptation but also the realization of sustainable and

85 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 72.

86 Ibid. Section 71.

87 Land Acquisition Act (1992). Section 3 (1) (a).

88 Zimbabwe National Human Settlements Policy (2018). Section 2.4, no 67, p. 39.

inclusive urban development.<sup>89</sup> In Zimbabwe, the Constitution 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.<sup>90</sup> The primary tenure types recognized by law in Zimbabwe include: (1) freehold ownerships; (2) occupancy rights to land in communal areas (customary land rights); 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 the deed registries as prescribed by the Deeds Registries Act. Customary land rights are protected, and customary rightsholders are eligible for compensation and resettlement in the case of land dispossession, under the Communal Land Act.<sup>91</sup> Though these rights can be formally recognized through occupation and land use permits issued by the competent rural district council,<sup>92</sup> they are not specifically referred to as being registrable in the deeds registries. The Constitution of Zimbabwe 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.<sup>93</sup> This Act prescribes the process by which compulsory acquisitions and associated evictions should be undertaken, however, it does not include provisions regarding

89 UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). "Urban Planning Law for Climate-Smart Cities: Urban Law Module", Law and Climate Change Toolkit, p. 68.

90 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 71.

91 Communal Land Act (2004). Section 12 (1).

92 Ibid. Sections 8 (2) (b) and 9.

93 Ibid. Sections 71 and 74.

the relocation and resettlement of evicted individuals and groups. The law 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.<sup>94</sup> It further grants compensation entitlements not only to owners of registered land, but also to "any other person whose right or interest in the land has been acquired".<sup>95</sup> Informal tenure rights are not protected by law nor are informal tenure holders eligible for compensation in cases of State expropriation or evictions; however, informal tenure holders can regularize their tenure status by applying for a planning permit in line with Section 27 of the Regional, Town and Country Planning Act.<sup>96</sup> Alternative disputes resolution, such as negotiation, mediation and arbitration, are not specifically prescribed by law in relation to land disputes, including those disputes related to expropriation, evictions, and compensation.

The Regional, Town and Country Planning Act does not include explicit provisions regarding the implementation, monitoring and enforcement of planning and design standards for adaptation to climate risks and vulnerabilities. However, the Act does link the development approval process to legally approved urban plans and zoning regulations. It requires all land developments, including reconstructions and enlargements or alterations, to be granted a development order or planning permission from the local authority.<sup>97</sup> Violators who undertake development works or land uses without the requisite permit are subject to fines and/or up to six months of imprisonment.<sup>98</sup> The Environmental Management Act makes provisions regarding

94 Land Acquisition Act (1992). Section 5 (1) (a) (iii).

95 Ibid. Section 16 (b).

96 Regional Town and Country Planning Act (No. 22 of 1976). Section 27.

97 Ibid. Section 24.

98 Ibid. Section 24 (4).

environmental impact assessments which must be undertaken on land that will be developed;<sup>99</sup> it also makes provisions regarding licenses to discharge effluents and emissions.<sup>100</sup> The legal framework in Zimbabwe does 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 mentioned above prescribe fines for non-compliance with permitting and environmental impact assessment requirements, the exact modalities for monitoring and enforcement are not described in detail.

---

99 Environmental Management Act (No. 13 of 2002). Sections 88, 100 (3) (a), and 107 (1).

100 Ibid. Sections 60 (4) (d) and 65 (2) (c).





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 form and greenhouse gas emissions from transportations and infrastructure
- 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\_m Development approval and mitigation

**Figure 4: Rating matrix for Zimbabwe on planning for Mitigation**

Along with enabling populations to adapt to the risks created by climate change, 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; promoting the development and maintenance of urban green spaces; incentivizing energy saving in buildings and neighbourhood design; and laying out rules for planning and decision making.<sup>101</sup> Climate change mitigation considerations should be integrated into urban planning processes by ensuring that urban plans consider mitigation

101 UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). "Urban Planning Law for Climate-Smart Cities: Urban Law Module", Law and Climate Change Toolkit, p. 82.

strategies as well as emphasise 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 the greenhouse gas emissions of different urban planning options, several climate policies and strategies exist 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) calls for assessments of the greenhouse gas emissions of transit systems, land use and waste management systems.<sup>102</sup> The National Climate Policy of 2017 tasked the Government with setting emissions targets for each sector identified in the country's Nationally Determined Contributions and "establish[ing] a monitoring, reporting and verification (MRV) framework for monitoring GHG inventories towards compliance with NDCs [Nationally Determined Contributions] requirements".<sup>103</sup> 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 greenhouse gas emissions associated with the existing urban form, nor are there provisions that require the estimation of existing carbon sinks. The National Environmental Plan stipulated in the Environmental Management

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

103 Zimbabwe National Climate Policy (2017), Section 3.1.7.

*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.*

Act includes measures for the “mitigation of activities contributing to global climate change and the protection of the ozone layer”.<sup>104</sup> The Act also empowers the Minister of Environment and Tourism to making the regulations surrounding the control or prohibition of activities and practices likely to deplete the ozone layer.<sup>105</sup> In such regulations, the Minister could potentially require urban and territorial planning processes to assess greenhouse gas emissions and carbon sinks as a means of controlling activities and practices likely to deplete the ozone layer. Nonetheless, there are no statutory, regulatory or policy provisions presently in place which require the creation of different planning scenarios comparing their greenhouse gas emissions and carbon sink potential. Finally, greenhouse gas emission targets specifically related to planned urban areas, including measurable benchmarks to assess progress, are not provided for in law or policy in Zimbabwe.

The urban law framework 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”.<sup>106</sup> The Zimbabwe

Road Act promotes the creation of an integrated and efficient road transport network which must be planned in a manner consistent with national environmental requirements.<sup>107</sup> The Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050) includes a policy provision for “increased public transport use, with modal shift from passenger car use to modern buses and NMT [non-motorized transport] (e.g., walking and bicycles)”.<sup>108</sup> Town Planning Circular 70 of 2004 was issued to promote compact urban development in the wake of increased urban sprawl in Zimbabwe. Likewise, the National Human Settlements Policy 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.<sup>109</sup> 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.

---

United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). “Urban Planning Law for Climate-Smart Cities: Urban Law Module”, Law and Climate Change Toolkit, p.101.

<sup>107</sup> Zimbabwe Roads Act (2001). Section 3 (2) (b).

<sup>108</sup> Long-term Low Greenhouse Gas Emission Development Strategy (2020-2050), p. 76.

<sup>109</sup> Zimbabwe National Human Settlements Policy (2018), p. 8.

<sup>104</sup> Environmental Management Act (No. 13 of 2002). Sections 87 and 88.

<sup>105</sup> Ibid. Section 140.

<sup>106</sup> UN-Habitat, United Nations Environment Programme,

There are very limited provisions in the country's existing 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.<sup>110</sup> They can also introduce by-laws to promote a network of green spaces in urban areas.<sup>111</sup> 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.<sup>112</sup> However, there are no specific legal requirements establishing minimum quantitative standards for green spaces or ensuring the adequate distribution of such spaces across cities. There are also no provisions of law or regulations 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,<sup>113</sup> supply of electricity<sup>114</sup> and the planning, construction and use of buildings, including building materials.<sup>115</sup> Local plans, which can serve as neighbourhood plans when prepared for a part of the area under a local planning authority's jurisdiction, must include measures for the conservation and improvement of the physical environment;<sup>116</sup> however, the Regional, Town and Country Planning Act does

not explicitly require local plans, or neighbourhood planning more generally, 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 in buildings.<sup>117</sup> 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.<sup>118</sup> 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.<sup>119</sup> 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.<sup>120</sup> 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.

110 Urban Councils Act (No. 24 of 1995). Section 6.

111 Ibid. Section 276 (2) (a).

112 Environmental Management Act (No. 13 of 2002). Section 109 and 110.

113 Urban Councils Act (No. 24 of 1995). Section 36.

114 Ibid. Section 72 and 73.

115 Ibid. Section 39.

116 Regional Town and Country Planning Act (No. 22 of 1976). Section 17 (3) (a) (ii).

117 Model Building By-laws Regulation No. 125 (1978).

118 Environmental Management Act (No. 13 of 2002). Section 99.

119 Ibid. Section 60.

120 Regional Town and Country Planning Act (No. 22 of 1976). Sections 24 and 25.





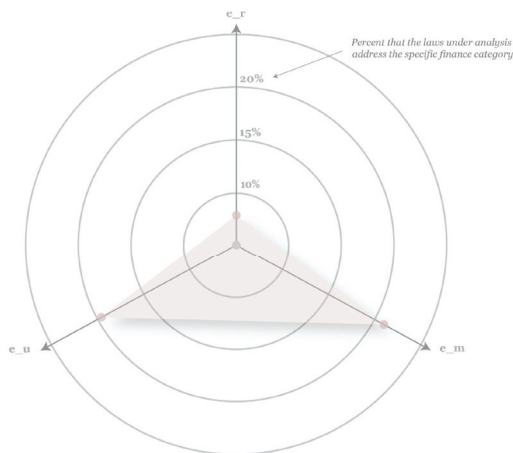
Zimbabwe Landscape by Alberto Bizzini source: flickr



# 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 5: 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 undertake their functions.<sup>121</sup> However, 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 network of financial resources which could, but are not required to, be used to finance

121 UN-Habitat, United Nations Environment Programme, United Nations Framework Convention on Climate Change, and the Commonwealth Secretariat (2022). "Urban Planning Law for Climate-Smart Cities: Urban Law Module", Law and Climate Change Toolkit, p. 104.

climate change mitigation and adaptation in urban planning.

The Constitution requires that "revenue raised nationally must be shared equitably between the central government and provincial and local tiers of government".<sup>122</sup> More specifically, it requires that not less than five per cent of the national revenues raised in any financial year must be allocated to the provinces and local authorities as their share in that year.<sup>123</sup> And while these intergovernmental transfers do not have to be used for climate change mitigation and adaptation in urban planning per se, they should be used to provide basic services, including water, roads, social amenities and electricity to marginalized areas.<sup>124</sup> Moreover, public expenditure can be linked to climate change mitigation through a constitutional principle of public financial management which states that "the burdens and benefits of the use of resources must be shared equitably between present and future generations".<sup>125</sup> Urban councils can collect and exercise their discretion in how to spend locally generated revenues under the Urban Councils Act,<sup>126</sup> which also grants urban councils the power to borrow and invest money for purposes and in the situations listed in the Act.<sup>127</sup> These provisions create an enabling environment that facilitates the mobilization of investment capital for local governments. In certain instances, the

122 Constitution of Zimbabwe Amendment Act (No. 20 of 2013). Section 298 (1) (b) (ii).

123 Ibid. Section 301 (3).

124 Ibid. Section 301 (2) (d).

125 Ibid. Section 298 (1) (c).

126 Urban Councils Act (No. 24 of 1995). Part XX.

127 Ibid. Section 290 (1), 291 and 302.

*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.*

Act limits the discretion of local authorities in how to spend locally generated revenues, by linking certain types of revenue to certain types of expenditure.<sup>128</sup> However, the Act also provides that urban councils use their discretion to invest in 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.<sup>129</sup> The Urban Councils Act does not include provisions that require local governments to earmark resources for urban planning and climate change; however, it does require an urban council to maintain a “housing account”, and limits expenditures from the housing account to be used for “direct costs incurred by the council in connection with the supervision and administration of the area concerned”.<sup>130</sup> Specifically, these costs include developing and maintaining any building, works, services or roads benefiting the inhabitants of the area; land acquisition costs; and charges related to water, electricity, sanitation, or other basic or social services.<sup>131</sup>

Pieces of specialised legislation also provide

128 Urban Councils Act (No. 24 of 1995). Section 191 (4) (i).

129 Ibid. Section 302 (1).

130 Ibid. Section 301 (4) (a).

131 Ibid. Section 301 (4) (b), (c), (d), and (e).

potential sources of funding for 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”.<sup>132</sup> 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”,<sup>133</sup> and the funds thus collected are paid into the Environment Fund, recirculating as finances for adaptation and mitigation activities.<sup>134</sup> 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

132 Development Bank of Zimbabwe Act (2018). Section 17.

133 Environmental Management Act (No. 13 of 2002). Section 50 (1).

134 Ibid. Section 52 (g), (h), (i), and (j).



or any other services for the benefit or the welfare of the occupants or residents of such declared area”.<sup>135</sup> The Zimbabwe Investment and Development Agency Act includes provisions that create an enabling environment that facilitates the mobilization of investment capital. The Act also creates frameworks for public private partnerships by establishing the Public Private Partnership Unit.<sup>136</sup> However, neither of these initiatives explicitly discuss climate change mitigation or adaptation. 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 established earmarked inter-governmental fiscal transfers to local governments for climate change mitigation and adaptation 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”.<sup>137</sup> It also lacks provisions which allow local governments to receive a public credit guarantee by the national government.

Several legal and policy documents provide economic and non-economic incentives for climate change mitigation and adaptation, though few of these are immediately linked to urban planning. The Zimbabwe National Climate Change Response Strategy aims to provide incentives such as tax relief and financing for companies that invest in technologies that reduce greenhouse gas emissions from their production processes.<sup>138</sup> In addition, the Response Strategy aims to provide incentives for industries to adopt resource-use efficiency, especially of water and

energy, and cleaner production thereof.<sup>139</sup> The National Energy Policy includes incentives such as subsidies and tax concessions for investment in renewable energy.<sup>140</sup> 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”.<sup>141</sup> The National Climate Policy includes various, albeit broad, provisions to establish incentives to reduce emissions and promote low-carbon development.<sup>142</sup> 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”.<sup>143</sup> 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”.<sup>144</sup> 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.<sup>145</sup>

Regarding incentives that promote unsustainable land use, the Zimbabwe Vision 2030 also specifies “fiscal and other incentives” provided through Special Economic Zones,<sup>146</sup> which could

135 Housing and Building Act (1979). Section 19 (2) (a).

136 Zimbabwe Investment and Development Agency Act (2020). Part VII.

137 Zimbabwe National Climate Policy (2017). Section 7.1.1.

138 Zimbabwe National Climate Change Response Strategy (2019). Annex 1, Section 2.2, p. 101.

139 Ibid. Annex 1, Section 2.2, p. 102.

140 National Energy Policy (2012). Section 7.5.4.

141 Zimbabwe Integrated Solid Waste Management Plan (2014). Section 4.1 (b).

142 Ibid. Section 6.1.3.

143 Environmental Management Act (No. 13 of 2002). Section 10 (1) (b).

144 Zimbabwe National Water Policy (2012). Section 6.1.4.

145 Ibid. Section 7.8.

146 Zimbabwe Vision 2030. Section 190.

encourage industries that have the potential to degrade the environment in urban areas. In Bulawayo, for example these incentives propped up heavy industry, focussing on leather, footwear, textiles and engineering businesses. Additionally, the Finance Act states that the Minister of Finance may “exempt any power generation project from liability for carbon tax [...] for a temporary or indefinite period and may backdate such exemption”.<sup>147</sup> Such discretionary exemptions from the carbon tax have the potential promote carbon intensive development in urban areas.

---

147 Finance Act (No. 8 of 2020). Section 17.

## 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-Stiftung Regional Programme Energy Security and Climate Change in Sub-Saharan Africa (KAS), 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.

HS Number: HS/040/22E



UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME  
P.O. Box 30030, GPO Nairobi 00100 Kenya  
Tel: +254-20-7623120  
Fax: +254-20-76234266/7 (Central office)  
infohabitat@un-habitat.org  
www.unhabitat.org

