AJEAM-RAGEE Volume 7 November 2003 p14-20

INSTITUTIONAL AND LEGAL PROVISIONS FOR ENVIRONMENTAL MANAGEMENT IN ZIMBABWE

Godwell Nhamo

National University of Science and Technology, Zimbabwe

Current Address
Rhodes University
Environmental Education Unit
P.O. Box 94, Grahamstown 6140, **South Africa**
Emails: **godynhamo@yahoo.com** or **g03n4092@campus.ru.ac.za**

Abstract

This paper focuses on institutional and legal provisions of Zimbabwe's Environmental Management Act of 2002 (hereby cited as the Act). The paper outlines environmental management trends prior to the enactment of the Act. Lessons are drawn from personal experiences with environmental management policy and law development and capacity building work. It is put across that Zimbabwe's environmental management legislation prior to 2002 was highly fragmented, making it difficult to administer and implement activities aimed at addressing the requirements of sustainable development. Therefore, the Act of 2002 has put in place a harmonised institutional, legal and policy framework for sustainable environmental management in Zimbabwe. A conclusion is reached that apart from complementing the ongoing initiatives, the Act sets a solid platform that will significantly encourage and lead to the enforcement of sustainable environmental management in the country at a higher level than before.

1. Introduction

The issues pertaining to environmental management in Zimbabwe or any other country may not be fully understood without looking at the concept of *environment*. In its broadest sense, an environment is a part of the earth's surface that supports life and in which life occurs (Mnkandla, 1997). According to the Zimbabwe's Environmental Management Act (MoMET, 2002) the environment refers to: the natural and man made physical resources, both biotic and abiotic, occurring in the lithosphere and atmosphere, water, soil, minerals and living organisms whether indigenous or exotic and the interaction between them; and ecosystems, habitats, spatial surroundings or other constituent parts whether natural or modified or constructed by people and communities, including urbanised areas, agricultural areas, rural landscapes, and places of cultural significance. In this paper, *environment* can be seen as constituting the following: *biophysical (natural)* and *human (socio-economic* and *political)* dimension. The biophysical dimension is made up of elements such as climate (to cover its elements like temperature, rainfall, wind and evaporation), air, topography, geology, soils, vegetation (flora), fauna (animals), groundwater (hydrogeology), and surface water (hydrology). On the other hand, the human dimension constitutes parameters such as people, land tenure and use, archaeological, social, cultural, political, and economic aspects. However, both the biophysical and human environments are constantly interacting in a dynamic nature that supports all forms of life on earth.

2. Environmental Management Provisions Prior to the Act

Environmental management policy and legal provisions prior to the 2002 Environmental Management Act in Zimbabwe were severely fragmented. This was due to the fact that sectoral ministries coordinated specific environmental responsibilities, an aspect that made administration and implementation extremely difficult, if not impossible. This left limited room to overcome the socio-economic, biophysical, political and technological bias inherent in development proposals so as to ensure sustainable development (Chinamora, 1995). A typical example is the ongoing land re-distribution programme that originally did not undertake a full nationwide stock on possible environmental impacts (Nhamo, 1998; Nhamo 2001). A review of the status quo by the Ministry of Mines, Environment and Tourism (MoET, 1998) showed that there were many policies and acts that made reference to fragmented environmental administration from different Government ministries and departments. Some of the acts and policies frequently cited are: the Natural Resources Act; Environmental Impact Assessment Policy; Environmental Conservation Act; Environmental Conservation Strategy; Biodiversity Conservation Policy; Mines and Minerals Act (currently under review); Forestry Act; Atmospheric Pollution and Prevention Act; Water Act; Town, Regional and Country Planning Act; Fertilisers, Farm Feeds and Remedies Act; Seeds Act; Noxious Weeds Act; Hazardous substances and Articles Act; Public Health Act; Urban Councils Act; Rural District Councils Act; National Museums and monuments Act; Parks and Wildlife Act; and Road Traffic and Construction Act etc (Mubvami, 2000).

The need to harmonise uncoordinated fragmented pieces of environmental legislation can be cited as a single major drive that led to the drafting of the first Environmental Management Bill in 1997 and its subsequent amendments until 2002 when it was passed into law.

Apart from the national scene, many developments were taking place outside Zimbabwe, especially at the Southern African Community Development (SADC) and international levels. From a SADC perspective, the production of the 1996 *SADC Policy and Strategy for Environment and Sustainable Development: Toward equity-led growth and sustainable development* provided the basis for implementing Agenda 21 within the regional context (SADC, 1996). Furthermore, a number of SADC environment related protocols (to which Zimbabwe is Party to) were ratified among them: the Protocol on Education and Training; Energy; Health; Mining; Shared Watercourses; Revised Protocol on Shared Watercourses; Transport, Communications and Meteorology; and Protocol on Wildlife Conservation and Law Enforcement.

At the global level, Zimbabwe is also Party to a number of multi-lateral environmental agreements among them: the Convention on International Trade in Endangered Species on flora and Fauna (CITES); Climate Change; Biological Diversity; Combating Desertification; and the Bamako Convention on the Ban of Transportation and Importation of Hazardous Substances into Africa.

Such multi-lateral environmental agreements have also put significant pressure on the Government and compelled it to speed up the re-organisation of its environmental legislation so as to comply with the obligations provided in the conventions.

3. Institutional and Legal Provisions in the Environmental Management Act

The Act is organised into 16 Parts constituting a total of 146 Sections. The Act provides a set of institutional set-ups and legal foundation for the sustainable management of natural resources and the protection of the environment; the prevention of pollution and environment degradation; the preparation of a national and other environmental management plans; as well as the establishment of an Environmental Management Agency and an Environment Fund (MoMET, 2002). The following paragraphs consider in much depth the various facets of the new provisions.

Environmental Rights, Principles and State of the Environment Reporting

Section four of the Act looks into issues of environmental rights and principles of environmental management. Among other facets, every person is entitled to a clean environment that is not harmful to health as well as the access to all environmental information. In line with the concept of sustainable development, every individual has to protect the environment for the benefit of present and future generations. Some of the principles laid out are that: the concept environment must be considered in its totality; environmental management must place people and their needs first; and environmental education, awareness and sharing of knowledge and experience must be promoted in order to increase the capacity of communities to address environmental issues. The Minister also has to regulate: the management of the environment; activities of all government agencies and other agencies; to lay before parliament *Zimbabwe's state of the environment report* (SoER) at the end of every five years (so far two SoERs have been produced, the most recent in 1998); and to monitor environmental trends in the utilisation of natural resources; to co-ordinate the promotion of public awareness and education on environmental management; to impose penalties; and ensure that persons or institutions that are responsible for causing environmental harm. Lastly, the Minister is also given powers to delegate to the Agency or the Council such of his functions as when appropriate.

Nature and Roles of the Institutions

Under Part III, the *National Environmental Council*, whose duties will be to advise on policy formulation and give directions on the implementation of the Act, will be established. The Council's major role is to recommend to all appropriate authorities issues regarding the harmonization of functions related to environmental management. In addition, the Council reviews and recommends incentives for the protection of the environment. Part IV provides for the establishment of the *Environment Management Agency* whose main duties will be to advise the Minister on any matter pertaining to the planning, development, exploitation and management of the environment and in particular to develop guidelines for the preparation of a national plan and local environmental action plans. Furthermore the Agency will regulate: any environment impact assessments; the management and utilisation of ecologically fragile ecosystems; and undertake, in the public interest, any works deemed necessary for the protection of the environment.

Part V provides for the establishment of the *Environment Management Board*. The Board shall submit to the Minister an annual report on matters dealt with by the Board during that year. The Board may also hold a hearing into any matter that under the Act permitted. Under Part VI, a Director-General will be appointed whose role is to head the *Environmental Management Agency*. The Director General shall be responsible for: supervising and managing the Agency's staff activities; and manage the funds and property of the Agency. Other members of the Agency will include *inspectors and other officers* whose functions shall be to enforce the Act. Inspectors are empowered to enter any land, premises, vessels or any other place in Zimbabwe to

determine compliance with the Act. Part VII provides for financial provisions relating to the Agency. The Agency shall have monies appropriated for the Agency's use by Act of Parliament. The funds of the Agency shall also consist of any loans, donations and grants to the Agency or any fees or charges in respect of any services rendered by the Agency. Part VIII establishment the *Environment Fund* that shall consist of environment levies and any other monies that the fund may obtain with the approval of the Minister. Under Part IX a *Standards and Enforcement Committee* is set up. The Committee regulates pollution by issuing effluent and waste disposal permits. The Committee is also empowered to set air quality, waste, pesticides and toxic substances, noise emission and noxious smells standards.

A lot of work regarding effluent and waste standards and management has already been done following the amendments to the Water Act in 1998 and the subsequent passing of the *Effluent and Waste Standards* Statutory Instrument 274/2000 (ZINWA, 2000). Effluent standards are classified by colour coding into: blue, for that which is environmentally safe; green, low environmental hazard, yellow, medium environmental hazard; and red, high environmental hazard. All the categories attract some disposal fees ranging from US$130 to US$400 (blue to red) as of Government exchange rate for December 2002 (Figure 1).

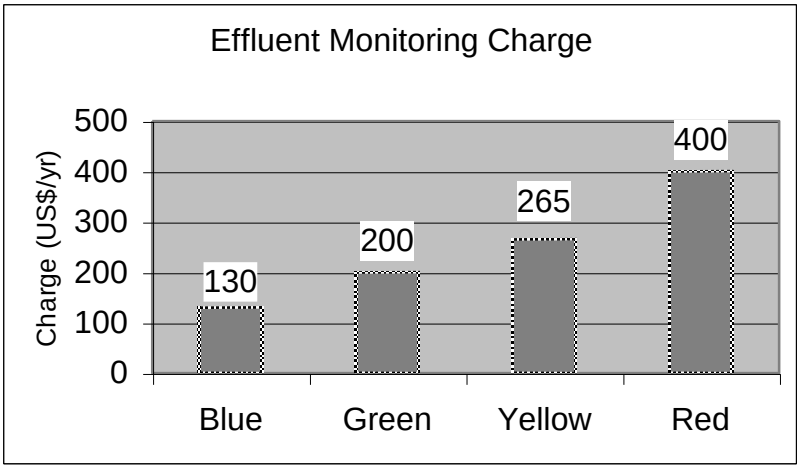

Figure 1: Effluent Monitoring Charges

In addition to monitoring charges, different environmental fees are charged per mega litre of effluent for the green (US 50 cents) yellow (US$ 1.20 and for the red category (US$ 2.10). The red colour code also attracts a penalty charge of US 50 cents per mega litre of effluent. Monitoring charges for disposing solid wastes on land are double those of effluent with a 25% penalty fee set for wastes falling in the red catergory.

National and Local Environmental Plans

For the purpose of promoting and facilitating the co-ordination of strategies relating to the environment, the Minister shall prepare a *National Environmental Plan* as outlined in Part X. The *National Environmental Plan* shall formulate strategies and measures for the management, protection restoration and rehabilitation of the environment. In addition, all local authorities (Urban Councils, Rural District Councils and Town Boards) are required to prepare their own Environmental Action Plans.

Environmental Impact Assessment (EIA) Requirements
Under Part XI, all development projects with, especially significant negative environmental impacts shall be subjected to full EIAs. The EIA provides a detailed description of the project and the activities to be undertaken as well as the likely positive and negative impacts the project may have on the environment. It also has to specify the measures proposed for minimising and where possible eliminate adverse effects and enhance positive ones. When the EIA report meets the set requirements, a *certificate*, valid for a period of two years, shall be issued.

Miscellaneous Components
Under Part XII, the President is empowered to set aside *state or communal land* for environmental purposes and with the help of the Minister declare it as a wetland or take measures necessary for the conservation of biological diversity. Part XIII empowers the inspectors to enter any land for the purpose of ascertaining if any invasive alien species are growing there. The inspector may *serve notice* upon a person responsible, demanding clearance of species. Local authorities are also empowered to make *by-laws* within their areas of jurisdiction to keep the land free from invasive alien species. Part XIV allows any person who is aggrieved by the decision of the inspector or the decision of local authority to appeal to the *Administrative Court*. Part XV provides that the Minister may recommend to the *Cabinet or Parliament* to *sign, ratify or accede* to an international environment convention. The last part, Part XVI stipulates the general provisions on the function of the local authority, powers of the Minister in respect of communal land preserved, environmental incentives for promoting environmental management.

4. Can the Act Take the Country a Level Higher?

This million-dollar question is addressed in this final section. Judging from conclusions reached by various authors (Chinamora, 1995; MoMET, 1998; Mubvami, 2000; Nhamo, 2001), the major drawback for good environmental stewardship in Zimbabwe was the lack of adequate policy and legal framework aimed at coordinated environmental management. To these early writers, the answer laid in the provision of a kind of a legal document such as the 2002 Environmental Management Act. The answer is, thus, found.

My personal observations and field experience also confirms that an answer has been indeed found as the country is more than prepared to fulfil the requirements of the Act. Apart from having the Act by our doorsteps, extremely high levels of awareness among both the private and general public on the eventualities of the enactment of the Environmental Management Bill of 1997 into an Act contributed significantly in changing the mind-set of many in the country. An estimated seven years lapsed from the original Bill to the one that culminated into the Act in December 2000.

Further evidence is presented by the mere fact that various government ministries, departments and parastatals such as the Ministry of Transport and Energy and the Zimbabwe National Water Authority (ZINWA) have been born out of the need to comply with the provision of the Act. As noted earlier, the ZINWA is in a full swing implementing the polluter pays principle enshrined in the Act as regards effluent and solid waste management. The Ministry of Transport and Energy too, has since 2001 started levying all motorists a *carbon tax*. Both scenarios have met considerable success. Table 1, illustrates the various carbon tax bands and charges as they are being applied in the country. These figures were supplied by the Zimbabwe Revenue Authority

(February 2002) and converted to US$ using the going official exchange rate of US$ = ZW$ 57.00.

Table 1: Carbon Tax Bands

Engine Capacity (cc)	*Tax (US$/year*
Below 1.500cc	70
1.5001cc – 2000cc	125
2001 – 3000cc	175
Above 3000cc	350

The Ministry of Environment and Tourism has also embarked on a massive capacity building programme in EIA training. Its efforts have been complemented by the establishment of many university degree programmes that focus specifically on issues of environmental science and environmental management. Various short courses to build capacity in environmental management have been introduced at various institutions of higher learning in the country. Not to be outdone was the introduction of environmental science and health education at all levels in primary and secondary schools.

As an academic, I had the opportunity to pioneer Bachelor of Environmental Science degree programmes in Zimbabwe, firstly at Solusi University in 1998 and at the National Science and Technology in 2000. Since then, many other universities were to follow suit among them: Bindura, Africa, Midlands State, Zimbabwe Open University and the University of Zimbabwe. The private sector colleges were not to be outdone either, with Speciss College offering the Rhodes University industry-driven course in Environmental Education. As of now, the academic-industry link has grown so big with the latter offering research and short courses related to cleaner production, zero waste, life cycle assessments, EIA and EIA consultancy and many more.

In addition, a number of national environmental management initiatives and platforms have been launched, one of which is the Zimbabwe Environmental Education Consultative Forum (ZEECF). The ZEECF (to which I am an active member) has been and still is spearheading the development of the national environmental education and environmental management policies. A draft for the Environmental Education Policy, which took a highly consultative approach during its development, is already out. Lobbing from the ZEECF also led to the formulation and inclusion of an environmental education specific principle in the Act. Another critical initiative from the ZEECF was the conducting of a one-day workshop on *environmental awareness* for Zimbabwe Members of Parliament just after the Act was enacted. The responses and attendance by various members of parliament from both the ruling and opposition parties showed that, for real, the country was ready *to take environmental issues to a higher level* in this millennium.

5. Conclusion

Given the foregone, this paper concludes that with the high level of awareness and momentum gained on the need to ensure sustainable environmental stewardship through a coordinated front, the Environmental Management Act of 2002 will significantly achieve its objectives. This has been ascertained by the many initiatives already in place from both the private and public sectors aimed at addressing environmental management. In addition, to show its unwavering commitment to the Act, the government has stated auditing its land reform programme with the intention of encouraging and enforcing sustainable environmental management practices from the new settlers. Like manner, industry and the academia have strategically positioned themselves towards addressing the many provisions of the Act and ready to pull together with the institutions and authorities behind it.

References

Chinamora, W. (1995). Zimbabwe's Environmental Impact Assessment Policy of 1994: Can it Achieve sound Environmental Management? Zambezia (1995). No.XXII (ii).

Ministry of Mines, Environment and Tourism (cited as MoMET). (2002). Environmental Management Act. Harare, Zimbabwe: Government Publishers.

Ministry of Mines, Environment and Tourism (cited as MoMET). (1998). Environmental Impact Assessment Training Mannual. Harare, Zimbabwe: Government Publishers.

Ministry of Mines, Environment and Tourism (cited as MoMET). (1994), Environmental Impact Assessment Policy. Harare, Zimbabwe: Government Publishers.

Mubvami. T. (2002). Environmental Impact Assessment as a Policy Tool for Environmental Management. In IUCN-ROSA. (edt), Approaches to Environmental Policy Analysis: Southern Africa. Harare, Zimbabwe: IUCN-ROSA.

Nhamo, G. (1995). EIAs Inevitable for Damming Projects. The Zambezi Newsletter. Vol. 1. No. 1, 4-5.

Nhamo, G. (2001). Integrating environmental Education into Land Reform in the SADC Region. SADC Environmental Education Mail. Vol. 5. No.1 September 2001, 6-7.

Southern African Development Community (cited as SADC). (1996). SADC Policy and Strategy for Environment and Sustainable Development: Toward equity-led growth and sustainable development. Gaborone, Botswana: SADC Secretariat.

United Nations (cited as UN). (1992). Agenda 21: A Global Plan for Sustainable Development. New York, USA: UN.

Zimbabwe National Water Authority (cited as ZINWA). (2000). Operational Guidelines for the Control of Water Pollution in Zimbabwe, 2000. Harare, Zimbabwe: Government Publishers.