

CHAPTER 14

WATER SECTOR REFORMS IN ZIMBABWE: THE IMPORTANCE OF POLICY AND INSTITUTIONAL COORDINATION ON IMPLEMENTATION

H. Makurira

University of Zimbabwe, Civil Engineering Department, Harare, Zimbabwe

M. Mugumo

Zimbabwe National Water Authority, Harare, Zimbabwe

ACRONYMS

CC	Catchment Councils
COP	Catchment Outline Plans
SADC	Southern African Development Community
SCC	Sub-Catchment Councils
ZINWA	Zimbabwe National Water Authority

Over the past decade, a large number of African countries have undergone or are in the process of implementing water sector reforms. The reforms have generally been driven by international calls for more efficient and sustainable water management approaches. The need for a global water management review has gathered momentum since the United Nations Convention on Sustainable Development – the Earth Summit – held in Rio de Janeiro in 1992.

The modern focus of water management efforts has been to consider the environment as a legitimate user. In the process, efforts towards pollution control have intensified, with the “user pays” principle being adopted by many countries. Water management functions have also been decentralized to the catchment or watershed scale where stakeholders have a larger say in the management of water in their own areas. Ghana, Zimbabwe, South Africa, Zambia, Swaziland, Malawi, Uganda, Kenya and the United Republic of Tanzania are typical examples of African countries where water sector reforms are being implemented. The formation of basin commissions, as evidenced by river basin commissions in the Southern African Development Community (SADC), is also in line with a watershed approach to water management that is involving all riparian countries.

One way of promoting more efficient and sustainable utilization of water is through stakeholder involvement in water management at the catchment scale. The idea behind this approach is to enhance greater participation at the catchment level, thereby increasing the sense of ownership among users and promoting sustainable and efficient use and environmental protection.

WATER SECTOR REFORMS IN ZIMBABWE

Two different processes drove the water sector reforms of 1994 in Zimbabwe (Pazvakavambwa, 2002), ahead of other sub-Saharan countries in Africa. The first factor was the general global concern pressing for a more efficient and sustainable approach to water management.

The second factor was water legislation that was perceived to be inconsistent with present trends in Zimbabwe. More water users were applying for water rights, yet the existing legislation was not sufficiently flexible to accommodate more players. This was evident in highly committed areas, where almost all available water had already been allocated and therefore new users could not be accommodated. The 1976 Water Act was intended to protect the interests of commercial farmers, but these constituted less than 1 percent of the country's population of 13 million (Manzungu, 2002).

WATER LEGISLATION IN ZIMBABWE

The Water Act governs the use of water in Zimbabwe. Until the recent revision of the Water Act (1998), the prevailing act was the Water Act of 1976. In general, the Water Act of 1976 was a good piece of legislation that brought any form of water use under control and aimed at the systematic allocation of water among users. According to the act, anyone was entitled to access to water, as long as the water was for primary use (basic human sustenance). Any use of water from which the user would derive a benefit was deemed commercial use, and required a water right. All water rights were issued in Harare by the Water Court, which was based at the Administrative Court of Zimbabwe.

The following were the main weaknesses of the Water Act (1976):

- The issue of all water rights was centralized at the Water Court in Harare.
- A water right was issued in perpetuity on a first-come-first-served basis. This meant that when water resources were fully allocated, no further water rights would be issued, regardless of the need.
- In the event of water shortage, the process of reallocation was very long and complex.
- A water right would not be revised, even if the right holder was not exercising his or her water rights. The water rights could only be revised if the holder volunteered to do so.
- The process of acquiring a water right was very long. Once granted, there was no requirement to pay for the possession of the water right or to contribute towards general water service provision.
- The act was silent on water quality and factors relating to the environment.
- There was little consideration given to groundwater supplies. The Secretary of Water had to be informed if a deep borehole was drilled, but there was no control on the amounts of groundwater pumped, or the number and spacing of such boreholes.

The Water Act (1976) was amended several times, and global modern trends pushed for a review of existing approaches to water management in Zimbabwe. This led to the complete overhaul of the Water Act (1976), which was replaced with the Water Act (1998), conforming to global trends and addressing pressing national issues.

The Water Act (1998)

The Water Act (1998) was signed into law after considerable consultation with stakeholders. The new act is founded on economic efficiency, environmental sustainability and equity of use. The following are its main features:

- Water rights have been replaced with water use permits. The permits are issued for a limited period and can only be renewed subject to water availability and evidence of efficient use.
- The priority principle has been done away with.
- Water can no longer be privately owned.
- Water is to be viewed from the complete hydrological perspective, i.e. groundwater and surface water are treated as part of one hydrological system.
- Stakeholder-driven institutions have been formed that will have more say on water allocation and general water management on a day-to-day basis.
- There is greater consideration of the environment, with environmental water use now recognized as a legitimate user.
- There is more control over pollution, with the “polluter pays” principle being introduced.

Water management has been decentralized to stakeholder-managed Catchment Councils (CCs) and Sub-Catchment Councils (SCCs). Under the present arrangements, a new framework for water management has been formed to:

- involve stakeholders in water management;
- replace water rights with water permits, which expire after a set period;
- create more efficient water allocation processes;
- develop catchment water use plans, with the full participation of stakeholders;
- treat the environment as a legitimate user;
- form new stakeholder-driven institutions to facilitate more efficient water management.

As a result of these developments, CCs and SCCs were formed as key institutions to manage water affairs on the ground on a day-to-day basis. The Zimbabwe National Water Authority (ZINWA) was formed with the primary role of taking over the commercial functions of the Department of Water Development.

Summary of institutions formed

ZINWA was formed to provide water services on a commercial basis. All fees charged for commercial water services are retained by the water authority for the provision of water services. Services of a statutory nature, provided by ZINWA, will be funded through the Water Fund, as directed by the minister responsible for water.

CCs were established for the management of the seven demarcated catchment areas in Zimbabwe. A CC consists of representatives of lower-level catchment management institutions.

The main responsibilities of CCs are to:

- prepare a catchment management plan, in consultation with the stakeholders, for the river system;

- grant permits for water use;
- regulate and supervise water use;
- supervise the performance of SCCs;
- resolve conflicts within their areas of jurisdiction.

SCCs were formed to facilitate water management on a smaller scale. SCCs consist of representatives of the various water users within the sub-catchment. Representatives from each SCC form the CC, thereby representing their constituents at the sub-catchment scale.

The main functions of SCCs are to:

- regulate and supervise the implementation of permits, including groundwater use;
- monitor water flows and use, in accordance with allocations by the CC;
- provide representatives for the CC;
- promote catchment protection;
- monitor water discharge;
- assist in data collection and participate in catchment planning;
- collect rates and fees for all permits issued.

The Water Act (1998) has also paved the way for better institutional coordination to facilitate more efficient water management. For instance, approval from several institutions is a prerequisite before a water permit can be issued.

The theory behind the Water Act (1998) is commendable, however, when transformed to the reality on the ground, the practice is not always so successful.

Why have water sector reforms not performed as expected?

While the framework for a perfect water management system exists, the situation on the ground does not reflect this common belief. The reform process has not taken off as expected owing to a combination of factors ranging from conflicting policies and weak institutional linkages, to insufficient funding. The reasons given in the following subsections help to explain why a properly developed legal framework can only function with the support of other critical pillars, such as technical and institutional support.

Donor withdrawal: The water sector reforms in Zimbabwe were largely donor-driven. Several donors pledged to support the reform process. This was very positive, considering that a particular donor would be supporting at most two catchments. There was therefore an opportunity for maximum interaction between the donor organizations and the beneficiary catchments.

However, by the time the CCs were to be fully launched, only one donor remained available to support two of the seven catchments, and that donor was in the process of withdrawing its support. A number of stakeholders began to lose confidence in the whole reform process, and they too began to pull out.

CCs were not yet financially self-sufficient, and this sudden withdrawal of donor support in both financial and technical areas was unexpected.

Without a good financial base, CC activities were doomed to fail, with participation restricted to voluntary work. Volunteers tended to be those who had already established themselves in water management, and therefore had interests to protect. Representation therefore continued to be skewed.

Other national programmes: The launching of the water reform process coincided with the land reform process in Zimbabwe. The water sector reforms were aimed at promoting equitable and sustainable utilization with more participation of stakeholders and the introduction of the user pays principle. The land reform programme aimed to redistribute land and to encourage greater utilization of the national land resource. On paper, these two policies complemented each other.

There was a great amount of movement, especially in the commercial sector, with established farmers moving away and new farmers coming in. This process happened so quickly that the water sector lost track of who was utilizing water. The problems were more complex in cases where there were more settlers on a property for which a permit had previously been issued to one user. The reallocation of such a permit to more users resulted in many conflicts. Moreover, new settlers were more interested in consolidating their claim to the new properties than in attending water management meetings. Water issues were therefore thrown aside as the land reform exercise attracted greater attention.

Financial stability: The water sector reforms intended to implement the user pays and polluter pays principles. In this respect, permit holders would pay a fee, which was to contribute to water services provision. The Water Fund was created through the Water Act (1998) to facilitate the collection of levies, fees, government contributions and any other support towards water service provision. This was to be deposited into a common pool from where the minister would identify areas of greatest need for the benefit of the water sector. The government would also contribute to the Water Fund, using public funds allocated from the main government budget. The Water Fund had a potential to realize substantial revenue to be used to improve the provision of water services, as directed by the minister responsible for the provision and management of water.

Inflows into the Water Fund have been minimal, with a contributing factor being the cessation of donor contributions. Unease ensued, resulting in many established farmers not paying for their permits, as they were uncertain as to their continuing occupancy on their land with respect to the new land reforms. Increased government responsibilities meant that less and less money was allocated to the Water Fund from the national budget. Similarly, new farmers were reluctant to pay for water use, as water rights had not been paid for previously. Most of the new commercial water users believed that water is a God-given resource, and therefore there is no need to pay for access to it.

The diminishing sources of contributions into the Water Fund therefore meant that there was very little money available to support water service provision and management.

Weak institutional linkages: The new Water Act provided a better framework for stronger institutional linkages. It is now a requirement that a number of institutions be consulted before permits for water use can be issued. However, there is little evidence to prove that this is bearing fruit. Not all institutions give priority to water issues. Some continue with their

previous approach to water management where their support cannot be fully guaranteed unless they are certain of deriving substantial and direct benefits from their participation.

Lack of capacity within key institutions: Key institutions, especially ZINWA, are not adequately staffed to cope with the sudden demands for the provision of expert services. The staffing levels of ZINWA fall short of expected levels, as does the level of expertise. The result is that ZINWA cannot provide sufficient personnel to provide commercial services, nor can it provide statutory functions with funding sourced from the Water Fund. With staffing levels inadequate and depth of expertise questionable, it is uncertain if sufficient funds from the Water Fund would have made much difference to this situation.

Other key institutions, such as the Department of Natural Resources, Agricultural Research and Extension Services (AREX), the Ministry of Water and Rural Development and the Ministry of Lands and Resettlement, are also experiencing inadequate staffing levels that have a negative impact on the whole process.

Remuneration for participants: CC and SCC representatives have not been paid directly for their input into water affairs. They were only compensated for travel and subsistence. When finances became scarce, the frequency of meetings was reduced, and user groups were merged to cut down on expenses. This meant that stakeholders could not meet as often as was desirable to discuss water management issues. This new approach was designed to cut down costs, however, consideration was not given to the main objective of providing more efficient water management at the catchment level.

Lack of enforcement of legislation: The new Water Act has been described as technically sound with a solid base for sustainable and efficient utilization of water resources. However, some vital sections of the act have not been fully enforced, hence, its founding principles cannot be supported. The Water Fund is collecting insufficient revenue adequately to support statutory functions. ZINWA is not financially viable, as the four main accounts that were created (raw water account, clear water account, engineering services account and water levy account) are not self-sustaining, hence the new institution has to rely on the government for financial support. In the process, key and experienced staff have left the organization owing to the working environment.

Similarly, Catchment Outline Plans (COPs) have not been developed in accordance with Section 12 of the Water Act (1998). COPs are to be developed by stakeholders, and should serve as a guide on water management within their catchment areas, as well as on the interventions to take in the event of scarcity, and therefore excess demand. Water quality issues and environmental aspects are also covered in the COPs. The reasons for non-development of the COPs range from a lack of capacity for their development, financial constraints and general lack of coordination among stakeholders.

In the meantime, water permits cannot be issued in the absence of approved plans, and the objectives of the reform process cannot be fully realized.

Different levels of appreciation of water: Water management representatives are from local authorities, industry, commercial farmers, communal farmers and other interested parties. While all representatives were expected to sit at the same table to discuss water affairs, it was

clear that the priority of each group was to protect its own interests. Communal farmers were the weakest and most disadvantaged sector, with the least appreciation of water for commercial use. They were not given equal access to the resource, despite management being conducted through SCCs, which were believed to involve such vulnerable user groups.

Political interference: Politics always plays a role in the success or failure of any process. In this case, there was a marked political influence in the pricing of water. In a bid to retain popularity, politicians aimed to keep the price of water as low as possible. Politicians frustrated the implementation of the pricing policy, which cannot afford to subsidize water service provision to maintain standards in good water service delivery. Defaulters of payments for water permits were protected against disconnection through the political influence of politicians. Political influence is also a factor in project choice and implementation where development is driven by political balance rather than economics. It has been noted by Shwatak (2002) that the government was adding to its expenditure on military interventions in other countries when there were no public funds available for reticulation and sanitation systems.

LESSONS LEARNED THAT COULD BENEFIT OTHER COUNTRIES

A recommendation is made that those countries that have still to implement water sector reforms – and therefore meaningful watershed management systems – fully learn from the Zimbabwean experience. The following issues are of major interest:

- Stakeholders will have different agendas, and it will take time for them to sit down to develop a management plan openly and honestly.
- Financially powerful stakeholders will always want to dominate the process, while protecting their own interests.
- Political influence should always be kept at minimum levels.
- Management systems that are financed from stakeholder involvement are more likely to succeed than externally supported programmes.
- Implementation of reforms should not take too much time, as problems will be experienced, no matter how much time was put into preparation.
- Reforms are costly and time-consuming. Stakeholders will need to be convinced of the immediate and long-term benefits of their participation before they fully commit themselves to the process.

CONCLUSION AND RECOMMENDATIONS

The water sector reforms in Zimbabwe were initiated to deal with an increasingly complex and unsustainable water management structure. Global momentum was also pressing for change in the general approaches towards watershed management, especially in sub-Saharan Africa. The Water Act (1998) in Zimbabwe provided an excellent framework for good and sustainable watershed management where all major stakeholders were given an opportunity for input. However, without sound technical, financial and political backing, any good policy or legislation will prove difficult to implement. The introduction of conflicting policies has proved to be detrimental and retrogressive, as evidenced by the land reform process, which despite possible good intentions has created greater confusion in water management circles.

Such setbacks imply that it would take much longer to realize set targets within the water sector. Population pressure and an increase in commercial activities will increase the demand for water use, hence creating a potential for more conflicts and more stakeholder interest.

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