The State of Municipal and Related By-Laws and their Contributions to Urban Resilience in Zimbabwe

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Abstract

Zimbabwean cities have become vulnerable to climate change impacts. Climate change is impacting city systems and populations. The shocks are contributing to urban poverty. These realities make it critical for urban planning, management and governance instruments to integrate resilience. Given that municipal by-laws are key to urban governance, their effectiveness enables urban resilience. This study analysed the status of municipal by-laws in the context of urban resilience. It used quasi-legal, organisational and socio-economic analyses to establish the political economy of by-law development and enforcement in Zimbabwe. Data were gathered from nine urban councils across the hierarchy of urban centres. The analysis focused on the regulation of basic services (principally water, sanitation and hygiene(WASH) including solid waste) and Local Economic Development (LED). Findings reveal that Zimbabwe's councils face serious inadequacies in these service areas, that their by-laws are inadequate and the framework and capacity to address these constraints are limited. The rapid socio-economic changes in urban areas, characterised by informalisation in the context of climate change, limited financial and technical capacity to plan and manage urban services, make this worse.

Keywords: m*unicipal by-laws; local economic* development; participation

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INTRODUCTION, CONTEXT AND STUDY METHODOLOGY

Zimbabwe has a three-tier system of government. Tier Three is made up of 92 local authorities of which 32 are urban. The other two tiers are national government and provincial/metropolitan councils. Besides the 32 urban local authorities, there are hundreds of other fast-growing small urban centres managed by rural local authorities. Nearly 40% of Zimbabweans live in urban areas. The development, planning and overall governance of these areas is an important priority for the country. Further, urban areas play a key role in economic transitions (World Bank, 2016) and thus should be well-governed for sustainability.

This article draws on a research-supported under the Urban Resilience Project *(Partnership for Building Urban Resilience in Zimbabwe)* being implemented by the Government of Zimbabwe (ministry responsible for local government) in partnership with UNDP and UNICEF. The project is being piloted in Harare, Chipinge and Gwanda,targeting unemployed youths, women and vulnerable groups in urban and peri-urban areas. The study analysed the state and contributions of municipal by-laws to urban resilience with a focus on water, sanitation and hygiene, (WASH) and solid waste management and local economic development (LED) related to municipal regulations.

The article focuses on helping operationalise the notion that adequate attention to developing appropriate regulations on how urban areas are developed and governed, reduces risks that accumulate in fast-growing towns and cities (Urban ARK, 2019). The risks are increasing with climate change and governance informalisation. This is a reality most developing countries, like Zimbabwe, grapple with because considerable urban growth happens outside formal regulatory frameworks. This arises from a combination of inappropriate national institutions (Berrisford and McAuslan, 2017) and inadequate local government capacities (Urban ARK, 2019).

Results of inadequate urban planning, development and governance include i) poor service and infrastructure performance, ii) energy inefficiency, iii) air and water pollution, iv) misuse of land and other non-renewable resources, v) social segregation, and vi) low public safety

(Moraci *et al*., 2018). These challenges undermine poverty reduction, economic growth and urban residents' quality of life. In turn, the fuel self-provisioning in terms of land and housing, water, sanitation and solid waste, job creation and other economic activities in ways that tend to be precariously unsustainable.

Study Context

The ministry responsible for local government (hereinafter 'the Ministry') has core responsibility for helping resolve some of the above urban planning and governance challenges. Its key functions include overseeing and strengthening the country's local government system, which involves supporting local authorities to effectively govern the areas for which they are established. Making and enforcing appropriate local (by) laws is one key area where theministry is expected to provide effective support and has itself identified gaps.

Further, regulatory gaps from the quality of available by-laws to their effective enforcement have also been brought to Ministry's attention by individual councils and development partners supporting local government and service delivery interventions. The article thus focuses on the state of local regulation of basic services, principally WASH, solid waste and LED. These are areas where regulations are considered inadequate in the context of fast socio-economic changes, climate change and improvements in technology.

Study Methodology and Sample

The urban by-laws state of play analysis used a case-study approach where individual local authority experiences with specific by-laws were the focus. It was framed within the context of urban resilience-building. The relevance and effectiveness of existing by-laws and the process of by-law making processes were assessed. For the by-making process, the focus of the analysis was on capacity at local authority and Ministry levels.

Secondary and primary data were gathered for analysis. Data were gathered from the national government, local authorities, civil society organisations, particularly residentsassociation representatives and other local government practitioners. Within local authorities, Town Clerks and

Chamber Secretaries were the primary sources of insights. Nine (9) urban local authorities were purposively selected to participate in the study. Their selection was done in consultation with the Ministry, UNDP and UNICEF. The nine local authorities are described in Table 1.

Table 1: *Summary characteristics of the sampled urban areas* (ZIMSTAT, 2012)

Sampled council	Province	Current status	2012 Population	Main aspects of the centre's economic character
Bulawayo	Bulawayo Metropolitan	City	653337	Industrial hub but currently de-industrialising due to macro-economic challenges
Chipinge	Manicaland	Town	25292	Agro-based economy, including plantation farming (tea, coffee, bananas); horticulture
Epworth	Harare Metropolitan	Local Board	167642	Largely informal enterprises (tuck shops, vending)
Gwanda	Matabeleland South	Municipality	20 227	Mining, education (emerging University town) and ranching
Harare	Harare Metropolitan	City	1485 231	Administrative, commercial and communications centre
Kadoma	Mashonaland West	City	92 469	Mining, especially gold
Marondera	Mashonaland East	Municipality	62120	Agriculture within the intensive farming region. The substantial commercial mixed farming belt produces mainly beef, milk, maize, tobacco, wheat, vegetables timber and fruit.
Mvurwi	Mashonaland Central	Town	10548	Agro-based economy, including tobacco farming
Zvishavane	Midlands	Town	45325	Predominantly mining town; services sector e.g. tertiary education

THEORETICAL FRAMEWORK

The post-2015 development agenda was used as an over-arching framework, particularly the commitment to make cities and human settlements inclusive, safe, resilient and sustainable (SDG 11). It, thus, drew on the New Urban Agenda (NUA) that focuses on strengthening the resilience of cities and human settlements by developing quality

infrastructure and spatial planning, adopting and implementing age and gender-responsive policies and plans that are integrated to reduce vulnerability and enable populations, institutions and services in terms of preparing, responding, adapting and robustly recovering from the effects of hazards (UN-HABITAT, 2016). All these aspects of safe and resilient settlements (Figure 1) are regulated through national and local laws.

Figure 1: Aspects of Safe and Resilient Settlements (adopted from UNHABITAT, 2016)

Unfortunately, cities and regions struggle to provide adequate infrastructure and services. Cities' socio-economic landscapes are often characterised by inequality, exclusion, poverty, unemployment and poor environmental conditions. UN-HABITAT (2010) estimates that by 2030, more than 50% of Zimbabweans will live in cities. Urban Zimbabweans are vulnerable to shocks, including strained livelihoods and limited access to basic social services like safe drinking water and sanitation facilities (ZIMVAC, 2018). Resilience-building activities are critical for urban and rural populations. The study, therefore, came from a recognition of various strains that populations experience in their settlements to which appropriate planning and regulatory responses are needed.

OPERATIONALISING CONCEPT OF 'URBAN RESILIENCE'

Urban resilience is the ability (of a system, entity, community, or person) to adapt to a variety of changing conditions and to withstand shocks while still maintaining essential functions (World Bank, 2015; EU, 2016). Pathways to resilience include persistence, transition and transformation (Meerow *et al*., 2016). UN-HABITAT (2018) characterises a resilient city as one that assesses, plans and acts to prepare and respond to hazards, which enhances and protects people's lives. This securing of development gains, fostering an environment for investment and driving positive change is at the core of resilience. Results realisable in a resilient city include adaptability and inclusiveness (*ibid.*). Resilience matters for the urban poor. Since poverty is growing the fastest in urban areas, the urban poor are increasingly faced with risks to their lives, health and livelihoods (World Bank, 2015). The urban poor arevulnerable as they often settle on marginal urban land without the security of tenure. They are also unable to access basic services, decent jobs and to effectively participate in urban society and economy. These vulnerabilities undermine resilience at individual, household, neighbourhood and city levels.

Dimensions of urban resilience relate to i) infrastructure, ii) institutions, (iii) societal systems, and iv) the urban economy (Word Bank, 2013; European Union (EU), 2016). *Infrastructural resilience* refers to a reduction in the vulnerability of structures, like buildings, roads and transportation systems. It also refers to sheltering capacity, health care facilities and the vulnerability of buildings to hazards. The resilience of urban infrastructure and services is critically important for emergency preparedness, responses and quick recovery of a community and its economy (World Bank, 2013). *Institutional resilience* refers to the governmental and non-governmental systems administering a community. These are critical to providing practical support, making and effecting rules before, during and after emergencies. *Economic resilience* refers to diversity in such areas as employment, thenumber of businesses and their ability to function after a disaster. *Social resilience* is the capacity to foster, engage in, and sustain, positive relationships and to endure and recover from life stressors (*ibid.*).

The different resilience dimensions are at once distinct but also interdependent. An urban government oversees all these dimensions. The policies and laws of a city make an impact on all these dimensions in different ways. A city must be able to anticipate the positive and negative implications of its actions (and inactions) on these dimensions. By-laws of Zimbabwe's urban local authorities have aspects of being 'resilient-compliant' though they were enacted at a time when urban resilience was not a framing principle. Some of them, therefore, need to be adapted to make settlements resilient to emerging climate change-induced hazards and political, social and economic shocks.

A key tool to achieve urban resilience is planning. Urban planning helps improve short-term and long-term resilience capabilities (World Vision, 2016). For example, developing safely managed water and sanitation services enhances children's access to basic services in an urban context (UNICEF, 2018; Plan International, 2016). From an economic resilience perspective, stable livelihoods for families and youth help reduce the of children exposed to work-related risks (Plan International, 2016). If well planned, resilience-focused urban planning is inclusive and considers the needs of the most vulnerable and marginalised urban groups, including disadvantaged urban children and youth (World Vision, 2016; UNICEF 2018). As such, appropriate urban planning and governance policies help with inclusion, i.e. leaving no one behind.

ZIMBABWE'S URBAN DEVELOPMENT CONTEXT

CHARACTERISING THE 'URBAN' AND ITS DYNAMICS

The official definition of an urban area is i) a settlement designated as urban, and ii) a compact settlement of 2,500 or more people, the majority of whom are employed in non-farm employment (ZIMSTAT, 2012;Infrastructure and Cities for Economic Development (ICED)(2017). The national urban settlement framework is a seven-tier hierarchy comprising cities, municipalities, towns, local boards and as many as 472 small urban centres, i.e. "Growth Points" (more formally referred to as District Service Centres), Rural Service and Business Centres. The first four categories are governed by Urban Councils while

the last three are managed by Rural District Councils (RDCs) in whose areas they are.

The census of 2012 showed that about 33% of the country's population lived in urban areas (ZIMSTAT, 2012; 2017). Compared to 35% in 2002 (CSO, 2004), it suggests that Zimbabwe is de-urbanising. This conclusion is supported by Mbiba (2017a) and Swinkels *et al*. (2019). The de-urbanisation is reflective of actual movements to areas not designated urban and a conceptual challenge regarding what is regarded as urban (ICED, 2017; Chatiza and Dube, 2019; Chatiza, 2019). There is a rich diversity and complexity in population movements at national and local levels that are yet to be fully understood (Swinkels *et al*., 2019). What Swinkels *et al*. (2019) observe is that Zimbabwe has one of the highest internal migration rates with considerable circular migration.The bulk of the movements is being associated with the availability of non-farm jobs.

Overall urban growth has slowed. Yet some urban areas are growing faster than others. Ruwa, Beitbridge, Chinhoyi, Gwanda, Chipinge and Norton, all medium-sized Zimbabwean towns, grew by more than 50% between 2002 and 2012, while Kwekwe, Hwange, Victoria Falls, Harare, Kadoma and Bulawayo grew at less than 10% (ICED, 2017). On provincial urbanisation trends, Mashonaland East tops the list while,metropolitanprovinces anchor the list *(ibid.*). As such, because Harare and Bulawayo retain the highest share of Zimbabwe's urban population at a combined 60% in 2012, the rapid growth of populations in smaller urban centres is inadequate to compensate for stagnation or decline in these main centres. This is a plausible explanation for why urbanisation trends have not been as positive or high as expected.

Key factors determining the rate of urban growth are shown in Table 2. Macro-economic factors have influenced the growth of urban settlements with a decline noted from the 1990s. Apart from urban economic decline and de-industrialisation, other causes include household responses to HIV/AIDS and the collapse of urban services where some retrenched workers retreated to rural areas. Additionally, ICED (2017) cites circular migration patterns, economic transformations around the land reform-

artisanal mining nexus, changes in the fortunes of settlements located in mineral-rich areas, international emigration and rural-urban population growth rate differentials. The declining fortunes of Zvishavane and Mashava (asbestos mining towns), Hwange (coal), Mhangura (copper), Kadoma (gold), Kamativi (tin), Mvuma (gold) and Inyati (gold) saw these settlements shrinking in terms of size. At the same time, Operation Restore Order/*Murambatsvina* in 2005 also influenced population movements within the country out of major urban centres.

Table 2: *Drivers of urban dynamics in Zimbabwe* (Adapted from ICED, 2017, with author's additions).

Driver	Urban area examples	Processes/Outcomes
Macro-economic crisis	Bulawayo, Harare, Chegutu, Masvingo, Marondera, Chiredzi, Kadoma	De-industrialisation, rising urban informal sector; the collapse of textile industry & cattle ranching
Changes from circular migration to peri-urban/rural residence with urban informal jobs	Urban and peri-urban areas, especially around Harare, Kadoma, Masvingo, Mutare, Gweru and Bulawayo	New (informal) urban workers adjusting to political, economic, climate change-induced hardships by settling in peri-urban and rural areas within commuting distance of major urban areas Also, informal land and housing access after 2005 (urban '*jambanja*') has been a factor
Economic decline and transformation-farming, tourism and mineral resources	Shurugwi, Bindura, Kwekwe, Redcliff, Kadoma, Hwange, Zvishavane, Chinhoyi, Victoria Falls, Kariba	Accommodation and non-tradeable services building up around extractive industries, responding to international commodity price slow down.
Cross-border and domestic transportation linkages	Beit-bridge, Plumtree, Chipinge, Chivhu (not yet run by formal urban council)	Economic activity associated with logistics and service centres for travellers
Growth Centres and Rural Development	District and Rural Service centres	Driven mainly by agro-dealerships, hardware shops, large-scale retail outlets, the service industry (micro-manufacturing), health and education nodes

Informality, Urban Development and Management

There are many variants and outcomes of informality. Oft-measured informality relates to the structure of an economy. In the context of this study, informality also related to how urban services are provided or

produced, accessed, utilised and paid for. It was also used to define the informal aspects of policy and political relations of governance between urban residents and urban authorities. Within this political economy, land and housing, access has largely been informal in recent years. This has been driven by the reality of i) formal mechanisms (and organisations) without the capacity to deliver, and ii) service seekers without formal incomes fit for the traditional delivery models. These are outcomes of macro-economic instability experienced in the country from the early 1990s, which contributed to rising informality in urban economies. The International Monetory Fund (IMF) (2018) estimates suggest that 94% of the country's employment is within the informal sector.

Zimbabwe has the second-largest informal sector in the world (*ibid.*). Urban informality has arisen from and is fuelled by i) state and private sector failure to deliver services formally and at scale, ii) poorly designed and implemented policies, laws and programmes, iii) politicisation of land, spatial planning and development control (Chatiza, 2019). Petty trade resulting from the informal economy is one of the important sources of income (ZIMVAC, 2018; Dube and Chirisa, 2012). A study conducted by Chirisa *et al*. (2014) in Whitecliffe, Hatcliffe, Caledonia and Southlea Park areas of Harare revealed that only 10.2% (n=402) of the respondents were formally employed. The majority were either unemployed or self-employed, showing that the informal sector is a major urban livelihood strategy. This is the case in all categories of Zimbabwe's urban areas.

Economic informalisation has seen many people operating under very unsafe and indecent working conditions. Most of those working under these conditions are youths and women (Government of Zimbabwe, 2015). Though informal economies create employment and support livelihoods for vulnerable groups, they are limited in terms of productivity and value addition. The bulk of informal economy activities are in services and retailing rather than manufacturing and their contributions to local authority revenue streams are minimal (ICED, 2017). The other key barrier is the lack of supporting policies to incorporate the informal sector into the mainstream economy (*ibid.*).

While informality may broaden access (equity) due to imposing few to low entry barriers, it may have limited positive contributions to city-wide sustainability. This is often because urban authorities are not building links between those in the informal and formal sectors. Lack of linkages often arises from mutual misunderstanding and actual mistrust between the two, lack of engagement experience and inappropriate tools, including policies and local urban planning and management laws. In essence, Zimbabwe's urban economies and societies have undergone serious structural transformations. Not all regulatory instruments and administrative practices have been sufficiently adapted to this transformation. This study explored this tension to properly conceptualise the basis for responding to the emerging realities with a focus on local (by) laws.

Poverty and Food Insecurity in Urban and Peri-urban Areas

Urban and peri-urban informality, including food production,is a response to rising urban poverty and food insecurity. These responses may be seen as violating formal urban laws. Many factors drive urban poverty and vulnerability in Zimbabwe. These include economic conditions (commencing with the 1990s structural reforms), HIV&AIDS, droughts and other adverse weather conditions, political instability, and enduring colonial structures, systems, practices and attitudes (*ibid.*). Evidence shows that there are significant zones of urban poverty and vulnerability in many towns and cities. While urban communities are heterogeneous (Manjengwa *et al*., 2016) it is clear that poverty has risen fastest in urban areas. Averages mask inequities and deprivations among the poor and rich urban communities (*ibid.*). Older high-density suburbs tend to exhibit some of the most excruciating multiple deprivations. The 2018 ZimVAC Urban Assessment Report estimated that 1.5 million people were food insecure, representing 37% of the urban population. Nationally, the majority of households (65%) in urban areas experience a shock/stressor, with the highest proportion in Chinhoyi (92%) and the lowest in Bulawayo (20%). Prevalence of urban food insecurity rose from 31% in 2016, to 37% in 2018 and was over 50% in areas, such as Hwange (50.6%), Plumtree (53 %), Norton (56.4 %) and Epworth (58.8%) (*ibid.*).

Studies focusing on children living on the streets suggest that being poor in an urban area can be worse than being poor in rural areas. This is because of the higher levels of urban vulnerability to economic shocks (International Organisation Development Limited (IOD) PARC, 2013; Manjengwa *et al*., 2016). Further, the urban poor often live in overcrowded and unhygienic conditions, without sanitation facilities, clean water, solid waste collection or proper drainage because of rapid and unplanned urbanisation (Tannerfeldt and Ljung, 2006). The high-density areas, where the poor lives areusually more prone to disease outbreaks and experience environmental hazards arising from density and exposure to multiple pollutants.

Urban food production and marketing are growing activities partly in response to poverty. Food crops are grown on sites that may be contaminated because of poor urban waste management and disposal. The handling and preparation of food are also done informally and outside designated market stalls. Authorities fear that these activities may fuel disease outbreaks. Monitoring of and strategic services at people's food markets also raise concerns in urban areas. Yet, these markets (and urban/peri-urban suppliers of agricultural produce) are an important source of food for urban households and income for those involved. The cooking and serving of food in informal areas is also a booming business. Incomes are earned by those preparing/serving the food while the consumers enjoy convenience and affordability. Yet authorities worry about food safety and health standards at these open-air and unlicensed kitchens. Again, this is inadequately regulated, yet it has become a growth sector. This represents considerable transformation in how and where food is grown, handled, cooked and sold/served in urban Zimbabwe. The practices are ahead of existing regulations and official attitudes. They also reflect the inadequacy of relevant or approved facilities in areas where informal economic activities are concentrated. As such, existing urban planning and development regulations, of which by-laws are at the centre, fall short.

URBAN INFRASTRUCTURE PROVISION AND SERVICE DELIVERY CHALLENGES

Formal parts of Zimbabwe's urban areas are well planned and designed. Due to macro-economic instability urban local authority budget capacity

has been eroded. Councils find it extremely difficult to meet the demand for maintaining existing and expanding infrastructure and providing quality basic services. Their financial bases have been shrinking as most industries shut down and city property rentals declined. Residents struggle to pay for local authority services due to high levels of unemployment and urban economic informalisation (Government of Zimbabwe, 2015). Additionally, recent urban expansion has proceeded through informal processes led by a variety of actors, including the state, the political elite, land barons and dealer developers (Chatiza, 2019).

Mbiba (2017b) argues that Harare City has transformed from a settler-colonial city to a highly informalised *"zhing-zhong"* African city. Unplanned urban expansion has created significant infrastructure deficits, especially for basic services (water and sanitation, roads, transport, education, health services and electricity). Urban infrastructure and associated services are in decline with limited council-level and national fiscal capacity to attend to this. Current urban infrastructure is low on coverage, capacity and quality. Costs of operation and maintenance are high, largely as Zimbabwe's competitiveness has been eroded over the years due to capital and skills flight, perceived high political risk and sustained deterioration (African Development Bank, 2011).

Sewerage and water infrastructure experience largescale dysfunctionality. For some urban centres, treatment plants work partially or intermittently, often made worse by power outages. This results, for instance, in the disposal of raw sewer into the environment. These service delivery deficits undermine health and economic productivity. The challenges force urban residents to find risky and unsustainable alternatives. For example, in Hopley,municipal water and sanitation services are inadequate, only serving a section of the area. Most households use pit latrines for excreta disposal and hand-dug wells for water on 200m^2 stands. This results in contamination of underground water, including the shallow wells used, for domestic purposes.

Thus, health risks associated with environmental pollution are very high. This is evident from regular cholera and typhoid outbreaks in the most vulnerable and under-served parts of urban areas (Chirisa *et al*., 2014; ICED, 2017). Infrastructure deficits are worsened by climate change. Frequent and intense droughts reduce the availability of water for

household and industrial use, hydroelectricity generation capacity (ICED, 2017). The African Development Bank (2019) highlights that the challenge for urban infrastructure (mainly water and sanitation) is one of rehabilitating existing facilities and strengthening the capacity of local governments to deliver services. This arises from institutional challenges that the AfDB (2011:23) noted thus:

> "On the policy and institutional front, there is no one document that provides a framework for the management of the country's water resources and the provision of water and sanitation services".

Despite Zimbabwe's urban infrastructure challenges, there are emerging local pilot innovations with incremental and participatory interventions (ICED, 2017). Some of these initiatives include the adoption of the incremental housing development approach, alternative sanitation technologies, such as Ecosan and participatory slum upgrading interventions (Banana *et al*., 2015). The innovations are in the context of dynamic urban politics. The constitutional and legal framework for Zimbabwe provides for fairly autonomous urban local authorities with decentralised powers for land-use planning, local revenue collection and urban management. However, post-2000 political competition to govern urban areas strained relations between the national government and urban local authorities (Muchadenyika, 2015; Muchadenyika and Williams, 2017).

There are also informal governance networks with a big influence on the planning and governance of cities (Muchadenyika and Williams, 2016). Informal governance networks thrive at the expense of sound urban planning, development and management with negative implications for urban services. For instance, issues of environmental sustainability and order, appear at risk, especially where housing developments occur in ecologically fragile areas. Some of the structures are not safe for human habitation (*ibid.*).

RESULTS

Table 3 shows some of the existing by-laws that were accessed for review from the study Councils. These by-laws formed the basis for analysing effectiveness, relevance and completeness in light of the resilience thrust of the study. Relevant by-laws exist. Some were enacted in 2019. This

suggests that local authorities are making an effort to properly regulate their areas by developing appropriate local laws. On allegations that councils use outdated by-laws, one key informant noted that the fine schedules are usually the ones that lag behind the fast-paced changes in the national and local economic environment (email submission August 1st 2019). The perception is fuelled by an over-focus on the date of promulgation. Key informants in the study councils, however, confirmed that some local laws are outdated in terms of some provisions. The challenge arises from userdepartments failing to identify gaps and then getting support from the Chamber Secretary's Department, both to review existing and draft new by-laws.

Table 3: Examples of existing by-laws aligned to LED and WASH (Fieldwork, July 2019)

Study councils	Existing by-laws in relevant sectors (WASH and LED)	
	LED	WASH
Harare	Licensed Premises (Amendment) By-laws, 2017 Vendors By-laws, 2014	Anti-litter by laws, 2014 Meat by-laws, 2017 Public Health (Amendment) By-laws, 2019
Chipinge	Trading by-laws, 2015 Fishing By-laws, 2015	Water and Air Pollution By-laws, 2018
Mvurwi	Food Premises By-Laws, 2011	Refuse Disposal By-laws, 2011 Waste management By-laws, 2011 Health and Sanitation By-laws, 2011 General by Laws, 2011
Bulawayo	Hawkers, Vendors, Flea Markets, Food Carts and Stall/ Table Holders By-laws, 2017 Bulawayo (Urban Agriculture) By-laws, 2008	Sewerage, Drainage and Water By-Laws, 1980 Public Health by-laws, 1966 Protection of Lands and Natural Resources (Amendment) By-laws, 1984 Game Meat By-laws, 1969 Refuse Removal By-Laws, 1979
Zvishavane	Hawkers and Street Vendors By-laws, 2013 Registration of premises by law, 2002	Waste Management By-laws, 2002 Control of worship in open spaces by-laws, 2018 Animal By-laws, 2015
Gwanda	Municipality of Gwanda (Hawkers and Street Vendors) By-laws 2017	Solid Waste Management By-laws 2017
Epworth	Tuck-shop By-laws, 2018 Hawkers by-laws, 2019	Protection of marginalized lands by-laws, 2019 Control of Worship in Open Spaces by, 2019 Anti-Litter, 2019 Water, Water Pollution and Trade Effluent Control By-laws, 2018

By-law Making Capacity

There are some capacity issues at the national level, within some councils and also at user department levels. Further, some councils do not have strong Chamber Secretary's Departments. In the majority of cases, by-law making is considered technical and legal in that citizens are not involved. On capacity gaps, the Forum of Chamber Secretaries has responded through initiating processes to develop Model By-laws (*ibid.*). Officials of the Ministry's Urban Local Authorities Unit indicated that they had endured a three-year wait for the proposed Model By-Laws. A longer wait had also been experienced with the reviewing of the Model Building By-Laws.

On their part,councils also reported delays in processing attributed to the Ministry responsible for local government, which, in turn, indicated that support from the Ministry responsible for justice was not always forthcoming. The latter reviews by-laws to ensure compliance with other national laws and the Constitution. Besides delays, councils also expressed challenges with national government agencies, like the Environmental Management Agency (EMA), national policing and mining authorities, regarding undermining of their by-laws. As such, whole-of-government cooperation regarding local regulations appeared inadequately developed, affecting community outreach and enforcement. Research to inform by-law making is also limited at all levels.

The above experiences suggest that the necessary technical capacity and financial resources to develop, popularise and enforce appropriate by-laws on time is currently limited across the system. At some level, this gap is not only at Ministry responsible for local government and within individual councils, but also at the Urban Councils Association of Zimbabwe as the coordinator of staff fora with the responsibility to lead local level policy and law development.

Inclusiveness Of Processes To Harvest Content

As observed above, the processes followed in terms of by-law making are not clear and adequately supported. Participation of state and non-state actors and residents is inadequate. Figure 2 is a simplified by-law making process that was used to inform the analysis.

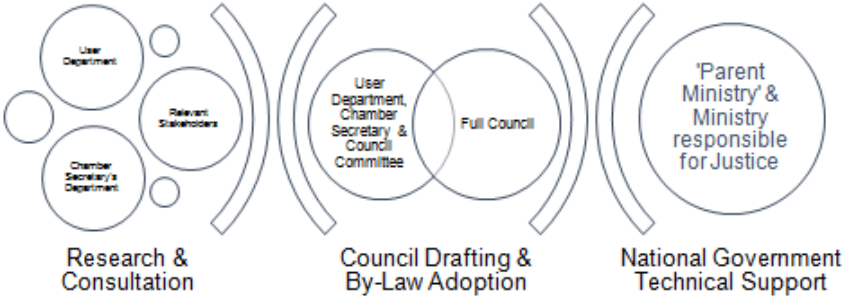

Figure 2: *Simplified Municipal by-law making process*

On content, some existing by-laws have good provisions. For instance, the 2008 Bulawayo (Urban Agriculture) By-law is clear on its intention to alleviate poverty and create local employment. It states that,"urban agriculture shall be permissible within the municipal area to provide household food security, alleviate poverty, creating employment, establishing and sustaining agricultural businesses…" (Section 4).

By promoting urban agriculture, the Bulawayo City Council is responding to challenges of urban food insecurity and deteriorating quality of urban livelihoods. The City's Urban Agriculture By-law is also explicit on its gender responsiveness in regulating farming within the city. It states that,

> "Council shall try by all means to consider gender, disability and the vulnerability of any groups in the administration of urban agricultural activities and in particular concerningthe allocation of resources and support schemes for urban agriculture" (section 7).

Moreover, the by-law exempts urban farmers from paying taxes that are payable by farmers from outside Bulawayo for selling, marketing and transporting their produce in, within and through the municipal area. The city is also mandated to provide support, such as setting up urban farmer markets and promoting agricultural value addition.

Gwanda has also realised the need to regulate urban agriculture. It has established the need for a by-law to deal with increased incidences of

urban agriculture and streambank cultivation. A Gwanda Municipal Council official interviewed observed that urban agriculture is a livelihood and food security activity that council acknowledged. However, some control was necessary as residents kept domestic animals and birds on their plots within the municipal area. The regulations needed will address thenumber of animals or birds to be kept. The City of Harare amended the Public Health By-law through SI 120 of 2019, that, among others, i) redefined poultry, ii) increased the number of birds that can be kept on residential plots/premises, and iii) changed units of measurement from feet to metres (City of Harare, 2019).

This shows responsiveness to emerging economic activities and administrative requirements. Gwanda also has a pound by-law used to control animal movement within the municipal area. Some residents of Gwanda keep cattle outside the municipal boundary but the cattle roam the town. There is an economic connection between the town and cattle owners through milk sales. However, the town residents complain that cattle destroy vegetables, pose a danger to vehicular traffic and are an inconvenience.

The study found that the default inclination in making by-laws was to control and often the laws are framed with a prohibition rather than a facilitation focus. Councils 'fear' failure to control and amplify the dangers rather than the pathways to sustainable and prosperous carrying out of socio-economic activities that residents seek to embark on. As such, the prohibition culture created a bee-line in terms of administrative practices towards chasing, evicting and demolishing. At the same, the accessibility of the by-laws in terms of language and actual copies was low, resulting in limited critical awareness among residents. This, among other reasons, sustained the perception that urban regulations are anti-resident, which is somewhat 'uninformed'.

ENFORCEMENT OF BY-LAWS

Councils lack arresting powers. This is a serious capacity challenge affecting by-law implementation and enforcement. Councils also lack the powers to seize and forfeit. Where offenders are arrested the formal court system does not treat by-law infringements as seriously as they should.

By-law violations are not seen as having the same effect on society and thus are not prioritised. The consequence is that offenders, who themselves generally plead poverty and are not invested in supporting local authorities, have an incentive to keep violating the by-laws. A focus discussion with staff at the Ministry responsible for local government and a written submission by the Chair of the Chamber Secretaries, suggested that setting up Municipal Courts was the only way to resolve this.

National Support for Effective Local Regulations

By-law making is also affected by supervisory and support gaps of the Minister responsible for local government. The approval of by-laws approval is centralised, a process that results in delays, which, in turn, create loopholes and technicalities that open councils to litigation. Overall, the implementation of by-laws becomes stressed and, with it, the overall development of local democracy in Zimbabwe. Approved by-law fines are not sufficiently deterrent. At the same time, sentencing often takes too long. As such, by-law enforcement is insufficiently supported and often difficult for councils, often resulting in most of them not enacting any laws or enforcing existing ones. National government support remains inadequate in terms of creating an enabling environment for local authority service delivery, infrastructure development and maintenance necessary for addressing poverty. Challenges with by-law making and enforcement for urban resilience are reflective of broader governance gaps.

CONCLUSIONS AND RECOMMENDATIONS

Municipal by-laws are a key instrument used by local authorities to regulate socio-economic activities within their jurisdictions. They also impact citizens' access to basic social services (including health and education), WASH and LED. As such, they are a useful tool for building urban resilience. To achieve this, by-laws have to be relevant. Updating of by-laws by individual councils was noted. The Ministry responsible for local government was also ensuring that existing by-laws were revised and new ones enacted. Yet the process for enacting by-laws needs strengthening. Additionally, research leading to the development of appropriate by-laws is lacking. The culture of prohibition leading to demolition which arises out of fear of failure to control and lacking the capacity to facilitate inclusive processes, has resulted in most by-laws not

being reflective of the current local urban context. Some by-laws are not fully aligned to relevant provisions of the Constitution and, thus, undermine social and economic dimensions of urban resilience.

To remedy the situation recommendations for the consideration of the Ministry responsible for local government, individual councils and the Urban Councils Association of Zimbabwe (UCAZ) within the context of implementing devolution-inspired urban resilience in Zimbabwe, were made. These include:

- Setting up a system where individual councils define their legislative development and implementation agenda at the beginning of a council year that is submitted for council approval together with their budget;
- Establishing a quarterly 'One-Stop-Shop' for by-law processing by the two key Ministries, representatives of Chamber Secretaries and selected local authority heads of (user) departments;
- Initiating dialogue towards the establishment of Municipal Courts;
- Seeking meaningful funding to develop and regularly update Model By-Laws in key sectors;
- Preparing, publishing and popularising a by-law making guide for use by councils.
- Supporting the Chamber Secretaries to formulate a capacity-building strategies for use with smaller urban local authorities unable to engage full-time legal officers; and
- Seeking and applying urban resilience competencies within the Ministry and at UCAZ.

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