

# **Legislative Environmental Representation in Zimbabwe**

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## Introduction

This publication is a result of a research done by the Zimbabwe Environmental Law Association (ZELA) on the Zimbabwean experience of legislative environmental representation. It forms part of an African-wide research and advocacy initiative by the World Resources Institute (WRI) with seven policy research and environmental advocacy organizations in East and Southern Africa. The thrust of this publication therefore, is the need to promote environmentally and socially sustainable development by making government officials, public policy and state actions more supportive of rural needs and community interests. It was aimed at developing a better understanding of the incentives and disincentives of legislative representation and to identify structural and procedural reforms to strengthen these fundamental responsibilities. The study findings and recommendations are expected to contribute to the continuing debates on democratization, rural development, and environmental management and capacity building to ensure that legislators meet their environmental representation roles<sup>1</sup>.

As elsewhere in the world, linkages between natural resources management and good governance have become increasingly apparent in Zimbabwe. The national economy relies on resource extraction, while natural resource-dependant rural communities comprise 70% of the population. In this matrix the challenge for policy makers is to think creatively about the best ways to advance the needs of natural resource dependant communities and to address past abuses and promote more democratic and sustainable resource management practices in the country.<sup>2</sup> Without effective legislative intervention to spearhead community participation in natural resources utilization and extraction, rural community development and sound environmental management will remain elusive. The wishes and needs of rural communities should be relayed to the responsible government departments by elected representatives.

Rural communities face poverty, illiteracy, insecure resource tenure rights, non-existent to inefficient social services and all the other problems experienced in rural areas, but nevertheless, these are the same areas that are rich in natural resources. These communities require access to land and clean water. Additionally, some communities wish to benefit from the extraction of mineral and forest resources. However, the problem might lie with issues of governance, control, access and ownership of natural resources among a host of other social, political and economic factors. It is within this realm that elected representatives like legislators should play a key role in promoting community development.

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<sup>1</sup> Project Document, World Resources Institute, October 2002

<sup>2</sup> Owen Lynch and Emily Harwell, *Whose Natural Resources? Whose Common Good? Towards a new Paradigm of environmental justice and the national interest in Indonesia*, Center for International Environmental Law (CIEL), January 2002 Page xxvi

The legislator should be at the forefront of advocating for community interests at the Parliamentary and national levels. Elected representatives are supposed to be the bearers of the people's views and interests. Legislators are people who are entrusted and mandated by the electorate to represent its interests and can be defined as a template for public participation in decision-making through representation. The legislature is an important institution that should link people with the government. In terms of natural resources management it is therefore vital to deal with elected representatives on an on-going basis to strengthen the relationship between legislators and constituencies and increase the possibility of legislators acting on behalf of their people.<sup>3</sup>

In order to give a critical and comprehensive account of legislative environmental representation in Zimbabwe, this publication focuses on four thematic aspects of legislative representation namely accountability, autonomy, authority and ambition. These attributes give an indication of whether legislators are representing the environmental interests of communities. In order to validate the thematic concepts the publication profiles a case study of one Member of Parliament to assess whether he represented the environmental issues in his constituency.

### **Conceptual Framework of Legislative Environmental Representation**

Legislative representation simply put entails the duty of Members of Parliament in servicing and taking care of the interests of their constituencies either in the House of Parliament, at government level or at public forums or wherever the legislator can advance the aspirations and needs of his/her people. It is understood as a reflection of the views, values and principles of constituencies by elected or appointed individuals. The elected individuals are mandated by the people to relay their interests and values to the government.

The main function of legislators is to make laws, representing constituencies and acting as a constraint on executive power by exercising a degree of oversight.<sup>4</sup> Furthermore, they have a control function which entails the control of how national resources are allocated and used.

Therefore, the role of the legislator demands active engagements with the constituency in order to gauge its interests, expectations and problems and articulate them in parliament, thus transforming people's views into law.<sup>5</sup> Logically not all the people of Zimbabwe can sit in the House of Parliament, so the idea is to make sure that people are represented and this is one attribute of democracy. However, the expectation of every constituency is that their elected Member of Parliament would represent, consult, play an oversight role and make laws that fulfill their specific interests. In effect he/she is expected to convince other MPs and the government that the interests and values of his/her constituency are of

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<sup>3</sup> "The Legislature and Constituency Relations",  
<http://mirror.undp.org/magnet/Docs/parl...otes/Constituency%20Relations%20520.htm>

<sup>4</sup> "The Legislature and Constituency Relations",  
<http://mirror.undp.org/magnet/Docs/parl...otes/Constituency%20Relations%20520.htm>

<sup>5</sup> Interview with Mr Masunungure, Political Scientist, 19 March 2003

paramount importance and should be given national attention and priority. These values or interests can be economic, social, political or environmental.

In practice not all people clearly understand the role of legislators. Through research it emerged that some people in rural areas and even urban areas think that MPs are supposed to personally implement development projects such as road construction, bridges, sinking boreholes and establishment of irrigation schemes. This observation underlies the common problem in rural areas where the electorate is tricked into voting for MPs who promise to implement certain projects that are not within their powers to implement resulting in empty promises. Instead the implementation might be the responsibility of local authorities, government agencies or development support agencies while the legislator might only have the power to inquire about progress on the projects or simply facilitate the implementation of projects that benefit their people.

While legislative representation can cover economic, social and political issues, it can also be narrowed down to focus on environmental and natural resources issues, thus the concept of legislative environmental representation. Legislative environmental representation is an important part of representation through which MPs consult, play an oversight role and make laws that relate to the use, protection, conservation and management of natural resources. Legislators can represent the interests of their people such as forests management, use of rivers and provision of clean water to communities, extraction of minerals by certain groups of people in a certain geographical area, community involvement in the management of wildlife resources, reforming the land tenure systems to benefit historically disadvantaged communities and even the issuance of fishing permits to people living near major rivers.

By taking the specific environmental concerns of their constituencies to Parliament or facilitating or soliciting for assistance to start new projects that promote the use of natural resources or preventing the depletion of resources, legislators will be representing the environment. MPs can also represent the environment through making new laws and explaining to their constituencies the essence of those laws. Put differently, legislators can promote the use of natural resources to develop rural areas and to promote the participation of people in decision making. It is within this framework that issues of democracy, good governance and environmental justice abound. Thus the linkages between natural resources management, democratization, governance and human rights have become more apparent. The environment is also a powerful element that can pull together political, social and economic interests.

## **Law and Practice (Legal Framework for Legislative Representation)**

### **Constitution of Zimbabwe**

The Constitution of Zimbabwe specifically provides for the establishment of a legislative arm of government called the legislature/Parliament vested with legislative authority. During the period of the study in 2002- 2004, the Parliament was unicameral and now it is bicameral through the re-introduction of a Senate through Constitutional Amendment Number 17 of 2005.

Nevertheless, the focus of this study is the Lower House/House of Assembly which is made up of 150 members in terms of Section 38 of the Constitution. Of this number, 120 are elected while 30 are Non-Constituency members appointed by the President. The appointed 30 members are 8 Provincial Governors who are ex-officio members of the legislature, 10 Chiefs and 12 appointed by the President from a cross-section of the society. All the appointed members are allowed to deliberate and vote in the business of parliament just like elected parliamentarians.

### ***Elections***

In Zimbabwe, parliamentary elections are conducted in terms of the Electoral Act (Chapter 2:01) and the Constitution of Zimbabwe. Section 84 of the Electoral Act provides for expenses that can be incurred in an electoral process ranging from purchasing the voters' rolls, printing, advertising, publishing, issuing and distributing addresses and indices, stationery, messages, postage, telegrams, telephones, offices, hiring halls for public meetings or rallies. Practically, it is expensive for a candidate to contest in a parliamentary election if a candidate does not receive any financial support from party or other stakeholders as regulated by law and this has an effect on legislative representation.

The voting system in Zimbabwe is the "first-past-the-post" (FPTP) system, where the candidate who receives the highest number of votes than other contestants wins the seat even if his/her number of votes are below 50%.

Zimbabwe held parliamentary elections in the following years; 1980, 1985, 1990, 1995, 2000 and 2005. Since 1980, the Zimbabwe African National Union (Patriotic Front) (ZANU PF) has been the main political party that commanded the majority of seats in the legislature. A new chapter of legislative representation in Zimbabwe began in June 2000 when the Movement for Democratic Change (MDC) won 57 of the contested 120 seats while ZANU PF won in 62 constituencies and ZANU Ndonga won a single seat. Perhaps what is worth noting at this point on the results of the poll is that the ruling party candidates won most of the rural constituencies. On the other hand, MDC legislators won a sizable number of urban constituencies.

A number of explanations have been given to this state of affairs. Chief among the reasons is that ZANU PF won the rural constituencies because the people in the rural areas are

reliant on land. ZANU PF used the land issue as its campaign platform. The party promised to deliver land to the people, hence its manifesto had the following phrase, “Land is the economy and the economy is land”.<sup>6</sup> That was when the “fast-track” land resettlement programme was launched. The MDC on the other hand, won a majority of their seats in the towns because that is where most people who suffer from economic hardships, unemployment and price increases are residing. Major services like roads, sewage facilities, water and health have been crumbling and the people wanted political change by voting for a new opposition political party. From the above it is noteworthy that the urban populace was influenced in a way by the need for politicians to correct the environmental problems such as poor water services, sewage and waste disposal issues caused by economic decline while the rural electorate was also influenced by the land issues which is an environmental issue.

### ***Tenure of Office***

Section 41 of the Constitution of Zimbabwe deals with the tenure of office of legislators. The term of office for MPs in Zimbabwe is limited to five years. Legislators are expected to have served the interests of their constituencies within this time limit. However, there is no limit to the number of the five-year terms an MP can serve and this means an MP can serve for as long as his/her constituency wants him/her.

However, in terms of the law a member of parliament can cease to hold office in terms of Section 41(1) (e) which states that the seat of a member of parliament shall become vacant if a person who is a member ceases to be a member of a political party to which he was a member at the date of his election to parliament. The section gives the political party power to notify the Speaker that such a member has ceased to represent its interests in parliament. After this the member will cease to be a Member of Parliament. This part of the law on legislative representation was applied in the case of Munyaradzi Gwisai who was elected on an MDC ticket during the 2000 general elections. Gwisai was expelled by the MDC for going against its policies and principles. He supported the fast-track land reform programme which was being spearheaded by the government. Gwisai became the first MP in Zimbabwe to be removed from Parliament for going against the beliefs of a party that sponsored him to become an MP. The case of Gwisai will be instructive in this study on the incentives and disincentives of MP environmental representation.

### ***Privileges, Immunities and Powers of Parliament***

The Privileges, Immunities and Powers of Parliament Act (Chapter 2:08) is one of the most important pieces of legislation in Zimbabwe that impact on legislative representation. It gives MPs the authority and capacity to carry out their representative roles and responsibilities without fear. The Act gives legislators freedom to debate social, political, economic and environmental issues concerning their constituencies in parliament.

The Act states that there shall be freedom of speech and debate in or before parliament and no member of parliament shall be liable to any proceedings, arrest, fine or imprisonment or

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<sup>6</sup> ZANU PF MANIFESTO of 2000

damages for any matter or thing brought before parliament either as a bill, motion, debate or otherwise. This also applies to business transacted in parliamentary committees.<sup>7</sup> Practically, the law gives parliamentarians some protection and they are free to talk about issues of concern to them and their constituencies or the nation. The law was intended to protect legislators by giving them power and authority to speak without any fear in the performance of their duties.

Section 9 of the Privileges and Immunities Act also authorize parliament or any Parliamentary Committee to call any person before it to give evidence on any matter that is of interest to parliament or to produce any documents required by parliament. Again this section gives parliament and Parliamentary Committees the capacity to seek information and inquire into matters that are of interest to their constituencies, to the nation or to certain interest groups or sections of the national society.

Thus the Privileges, Immunities and Powers of Parliament Act is an important piece of legislation that enhances legislative representation as well as the representation of environmental issues. It forms the basis of the MPs authority and capacity to speak about matters that affect their constituencies in the House.

### ***Parliamentary Standing Orders and Procedures***

The Parliament of Zimbabwe has its own Standing Orders and Procedures that lay down the rules of procedure in the conduct of Parliamentary business. The Standing Orders also empower any member of parliament to put questions either in writing or an oral question which requires an oral answer. Questions may be put to a Vice President, Minister relating to public affairs with which the Minister is officially connected, or to proceedings in the House or any matter of administration for which the Vice-President or Minister is responsible. At the same time questions may be put to a member (not being a Vice-President or Minister) relating to any bill, motion or public matter connected with the business of the House, of which the member has charge.

New Parliamentary reforms in the late 1990s also saw the introduction of the Parliamentary Portfolio Committee system. The concept of Portfolio Committees was adopted by the 4<sup>th</sup> Parliament in the 5<sup>th</sup> session of 1999-2000. Portfolio Committees are appointed in terms of Standing Order Number 153, which stipulates that each, Committee, shall be known by the Ministry it shadows.

Another, equally important issue is that after being elected by the constituency or having been appointed into Parliament a member is expected to take the oath of loyalty. At the moment oath of loyalty which the legislator is expected to take reads as follows;

*“I.....do swear that I will be faithful and bear the true allegiance to Zimbabwe and observe the laws of Zimbabwe. So help me God”.*

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<sup>7</sup> *ibid*, Section 5

### ***Political Parties (Finance) Act***

The Political Parties (Finance) Act (Chapter 2:11) has great bearing on MP representation and the election of MPs.<sup>8</sup> It was amended in 2001 to provide for the financing of political parties by the state. The main import of the Act is to prohibit foreign donations to political parties and candidates. The prohibition is contained in Section 6 (1). It applies to both presidential and parliamentary elections and all by-elections. In terms of the Act, every political party is entitled to receive funds from the State. Every political party whose candidate receive at least 5% of the total number of votes cast in the most recent general elections is entitled to the same proportion of the total money appropriated as the total number of votes cast for its candidates in the election bears to the total number of votes cast for all its candidates in that election.<sup>9</sup> The Act requires all political parties that qualify to apply for the funds to the Minister of Justice, Legal and Parliamentary Affairs and such money will be paid from the Consolidated Revenue Fund.

The implication of this Act on MP representation is that it makes it an offence for political parties or candidates to receive funding from foreigners for purposes of campaigning for the election. This is clearly a limitation that has been placed in the way of those people who have the interest to represent people but do not have the means to campaign. It means independent candidates do not qualify for funding under this law. On the other hand, small political parties will not qualify for funding yet they are again prohibited from sourcing donor funds.

### ***Independent Candidates***

The law on legislative representation in Zimbabwe does not prohibit independent candidates to contest in both parliamentary and presidential elections. Independent candidates are individuals who do not represent any political party. In Zimbabwe, a number of independent candidates have contested in both general and presidential elections. However, most of them have failed to make the grade while a few made it to parliament.

The most notable independent candidate to make it to parliament since independence was Magret Dongo. She represented Harare South Constituency in 1995-2000 and was a former ZANU PF member. Then in 2005 another independent candidate was elected by a rural constituency to represent it in Parliament. This is that case of Jonathan Moyo who is a former Cabinet Minister and former member of ZANU PF.

The first major hurdle for independent candidates is financial. The Political Parties (Finance) Act does not take into account the interests of independent MPs. Candidates who are not part of any political party have to meet their own expenses or at least get sponsorship from business people or interest groups. There are many expenses that have to be incurred by any candidate in terms of the Electoral Act. The effect is that many parliamentary candidates will find it more helpful to contest on a party ticket than as

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<sup>8</sup> Political Parties (Finance) Act (Chapter 2:11) Act No 4/2001

<sup>9</sup> Section 3 (3)

independents because political parties have the means and capacity to finance the campaign process.

The above laws and rules of procedure form the basis of legislative representation. These laws have been enacted to make sure that legislators can make laws, consult with their constituencies and play an oversight role over ministries. However, the existence of the law does not mean that legislators will effectively represent the interests of their constituencies. There are other provisions in these legislative frameworks that even hinder effective legislative representation thereby creating disincentives. Therefore the above analysis of legislation that exists is not conclusive.

## **INCENTIVES AND DISINCENTIVES OF REPRESENTATION**

Legislative representation is in most cases influenced and shaped by institutionalized incentives and disincentives, personal convictions and private interests. Moreso, legislators sometimes play a balancing act of the varying views within their constituencies. Such views include national and global perspectives, political party interests and the interests of local leaders.<sup>10</sup> These factors play a critical role in the representation of environmental and natural resources issues.

In order to assess the incentive and disincentive structure of legislative environmental representation in Zimbabwe, four thematic areas will be used as standard measures of representation. These thematic areas are; accountability, autonomy, authority and ambition.

### **Accountability**

Accountability has a lot of influence in the way legislators represent the environmental, social, economic or political interests of constituencies. Accountability entails a number of activities by the legislator including but not limited to reporting back to the people, meeting constituencies, consulting the people and fulfilling the campaign promises. More importantly, the legislator should explain to the electorate any action he/she would have taken be it at the national or parliamentary level.

In Zimbabwe, there is no specific legislative provision that requires legislators to be accountable to their constituencies. The law is silent on the need for MPs to report back or to present progress reports to their constituencies, to meet the people or to pay constant visits to their constituencies. Neither is there a law that explicitly requires MPs to behave in a certain manner in relation to their constituencies. The laws that are in place only regulate the conduct of legislators while in parliament, the election of legislators and parliamentary privileges while in parliament. The Constitution for example just creates the legislature and outlines its composition and its functions, but makes no reference to how legislators should relate to their constituencies. However, from practice it can be said that all legislators once

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<sup>10</sup> Peter Veit et al, "Servicing Constituents, Servicing Nature: Legislative Representation and Natural Resource Politics in Africa", World Resources Institute (unpublished), March 2003

elected assume a duty to represent their constituencies and this entail reporting back to them.

It can be safely implied that this duty to serve the people derive from the oath of loyalty and oath of office taken by legislators in terms of the Constitution of Zimbabwe. The oath of loyalty presently requires a legislator to swear that he/she will be faithful and bear true allegiance to the country and observe the laws of Zimbabwe. On the other hand the, the oath or affirmation of office requires the legislator to swear that he/she will well and truly serve Zimbabwe in the office of an MP. It can be noted that this construction is not explicit in imposing a duty on legislators to be accountable to their constituencies. Nevertheless, it is one statement that should be viewed in that light. Instead the Oath or Affirmation of Office by legislators should have formed the legal basis for Members of Parliament to be accountable to their constituencies knowing that they have taken a pledge to serve the people. It could have been drafted to indicate a particular commitment to the constituency and be accountable to the people and the whole of Zimbabwe.

With no written legal obligation on MPs to hold meetings or to present progress reports to their constituencies, legislators can afford to ignore the interests of their people. The people do not have the capacity or legal authority to recall their MPs or to pass a vote of no-confidence in the legislator unless if this is done through political party structures that can lead to an MP losing his seat. This can only be done if a legislator fails to represent the interests of the party in the house and he will be rejected by the party. Besides this the electorate has to endure representation by unwanted legislators for five years until the next election.

However, despite this grotesque picture, legislators are held accountable in their representative roles in the House. This is through the Privileges, Immunities and Powers of Parliament Act. The Act makes members accountable through the threat of sanctions by Parliament itself. Such sanctions are applied when a member utters statements that are contemptuous of the role of parliament. There are examples in Zimbabwe where Parliament has called upon members to account for their conduct outside Parliament. In 1993, parliament wanted to suspend Mr. Didymus Mutasa for saying that the house was useless and meaningless and that some honourable members are useless at a conference.<sup>11</sup> The case went to court. In its decision, the court found the legislator to have been in contempt of Parliament and that he had contravened the Privileges, Immunities and Powers of Parliament Act by insulting the house and members on their conduct in parliament.<sup>12</sup>

In a similar case involving the former Rhodesian Prime Minister Ian Smith, in 1989 parliament suspended him without salary for making remarks that were considered as contempt of Parliament. However, in that case, the court ruled that Parliament has its own internal procedures for sanctioning members and those should be followed.<sup>13</sup>

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<sup>11</sup> Mutasa V Makombe and another 1997 (1) ZLR 330

<sup>12</sup> *ibid*

<sup>13</sup> Smith V Mutasa 1989 (3) ZLR 183

These two cases show that members of parliament in Zimbabwe are expected to be accountable to the House in the way they conduct their representation role. Parliament has the power to call MPs to explain their conduct and if found guilty, it can suspend such members. Further, Parliamentary Portfolio Committees are required to account to the House of Parliament by tabling reports or making presentations. In most cases, when a committee has finished inquiries or investigations into a matter, the committee is expected to present its findings to the house. Some of the environmentally related aspects that were investigated by the Mines, Energy and Environment Committee include fuel procurement investigations, gold panning activities and waste management capacity of urban councils.

Apart from being accountable to the house, legislators are more accountable to their political parties. This is because of a constitutional provision that makes it a disincentive for a legislator to contradict his/her party position. Section 41(1) (e) of the Constitution states that the seat of a member of parliament shall become vacant if a person who is a member ceases to be a member of a political party of which he was member at the date of his election to parliament after the political party concerned gives written notice to the Speaker declaring that the member has ceased to represent its interests in parliament. The problem with this particular provision is that once elected to parliament on a party ticket, an MP is compelled to always agree with his political party or risk being booted out of parliament. This implies that although a member of parliament is voted into parliament to represent the needs of his constituency, his views should not be at variance with those of his political party. In effect, it is clear that although political parties would want the people to believe that their sponsored MP's represent the people's interests, the truth is that political parties want MP's to be their agents to the constituents, advocating for party ideology and supporting party policies. This has an effect on the effectiveness of parliamentarians in their representative roles, resulting in the constituents who would have elected a member into parliament being neglected.

A case in point is that of the MDC which rejected one of its legislators, Munyaradzi Gwisai in 2003 for going against party policies on the land issue. Gwisai was accused of supporting the fast-track land reform programme initiated by the government. He was subsequently removed from Parliament when the MDC notified the Speaker of Parliament that the legislator no longer represented its interest in the House.

Another threat to legislative accountability comes in the form of party constitutions. Party constitutions normally have some mechanisms to punish, discipline and sanction party sponsored legislators. Thus, one social scientists observed the situation in Zimbabwe and summed it up as follows,

*“In Zimbabwe therefore MPs are more accountable to their political parties than to their constituencies, since they mostly get instructions from their parties and not from the constituency. The constituency very rarely has the opportunity to question the functions or activities of the MP. Conversely, the party can sanction and discipline a legislator who misbehaves and as a result MPs are accountable to their parties”.*<sup>14</sup>

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<sup>14</sup> Dr Makumbe during an Interview, 17 February 2003

For the constituency, although there is no specific legal provision that calls upon the legislators to be accountable to the people, they find solace in the electoral process since they can use it as a tool to enforce legislative accountability. The Constitution and the Electoral Act provides for the holding of general elections by voters registered on the common roll for the 120 constituencies. The tenure of office for an MP is five years in Zimbabwe. This has great implications for legislative accountability in that the voters can use their vote as a tool to make legislators accountable. People can simply reject those legislators who fail to fulfill their election promises by not voting for them after the expiry of the first term of office. This has happened in many constituencies in Zimbabwe. However, there are other constituencies that have faith in their legislators who have been in office since independence. Most of these constituencies are strongholds of the ruling party, ZANU PF and they have faith in their representatives.

However, one of the major limitations of the electoral process as a means of ensuring accountability is when there is electoral fraud, vote buying, or violence and people are induced to vote for a certain candidate. This will definitely compromise accountability through the vote. Nevertheless, if all conditions are fair, elections can be the only effective way through which the electorate can make their MPs accountable. The incentive is that if an MP is performing very well he/she will be re-elected

Apart from the elections people can also hold their MPs accountable through writing letters to him/her. Through such letters people can actually call upon their MP to go to the constituency to address issues or to explain their actions. Some people in most cases put their legislators under scrutiny by writing letters to the press. The letter will normally be a complaint against certain action or inaction by the MP or other local officials and may include environmental problems faced in the constituency.<sup>15</sup> This is a form of making legislators accountable. Ideally the legislator is supposed to respond by taking action but in practice nothing will be done.

## Autonomy

Autonomy or independence is another important factor in legislative environmental representation. It is believed that in order to be effectively representative of the interests of their constituencies, legislators should have a degree of independence from the political party, the local big-men and from the executive. Legislators should be seen to be acting for the interests of the people they represent and sometimes differ from their political parties and the executive as dictated by the wishes of the people. As Peter Veit noted the issue of autonomy should be looked at from three levels, namely, autonomy from the executive, from political parties and from others stakeholder groups such as chiefs, local business people and pressure groups.<sup>16</sup>

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<sup>15</sup> Darlington Muzeza, Letter to the Editor, The Herald, 26 November 2002

<sup>16</sup> Peter Veit,

### *Executive*

In terms of the Zimbabwean Constitution, executive powers lie with the President, the Vice Presidents plus appointed Ministers making the Cabinet. Further, the legislative authority is vested in the legislature that consists of the President and Parliament.<sup>17</sup> This means that the President has powers to make law as well through the Presidential Temporary Measures Act. At the same time his assent is also essential for all bills approved by parliament to start operating. The President also has power to appoint 30 members of Parliament and through these appointments the executive manages to stretch its arm into the legislature

Through these appointments the executive has been very influential in Parliament. In real terms it is Ministers who are part of the executive who have been introducing bills for new laws and no private members bill has been introduced in parliament since independence related to the environment or any other discipline. This shows that the executive through the Ministers have a lot of influence in the legislature. However, it should be emphasized that the intention of having Ministers as members of Parliament was good. The theory behind this practice is to bring the executive closer to Parliament and make them more accountable.<sup>18</sup> This would in turn give all the other legislators who are not Ministers the chance to question and criticize the government through the Ministers. Nevertheless, it will produce ugly results if the appointees fail to advance the interest of the majority of people especially in relation to the need to utilize natural resources.

### *Political Party*

To a large, extent the incentive structure of legislative representation are also shaped by party politics and the need for collective action during debates or even outside parliament. Legislators who tend to depart from party policy or positions are kept in check by the chief whip. These political party whips are expected to put pressure on their legislators to maintain party unity, contain cleavages and discourage individual actions.<sup>19</sup> The two main political parties in Zimbabwe, ZANU PF and MDC have their own chief whips. These are people who are respected within the parties. They are expected to make sure that legislators do not become so independent from the party policies and ideologies to the extent of causing chaos and major differences within the party. Legislators are expected to uphold the policies and ideologies of the party on environmental management or empowering communities to use natural resources such as land.

In practice, once an MP tries to go against party policies or tries to be autonomous, the party will reject him/her. In November 2002, the opposition MDC MP for Highfields Munyaradzi Gwisai was expelled from the party and consequently from his parliamentary seat as a result of his opposition to the party's policies especially his support for the land reform programme. This disincentive is deeply entrenched in the Zimbabwean

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<sup>17</sup> *ibid* {Section 32 (1)}

<sup>18</sup> Welshman Ncube, "The Concept of Separation of Powers in Zimbabwe: Constitutional Myth or Reality?" Page 10, Zimbabwe Law Review 1995, Volume 12

<sup>19</sup> Halfani and Nzomo, 1995

Constitution. Section 41(1)(e) of the Constitution states that the seat of a member of Parliament shall become vacant if having ceased to be a member of the political party of which he was a member at the date of his election to Parliament, the political party concerned, by written notice to the Speaker, declares that he has ceased to represent its interests in Parliament. This section entails that MPs should always be in line with the policies of their political parties even during debates in Parliament. Although the power to expel members helps to ensure party discipline, it also stifles free thinking and effective representation by legislators. The law damages democracy and legislative representation since it implies that an MP cannot disagree with his/her party.

Another disincentive for legislative environmental representation is when political parties just hand pick candidates for an election without a thorough analysis of their background and whether they understand the problems and interest of a particular constituency. This happened in Zimbabwe during the 2000 general elections when the opposition MDC fielded a lot of legislators in urban areas without regard on whether they come from that constituency or not. There is no law that requires candidates to represent their areas of residence only. Therefore, depending on the capability of the legislator this was a disincentive for representation since some legislators failed to comprehend the unique interests and problems of the constituents. Some of the legislators did not understand for example the persistent sewage and water problems in the areas they chose to represent.

### ***Pressure Groups, NGOs and Professional Bodies***

In Zimbabwe, civil society groups and professionals are also involved in legislative representation. The civil society organizations lobby Parliament through the different Portfolio Committees. In most cases the committees call for public hearings on different issues. Further, the influence of pressure groups on legislative representation on political, economic, social and environmental issues is most evident when MPs are invited to attend workshops, seminars and training sessions. For example, there was a lot of civil society involvement in the passage of Environmental Management Bill into law from 1998 - 2003. Workshops and seminars were held for legislators to discuss the draft bills since 1998.

The civil society organizations are many and pervade every sphere of life like the environment, human rights, the economy, health, housing and a lot more. Legislators in Zimbabwe have been strongly influenced by the lobbying and advocacy efforts of local and international NGOs. However, the business community in Zimbabwe is not very active in legislative campaigns, although those businesses that are owned by members of different political parties might donate funds to political campaigns.

### **Authority**

Effective representation requires that legislators should hold adequate authority, power and capacity to carry out their duties. Their capacity and powers are derived from the law and the people who voted them into office. Representation of environmental issues also requires these attributes. Rural communities would benefit from a legislator who

passionately and authoritatively speak and act in advancing the use of natural resources by the community for poverty alleviation and economic benefit.

In Zimbabwe, the power and authority of legislators comes from the Constitution that gives them the authority to make laws in Parliament. They are expected to exercise these powers by introducing bills, motions and petitions in the house.<sup>20</sup> Thus, the Constitution states that,

*“...any member of Parliament may introduce a Bill into or move any motion for debate in or present any petition to Parliament...”<sup>21</sup>*

Furthermore, the Standing Orders also empower any Member of Parliament to ask written or oral questions. Questions may be put to a Vice President or a Minister relating to public affairs with which the Minister is officially connected such as environmental issues. In terms of the Standing Orders, any member who gives a notice of a motion, shall read it aloud and deliver at the Table a copy of such a motion. This position enables MPs to speak in Parliament and to ask questions to Ministers for an explanation on issues that relate to their constituencies. This section has enabled legislators to ask the Minister of Environment and Tourism about the activities of the Ministry in trying to control human-wildlife conflicts and other questions on the CAMPFIRE programme.

Another positive aspect about authority and capacity is that parliamentarians enjoy some privileges and immunities that give them the power to debate and conduct their functions without fear. The Privileges, and Immunities and Powers of Parliament Act give them such authority. The Act states that there shall be freedom of speech and debate in or before Parliament and no Member of Parliament shall be liable to any proceedings, arrest, fine or imprisonment or damages for any matter or thing brought before Parliament either as a bill, motion, debate or otherwise. This also applies to business transacted in parliamentary committees. Clearly this gives parliamentarians a lot of protection and they are free to say what they want in Parliament to further constituency as well as national interests.

In real parliamentary business legislators have been debating without fear. This has in turn facilitated some of the most interesting debates in Parliament since independence. The other reason for this development is because of the current composition of Parliament. It is no longer dominated by legislators from one political party but made up of a sizable number of MPs from the opposition MDC as well as ZANU PF.

It should be pointed out that the legislative framework in Zimbabwe gives enough power, authority and capacity to legislators to represent their constituencies. However, in practice they are always faced with a lot of problems in carrying out their work. A major handicap for MPs to effectively represent their constituencies in Zimbabwe is the lack of funds to enable them to initiate projects. Zimbabwe is experiencing acute economic decline. The funds that are available through government-sponsored projects are not enough.

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<sup>20</sup> Section 50 of the Constitution

<sup>21</sup> Schedule 4 to Section 40B and 51 of the Constitution

Another factor that impinges upon legislative representation in Zimbabwe is the lack of resources to effectively represent constituencies. The Parliamentary Constituency Information Centres<sup>22</sup> have just been introduced to where MPs are supposed to have offices, staff, researchers and telephones. However, these centers are not yet fully functional as expected and they are facing the same problems faced by other government departments.

## **Ambitions**

Legislators are also motivated by personal visions, values and beliefs. Most legislators who grew up in rural areas say their ambition is to see the eradication of poverty in rural areas. Some legislators in the Mines, Energy and Environment Committee believe that the use of natural resources by communities is one of the key aspects for poverty eradication. The other factor for representing environmental issues is just a mere passion for the environment and as well as prior training in environmental management. For example the Chairman of the Parliamentary Portfolio Committee on Mines, Energy and Environment received academic training in environmental management. The advantage of representing an issue in which a legislator has both a personal and professional interest is that he will be able to apply the knowledge and passion to debates in parliament thereby making enormous contributions to the development of legislation.

However, apart from authority, ambition, autonomy and accountability there are also two major factors that have played a key role in influencing legislators in Zimbabwe to represent environmental matters and these are the constituency and national interests.

## **Constituency Determination**

In many ways legislators can be influenced by their constituencies to represent particular environmental issues. Most rural communities in Zimbabwe boast a lot of natural resources, which the people rely on. These will normally shape the livelihoods of people and they would need their representatives to relay their problems to the government to come up with laws that enhance their rights to use those resources. In Guruve North Constituency for example the case study legislator said that he was moved by the plight of the people after suffering loss because of wild animals to represent their interests in parliament. The People of Guruve North wanted their MP to make sure that their crops, their livestock and lives are protected from wild animals.

Another case in which representation was shaped by constituency needs was the case of the first community to invade commercial farms without any government backing. The Svosve people in Marondera District were the first group of villagers to invade adjacent farms following the government's failure to give people land. The squatters, led by veterans of Zimbabwe's independence war, moved onto four farms in the mostly white community in

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<sup>22</sup> This Centres are being established by the Parliament of Zimbabwe in collaboration with the UNDP

protest against the government's unsatisfactory efforts to resettle the landless.<sup>23</sup> This happened in 1998 and the government's first response was that it would remove the settlers from the farms and that other farms had been identified in order to resettle them. However, this tone later changed and government officials took turns to encourage the people to take all white owned farms. In the following years a lot of white owned commercial farms were invaded and this led to the coinage of the name fast-track Land Reform Programme in 2000.

What is important to note from the Svosve case is that ZANU PF legislators supported an initiative that was started by a single community and spread it in the whole country as a standard tactic to get land. This also led the legislators to pass all the amendments to the Land Acquisition Act and the Constitutional Amendment Act No. 17 to facilitate land acquisition. Therefore the case of Svosve led to law reform and alerted legislators from the ruling party to represent the land issue inside and outside parliament. The land issue became the chief item on the ZANU PF manifesto with every candidate from the ruling party promising to deliver land to the people. In all election campaigns after 2000 the ruling party took the land issue as a campaign strategy and performed well in the elections since the rural constituencies wanted land.

### **National Interests**

Legislators have a national obligation to serve the interests of all people to make sure that they live in harmony with each other and with nature. They are expected to come up with national laws that enhance the sustainable use and conservation of natural resources. Further, they also have the mandate to make sure that they come up with laws that ensure that people will live in a clean and healthy environment. It is the concern of every MP to improve the welfare of his/her constituency which is part of the nation.

One striking observation that was made during the debate on the Environmental Management Bill was that all legislators contributed immensely to debate on the environmental legislation. They were all committed to come up with a very comprehensive law. This was probably because the issue that was under discussion affects every legislator's constituency be it in the rural areas or the urban areas and it was a national issue.

The land reform programme, as an example has been represented by legislators on a large scale, although such representation has mainly been done by MPs from ZANU PF. The MDC has not been supportive of the government's fast track land reform programme which they view as disorganised. Land resettlement is a national priority that every legislator or local leader should address. As a result the Parliament had to come up with the Land Acquisition Amendment Act as a response to the need, although it was passed with opposition from MDC legislators.

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<sup>23</sup> <http://gopher.anc.org.za/anc/newsbrief/1998/news0623>

## **Case Study: Human-Wildlife Conflict in Guruve North Constituency**

The study focused on the legislative activities of the former Member of Parliament for Guruve North Constituency Honourable Paul Mazikana of ZANU PF as a case study to validate the results. It focused on the role played by the legislator from 1995 – 2000 in trying to solve the conflicts between people and wildlife in Guruve North. The objective of selecting one legislator was to take him as a standard measure to assess what motivates legislators to represent environmental issues.

Guruve North is a hot and arid area that is not suitable for farming and human habitation. There are vast areas that are not settled and this has subsequently created space for wild animal's habitation, ecosystem growth and multiplicity with forestry, fisheries, rivers and land completing the ecosystem equation. However, the constituency has the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) projects, a government programme that was conceived to initiate development and to allow communities to benefit directly from the exploitation of wildlife resources. The CAMPFIRE Villages are Masoka, Angwa, Kanyemba, Gonono, Chikafa and other wards. People have intermittently benefited through trophy hunting, hunting concessions, safari operations, craft and other tourism activities and employment as game guards. However, it is in the CAMPFIRE areas where the rate of human-wildlife conflicts is high.

In Guruve North human-wildlife conflict is a major problem due to the increasing number of buffalos, crocodiles, elephants, baboons, hippopotamus and wild pigs. As the wild animal population is increasing, their natural habitats diminish and the chance of them invading places meant for human settlement in search of grazing space increases. On a weekly basis, elephants or buffalos attack two people especially in the Kanyemba area.<sup>24</sup> This problem is mainly pronounced from January to May when wild animals come close to villages to raid crops such as cotton and when they come for the water points. Poaching of wildlife is another source of human –wildlife conflict since this drives wild animals into the villages and the wounded animals will attack people.

### **The Activities of the Case Study Legislator**

Honourable Paul Mazikana was first elected into Parliament in 1995 and re-elected in 2000 until 2005 to represent Guruve North Constituency. He won the 1995 and 2005 election on a ZANU PF ticket. He had worked as a teacher at various schools in the District for ten years and holds a Diploma in Philosophy and a BSC degree in Sociology from the University of Zimbabwe.

During his election campaigns the legislator promised people that he will help in developing the constituency and assist people to manage wildlife resources, fight poverty and to construct schools, a good road network and to establish communication links in the constituency. However, upon his election in 1995 his major challenge was to help address the human- conflict in the constituency.

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<sup>24</sup> Tsitsi Matope, “ Wild animals wreak havoc in Guruve”, The Haerald, Tuesday 18 February, 2003, p.9

At the parliamentary level, the legislator was active in promoting the use of wildlife resources by communities in his constituency. He became a member of the Parliamentary Portfolio Committee on Mines, Energy and Environment when the idea of committees was introduced in 1999.<sup>25</sup> The legislator said that he joined the committee to represent the environmental interests of his constituency. He believed that the committee serves as a forum for legislators to share ideas about the conservation of natural resources in rural areas and that there is much time to discuss environmental issues in committee meetings than in the House where other issues take precedence. In the house, the legislator also strongly supported the approval and passage into law of the Environmental Management Act in October 2002.

It also emerged that during his tenure of office the legislator consistently called government ministries and departments to intervene to address human-wildlife conflicts in his constituency since wild animals were destroying crops, property and even killing some people in the villages. During debates in Parliament the MP would ask some questions with a bearing on the problems being faced by his constituency. Below are some of the questions that were asked to the Minister of Environment and Tourism during parliamentary debates;

*“Why has the Ministry instructed Rural District Councils under CAMPFIRE programme to seek authority from Provincial wardens to control problem animals when the Rural District Councils is the appropriate authority”*<sup>26</sup>

*“...why is the Department of National Parks and Wildlife not coming to the rescue of villagers in Kanyemba, Lower Guruve where lions are causing terror, destroying villagers livestock and threatening human lives....Whose responsibility is it to compensate villagers whose properties have been destroyed by these animals”*<sup>27</sup>

These questions sought to advocate for the devolution of power to control problem animals to Rural District Councils and to give compensation to people who lose crops, livestock and property to wild animals. The legislator was calling for a review of the policy and practice in problem animal control. Because of his representation in parliament and efforts from other stakeholders, there was a revision of practice in the control of problem animals. The power to deal with problem animals in the CAMPFIRE programme was transferred from the Provincial wardens to the Rural District Council and this led to the establishment of the Problem Animal Control Unit (PACU).

The second question that was raised by the legislator on compensation is a critical and often emotive point in Guruve North Constituency, especially to those people who have lost their relatives or whose crops, livestock and property were destroyed by wild animals. This is because despite raising the need for compensation for crop and livestock destruction to this day no one in Guruve North Constituency has been compensated for crop and

<sup>25</sup> <http://www.parlzim.gov.zw>

<sup>26</sup> Parliamentary Debates, Vol 23 No 76, 1997, line 4680, Government Publications, 1997

<sup>27</sup> *ibid*,(line 4682)

livestock destruction. Compensation is only given for human deaths. Nevertheless, the MP took his fight to the national radio and even print media. He said that it has increasingly becoming difficult for school children to go to school since their lives were always under threat from wild animals like buffalos, elephants and lions. In fact, he was advocating for the establishment of a new school in the Constituency, to make sure that the children do not walk long distances to school. Fortunately, after this campaign a number of schools were built in the constituency by the government.

Besides the human-wildlife conflict, Mazikana also represented other issues that are important to the people of Guruve North Constituency in Parliament such as seeking an explanation from the responsible Ministry whether there was any plan to assist families whose crops and homesteads were destroyed by floods that occurred in 1997 in the constituency.<sup>28</sup> The legislator also sought explanations during his tenure in Parliament on the circumstances surrounding the delay in implementation of donor funded projects such as the land use plan project and drilling of boreholes as well as the establishment of the Kanyemba irrigation scheme.

### ***What the Electorate Thought was the Role of their Member of Parliament***

In Guruve North Constituency people had various views about the role of legislators. Some viewed the MP as a person who is supposed to implement projects in the area and someone who should source funds from donors to alleviate hunger, while others think he is an advisor. A few people said that the legislator's role is to represent the people and conduct meetings with the people and forward their concerns to Parliament for government consideration and to champion the development of the constituency and reporting back to people what is happening in parliament. There are other people who thought that the legislator should attend funerals of people who are killed by wild animals and that he should continue lobbying the relevant Ministry or Parliament to review the compensation paid when a person is killed by wildlife. The implication of the people's responses is that most of them know that the MP is responsible for representing them in Parliament but lack knowledge about the legislator's role to make laws.

However, many people said that their MP should do a lot more in representing their problems to parliament. Despite evidence contained in the parliamentary debates that the case study legislator represented the issues of human-wildlife conflicts in his constituency in Parliament, the people in the constituency did not know about that. A lot of people felt that the MP did not do much in representing them on compensation for crop loss, injury and loss of livestock to wildlife. Further, the constituency also expressed concern about the lack of regular communication and visits to the constituency by the legislator to report back to the people what would have happened in parliament. As a result, many people were not aware of whether he was representing them or not. Neither were the people aware that he was a member of the Portfolio Committee on Mines, Energy and Environment Committee. Some people even said that they do not know the MP while others said that they last saw him two years ago when he was campaigning and to some he was more visible through his political party.

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<sup>28</sup> *ibid* (line 4215, No 68)

However, there are also a number of factors that limits the work of the legislator in representing the constituency including; the vast extent of the constituency and the little incentives and allowances members of parliament receive coupled with the shortage of fuel in the country and the poor road network. The other problem for the MP is that even if he comes up with an idea or approaches the government to address a certain problem some government departments or local authorities do not implement them due to lack of financial resources, manpower and sometimes sheer administrative bureaucracy.

From the interviews it also emerged that the legislator was more active during his first term of office 1995-2000. That was when he used to visit the people and when he was active in Parliament in raising the issue of problem animals. Some of the issues he raised in Parliament were addressed, but resurfaced a few years later. On the other hand, people in the constituency do not have access to newspapers or radios to get news about what is happening in the constituency and country-wide. So even if their MP said something on radio they do not get to know about it until someone from town talks about it or those who go to town bring a newspaper.

## Overall Assessment of Legislative Environmental Representation

### **Colonial Period**

Legislative environmental representation also has a colonial history in Zimbabwe. Nevertheless, the history of legislative environmental representation during the colonial period 1889-1980 had unique features in that it was aimed at discriminating against the black majority and protecting the interests of the Europeans. The Legislative Assembly passed laws for aggrandizing and extracting natural resources such as land, wildlife and water resources. Some of these laws included the Water Act of 1976, the Natural Resources Act of 1941, the Parks and Wildlife Act of 1979, the Land Tenure Act and the Land Apportionment Act.

One of the telling events of the discriminatory nature of colonial legislative environmental representation was when the Legislative Assembly was debating the Parks and Wildlife Act in 1979. The colonial government wanted to pass the Act to give the holder of land (white commercial farmers) custodian rights over wildlife, fish and plant resources to derive benefits. One of the few black Africans who were members of the Legislative Assembly during debate on the Parks and Wildlife Act of 1979 said;

*“ I think it is commonly known that the African is or has a practice of hunting from early his life...what is said in this legislation will make it an offence to catch animals. What I am worried about is the fact that wild animals like wild pigs, jackals and kudu are quite a nuisance to the crops of the people not only in the Tribal Trust Lands but also to the residents of the farms. It will be an offence to trap and kill these animals should they be encroaching on your fields....we are creating criminals out of Africans by this type of blind*

*legislation which is European biased, which has absolutely no consideration for Africans”.*  
<sup>29</sup>

This statement by one of the representatives of the blacks in the House of Assembly had a number of implications. Firstly, it showed that the legislator was concerned with the plight of the Africans in the rural areas who relied on wildlife resources for survival. The legislator had the interests of the Africans in his constituency at heart. With the prohibition of hunting by the new Act, his constituency was going to suffer. As a result he tried to convince the predominantly white legislature not to pass the Act. Secondly, the statements had no value at all at that time since it could not lead to the change of government policy in regard to the alienation of blacks from wildlife resources and their use. Nevertheless, the statement was one of the early pronouncements about problem animals or human-wildlife conflict to be aired in Parliament. The legislator raised concern about the destruction of crops and property by wild animals.

With such statements it can be safely concluded that environmental matters were represented even during the colonial period. However, both legislative and environmental representation was biased in favour of the whites and the voices of the few African representatives were not heard in the Legislative Assembly. The African representatives were outnumbered and their views on natural resources use were ignored. Environmental representation during the colonial period was sectoral and based on racial grounds, always aimed at making sure that Europeans benefit from the use of natural resources.

### **Post Independence Period**

In post independence Zimbabwe, legislative environmental representation has been rather slow and reactive than proactive. The legislators have been reactive to issues like floods, water pollution, land reform and the human-wildlife conflicts when these started to affect people on a large scale. It has also been sectoral, focusing on single natural resource elements and not as a system of integrated elements. For example, the land issue has been given priority as a separate thing divorced from the need to conserve the natural resources in the acquired commercial farms. The ruling ZANU PF party took the need to redistribute land as a campaign strategy and managed to win a lot of support from rural communities. However, the initial strategy did not include the conservation of trees, wildlife and minerals that were abundant in the acquired farms. This has caused a lot of land degradation in the commercial farms, veld fires, gold panning, poaching and indiscriminate cutting down of trees. Nevertheless, the government later drafted an integrated environmental conservation plan in 2002, but its provisions are not being closely followed by some of the new farmers.

However one of the most notable legislative environmental developments in the country were the environmental law reforms embarked on by the government in 1998 that culminated in the promulgation of the Environmental Management Act (Chapter 20:27) of 2002. In 1998 the Ministry of Environment and Tourism organized a number of national

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<sup>29</sup> Mr Bhebhe contributing to Debate in the House of Assembly during the passage of the Parks and Wildlife Act, Rhodesia House of Assembly Debates, 13 February 1975, (Volume 89) 1974-5 page 1386

workshops for legislators to discuss the environmental law reforms.<sup>30</sup> Legislators responded very well and were involved from the initial stages of the environmental law reform process and made enormous contributions to the process. Further, workshops and seminars were also organized by civil society for the legislators.

The second development that underlies legislative environmental representation in post independence Zimbabwe was the introduction of the Parliamentary Portfolio Committee system. The concept of Portfolio Committees came into existence through the parliamentary reforms that were adopted by the 4<sup>th</sup> Parliament in the 5<sup>th</sup> session of 1999-2000. Portfolio Committees are appointed in terms of Standing Order Number 153, which stipulates that each, Committee, shall be known by the Ministry it shadows. The committee that represents natural resources issues is called the Mines, Energy and Environment Committee. This has seen the coming together of legislators with a passion for the environment.

Notably, the 2000 – 2005 Mines, Energy and Environment Committee was mainly made up of MPs from rural constituencies. During the 5<sup>th</sup> Parliament of Zimbabwe the committee had 13 members, 7 from ZANU PF and 6 from the MDC and this roughly reflected the respective proportions in the whole House. Legislators can join certain committees by choice, but however, the party might have to appoint its members to specific Committees. The civil society or interest groups are free to write or approach the Committee to lobby on various environmental issues. In turn, all members of the committee are expected to contribute issues or topics that should be included in the committee's workplan. Each member is expected to contribute meaningfully towards issues under consideration by the committee.

Procedurally, when a committee investigates an environmental issue, the Chairman of the committee is expected to present a report to the House, which report will be debated. Committees are also empowered to call upon Ministers to give evidence during inquiries on specific issues with environmental implications of concern to the committee. This is another opportunity that has been created to enable MPs to question the activities of Ministers and to ensure that Ministries are accountable to the nation and to people in different constituencies. Thus one MP summed up the role of the Committee by saying that,

*“We play a watchdog role on the executive ensuring that it delivers what it would have promised the people. Some of the work is done through parliamentary committees where MPs call ministries to explain what is happening in their ministries”.*<sup>31</sup>

In a big way the idea of portfolio committees created avenues for legislators to discuss environmental issues in a forum made up of people with a passion for the environment but with different political orientation. The legislators will be discussing issues from informed positions when they finally sit in the main house. This was evident during the debate on

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<sup>30</sup> Nyanga Workshop Report, on Environmental Law Reforms, March 1998

<sup>31</sup> Innocent Gonese, who is the MDC Parliamentary Chief Whip, and the MP for Mutare Central, quoted in the Weekend Tribune of 1-2 February 2003.

the Environmental Management Act in October 2002 when legislators from the environment committee actively participated in the debate.<sup>32</sup> There are obvious incentives and disincentives attendant on legislative environmental representation through the committee system as analysed earlier in this study.

Another aspect that might imply environmental and cultural representation is the appointment of Chiefs to Parliament as Non Constituency Members of Parliament. The chiefs come from rural areas that boast a lot of natural resources and are custodians of customs. In legal terms the chiefs have power to oversee the use of these resources in collaboration with the local government institutions.<sup>33</sup> Therefore, their intercourse with rural administrative institutions enhances their capacity to represent the interests of the rural people.

## **CONCLUSIONS AND RECOMMENDATIONS**

There are key lessons and observations that can be drawn from an analysis of the legislative environmental representation work. One of the key lessons is that despite the existence of laws, guidelines, principles and policies for legislative representation, environmental representation is still in its infancy stages in Zimbabwe. Ideally, legislators are expected to have discussed, debated, and approved new legislation, however, the facts on the ground show that many legislators do not even understand the law they pass. Legislative environmental representation during the colonial era was biased toward the aggrandizement and exploitation of natural resources for the benefit of Europeans and the few voices of black Africans who were incorporated into the Legislative Assembly carried no weight in the law making process.

Further, legislative representation in Zimbabwe is shaped by a number of key factors including the interests of the constituency, national interests as well as other conditions created by law and practice such as accountability to the constituency, authority to speak and represent the constituency, personal ambitions of the legislator as autonomy. It is when some of these factors are absent that legislative representation might fail to fulfill its intended objective.

The above situation calls for policy and legal changes with regard to legislative representation to enhance the elevation of community interests by elected representatives from a social, economic and environmental sphere. The aim should be to improve and encourage effective legislative representation. It is important to give a set of recommendations that may improve accountability, autonomy, authority and ambition in environmental representation.

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<sup>32</sup> Peter Nyoni (Member of Parliament for Hwange East, representing MDC), Interview held on 6<sup>th</sup> of March 2003.

<sup>33</sup> Traditional Leaders Act (Chapter 29:17)

### *Accountability*

1. In order to improve accountability of legislators to their constituencies, the Oath or Affirmation of Office should form the legal basis for Members of Parliament to swear and take a pledge that they will be accountable to their constituencies and serve the people.
2. The appointment of MPs into Parliament should be abolished. Ministers should always be appointed from elected representatives who understand the environmental interests of their constituencies.
3. Constituencies should be given the right to recall their elected representatives for reprimand or removal in cases where they are failing to serve the environmental interests of the electorate. Thus the electorate should have the right to pass a vote of no confidence on non-performing public officials and the mechanisms for removal should be simple but effective.
4. A new law should be put in place to make it compulsory for MPs to meet their constituencies. They should in fact be made to submit quarterly reports about their activities in the constituency to the House. The Clerk of Parliament will keep the reports and publish them. Apart from reporting to Parliament, it would also be worthwhile for MPs to report their activities to their political parties, but making sure that they are independent to differ from certain party positions. Through such requirements legislators will report back to the people what they would have discussed in Parliament. Further it will force MPs to meet their people. The result is that it will kill of the most often complaint in constituencies that their MPs only come to the area during election time to woe for votes.
5. The Electoral Act should also be amended to include a provision that states that any candidate in a general election should be resident in the constituency in order to contest for the parliamentary seat. The law should actually state the number of years a person should have lived in that constituency to qualify for election. This provision will make sure that legislators will be effective in representing the interests of their people since they would have grown up in the area and will be aware of the problems, demands and aspirations of the constituency, be they environmental, economic, political or social. This will avoid the imposition of candidates as has happened in the last election.

### *Autonomy*

Section 41(1) (e) of the Constitution of Zimbabwe which states that the seat of a member of parliament shall become vacant if a member ceases to be a member of a political party of which he was a member at his election upon notifying the speaker that he no longer represent the interests of that party in parliament should be removed. This is a disincentive for legislative representation since it does not allow MPs to cross the floor. MPs should sometimes be able to freely differ from certain party positions that do not serve their constituencies. This will make sure that MPs are independent from political parties and the executive. Such a provision makes MPs more accountable to their political parties than serving the people who voted for them.

### ***Authority***

1. The number of sittings by the legislature in Zimbabwe should be increased to make sure that Parliament meets regularly, than the stipulated 21 sittings per session. This will ensure that MPs will have time to articulate the problems that exist in their constituencies. MPs have been complaining that they do not have enough time in Parliament to discuss other small issues that affect different constituencies. Although they can do this in committees they wanted time to do it in the House. For example, by September 2002, the Parliament of Zimbabwe had sat only nine times in eight months raising fears that the executive is sidelining the legislature.<sup>34</sup> There should be a new law that stipulates the number of times Parliament should meet and each member should be required to indicate the number of times he/she attended Parliament.
2. All Members of Parliament should have well-equipped offices in their constituencies. Already there has been some progress in this regard since Parliament in collaboration with UNDP, has established some offices in a number of constituencies. Office furniture has already been sourced and some offices will also have a telephone, computer and Internet facilities. The aim is to promote greater interaction between the MP and the constituency. Through this the constituency will have easy access to their MP and they will be able to get information on Parliamentary business. This will make MPs more accountable to the electorate.

### **Bibliography**

1. Owen Lynch and Emily Harwell, *Whose Natural Resources? Whose Common Good? Towards a new Paradigm of environmental justice and the national interest in Indonesia*, Center for International Environmental Law (CIEL), January 2002 Page xxvi
2. <http://mirror.undp.org/magnet/Docs/parl...otes/Constituency%20Relations%20520.htm>
3. Project Document, World Resources Institute, October 2002
4. Peter G. Veit, et al, "Servicing Constituents, Servicing Nature: Legislative Representation and Natural Resource Politics in Africa", March 2003
5. Raymond F. Hopkins, *The role of the MP in Tanzania*, in *The American Political Science*, Vol LXIV September 1970, No 3, Published by the American Political Science Association

---

<sup>34</sup> Vincent Kayiya, *The Zimbabwe Independent*; Friday, 27 September 2002

6. Environmental Management Act, (Chapter 20:27)
7. Public Order and Security Act (Chapter 11:17), No 1/2002
8. Access to Information and Protection of Privacy Act (Chapter 10:27), No 5/2002
9. <http://mirror.undp.org/magnet/Docs/parl...otes/Constituency%20Relations%20520.htm>
10. Moyana H and M.Sibanda, The African Heritage, History for Junior Secondary School Book 2, Zimbabwe Publishing Housing, Harare 1984 page 26.
11. M.Prew et al, People Making History, Book 4, Zimbabwe Pushing House, Harare, 1992 pg 82
13. Rhodesia House of Assembly Debates, 13 February 1975, (Volume 89) 1974-5 page 1386
14. Customary Law and Local Courts Act (Chapter 7:05)
15. The Financial Gazette, 24 January 2002
16. The Traditional Leaders Act (Chapter 29:17)
17. Financial Gazette, 7 March 2002
18. Constitution of Zimbabwe.
19. ZANU PF Political Manifesto of 2000
20. Zimbabwe Standard Newspaper, 26 November 2000
21. Matamisa V Chiyangwa HC (Unreported Judgment)
22. The Daily News, 15 February 2001
23. Privileges, Immunities and Powers of Parliament Act (Chapter 2:08)
24. Zimbabwe Parliamentary Debates Vol 28 No 39, Wednesday 9<sup>th</sup> January 2002.
25. Political Parties (Finance) Act (Chapter 2:11) Act No 4/2001
26. Nelson Marongwe, "Roles and Responsibilities of Legislators in Environmental Management", paper presented at the Parliamentary Seminar on Environmental Legislation in Zimbabwe, organised by IUCN Regional Office for Southern Africa held on 15 May 2003
27. Shamiso Mtisi, Dissertation, "The reception of international environmental treaties in Zimbabwe", University of Zimbabwe 2001.
28. Shamiso Mtisi, "A Review of the Legal and Policy Framework for Wildlife and Land tenure rights for communities in Zimbabwe", Research paper for the IUCN Environmental Law Internship project, August 2002.
29. <http://www.parlzim.gov.zw>
30. Parliamentary Debates, Vol 23 No 76, 1997, line 4680, Government Publications, 1997
31. Peter Veit "Servicing Constituents, Servicing Nature: Legislative Representation and Natural Resource Politics in Africa", World Resources Institute (unpublished), March 2003
32. Mutasa V Makombe and another 1997 (1) ZLR 330

33. Smith V Mutasa 1989 (3) ZLR 180
34. Welshman Ncube, "The Concept of Separation of Powers in Zimbabwe: Constitutional Myth or Reality? Page 10 , Zimbabwe Law Review 1995, Volume 12
35. Halfani and Nzomo, 1995
36. Shamiso Mtisi, (ZELA) , "A Report of the National Housing Workshop with Legislators; 10 March 2003, Kariba," April 2003
37. <http://gopher.anc.org.za/anc/newsbrief/1998/news0623>
38. The Zimbabwe Independent; Friday, 27 September 2001