



Zimbabwe Environmental  
Law Association (ZELA)

# ENVIRONMENTAL JUSTICE *in Zimbabwe*

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"Using the law to protect and  
conserve the environment"



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Zimbabwe Environmental  
Law Association

# Editorial

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The year 2009 has started with promises of hope for a better life for many Zimbabweans. With the implementation of the Global Political Agreement signed on 15 September 2008 but stalled for months due to procrastination by parties to the agreement, everyone is optimistic that Zimbabwe will turn the page and once again assume its status as a prosperous and peaceful African country. Every aspect of life is expected to change for the better and ZELA hopes that the new inclusive government will attend to the serious environmental problems that the country has been facing over the years with little or no attention being paid to them. Of major concern is the issue of environmental service delivery covering waste collection, sewage reticulation and clean water provision especially in the poor high density suburbs of the country's cities and towns. This led to the outbreak of cholera in August 2008 and the death of more than 4000 (four thousand) people and the infection of more than 80000 (eighty thousand) others. One hopes that the new government and local authorities will prioritise these critical issues in terms of budgetary allocations instead of allocating available resources to salaries, cars and other perks to those in positions of power. Already there is a disturbing development in Harare where the local authority is charging exorbitant amounts for rates and other services and allocating the entire revenue collected to staff salaries and allowances. There is no justification for making residents of Harare, the majority of whom are either unemployed or earning paltry salaries to pay these high charges for the sole purpose of sustaining an unrealistic salary bill for City of Harare employees. One hopes that the Harare City mothers and fathers will heed the call by the residents, government and other stakeholders to reduce their charges to realistic levels so that the residents are not unnecessarily burdened.



Makanatsa Makonese

Turning to the 10<sup>th</sup> edition of the Environmental Justice in Zimbabwe Newsletter, we hope that you will enjoy reading it and that you will be able to learn a few things about our environment and the importance of protecting and conserving it. The issues covered in the edition include the cholera outbreak that continues to affect and infect many people throughout the country. Although the infection rate and fatality figures have gone down, it still remains a cause for concern when people continue to die from the disease. We therefore urge authorities and other well wishers to continue channelling resources towards fighting the disease so that the country does not continue to lose valuable lives. There are also tips in the article on how individuals at various levels can contribute towards the fight against the epidemic.

Other issues covered in the newsletter include an update on the ZIMOZA project that ZELA has been implementing for the past 2 years and an outline of the new projects that the organization has embarked on in 2009. Three new projects have come on board and these are funded by the European Commission, the Siemenpuu Foundation and the World Resources Institute.

We welcome your feedback on the newsletter and hope that you will be able to provide us with ideas that will help us improve the publication and make it more useful.



# ZELA's New and Exciting Projects for 2009

By Gilbert Makore

**Z**ELA is excited about the year 2009. This is because the organisation has started to implement three projects namely; “Enhancing political, legislative and public participation in environmental governance in Zimbabwe” the “Bio-fuels Research and advocacy Initiative” as well as a project on “Giving Voice to Access Laws: A project for the Practical Application of Access Laws in Zimbabwe”. The project on legislative environmental representation is a three year project that is being funded by the European Commission to Zimbabwe. The project will be targeting the areas of Chiadzwa/Marange (diamond mining issues), Mutoko (granite mining issues) and Mbire (wildlife and fisheries issues). The target areas were chosen because of the abundance of natural resources in those areas and the contemporary debate around those natural resources. In brief the project seeks to establish whether or not the communities in these areas are benefiting from natural resources in their areas, how the communities communicate their concerns to the Members of Parliament, the level of representation in Parliament by the relevant legislators and level of feedback the legislator gives his/her constituency. The project aims to build the capacity of legislators to effectively represent their constituencies’ environmental rights, interests, and concerns. Concurrently the project will also seek to build the capacity of communities to demand accountability from their elected representatives.

The project was conceptualised after the realisation that there is inadequate representation of community concerns by legislators in Parliament. It was also established that the communities are not sure of how to communicate their concerns to their legislators and the strategies they can employ to ensure that their legislators



Diamonds for Ever: Pictures shows uncut diamonds. Picture adapted from [science.howstuffworks.com/diamond-pictures7.htm](http://science.howstuffworks.com/diamond-pictures7.htm)

are accountable to them. The project therefore aims to inculcate a culture of political and legislative participation within the communities while also building a culture of grassroots accountability amongst the legislators. Building civic consciousness, inspiring civic participation and spurring responsible leadership are essential if environmental democracy is to be ensured. The project builds upon a previous research project conducted by ZELA in 2005 on Legislative Environmental Representation. The outcome of the research formed an informal needs assessment in terms of capacity building for legislators and communities so as to ensure that public officials are attentive to the needs of their constituencies and remain answerable to the electorate.

The organisation is also implementing a research and policy advocacy project on Bio-fuels. The project aims to ensure that communities know the opportunities and risks embedded in jathropha farming. The formulation of the Draft Energy Policy and indications towards the needs for a Bio-fuels policy have made the project more pertinent as it will seek to ensure that community voices on bio-fuels are included in the proposed Energy and Bio-fuel Policies. The project has already commenced with reviews of bio fuels policies, laws and strategy papers in Zimbabwe with a comparative review of the laws and policies for South Africa



The Chiadzwa diamond fields were invaded by thousands of people from across the country as well as the villages in 2006. Pictures adapted from <http://www.daylife.com/photo>

and Mozambique. Participatory field work for the baselines research will be undertaken in Chegutu, Chimanimani and Mutoko. The objective is to identify the key constraints, achievements and lessons learnt by community farmers on jathropha farming and their experiences with the crop as it relates to food security.

Lastly, ZELA will also be implementing a project titled “Giving Voice to Access Laws: A project for the Practical Application of Access Laws in Zimbabwe”. The project is funded by the World Resources Institute (WRI) under the World Bank Development Grants Facility Global Partnership Program. The main aim of the project is to improve the public's



Jatropha is used as a hedge in Mutoko District. Pictures by Banarbas Mawire.



The Jatropha Fruit used for bio-diesel production



access to environmental information. The project aims to do this by developing and producing standard guidelines that stipulate procedures for accessing environmental information, where to access this information and listing information that is excluded from the domain of public access. ZELA will develop these guidelines in collaboration with the Environmental Management Agency and will use the opportunity to build the capacity of EMA staff in ensuring that the public has access to information, access to justice and access to

opportunities for participation in environmental management. The project builds upon a previous WRI funded research project titled “The Access Initiative” which established the state of access to information, access to justice and access to opportunities for participation in environmental management in Zimbabwe and the bottlenecks to the realisation of access rights. In addition ZELA will continue implementing the ongoing flagship project; “Environmental Justice in Zimbabwe: A Research and Advocacy Initiative”. The project aims to promote

environmental justice in Zimbabwe through litigation, environmental law education and law and policy reform. Activities for this year include; a public lecture at the Midlands State University and environmental law education workshops for traditional leaders in Beitbridge and Shurugwi, litigation follow up workshops for Gweru (Mambanjeni), Marondera and Mutare (Dora Pindo) are also scheduled while ZELA will continue publishing the Environmental Justice in Zimbabwe Newsletter.



# Update on the implementation of the Zimbabwe, Mozambique and Zambia transfrontier conservation initiative.

By Mutuso Dhliwayo

## Introduction

Transfrontier Conservation Areas (TFCAs) initiatives are viewed as having the potential to make a significant contribution to socio-economic development in Southern Africa through the sustainable consumptive use of wild animals and plants. The Zimbabwe Environmental Law Association (ZELA) is currently implementing a project titled "Promoting community engagement in the proposed Zimbabwe, Mozambique and Zambia (ZIMOZA) regional transfrontier conservation area for improved livelihoods. The project encompasses Zimbabwe's Mbire District, Mozambique's Zumbu and Mague Districts and Zambia's Luangwa District.

This project is being implemented in collaboration with Africa Wildlife Foundation and Centro Terra Viva. The main aim of the project is to empower communities to participate effectively in the ZIMOZA TFCA to promote their focus on poverty reduction based on sustainable use of natural resources. Activities include:

- The development of legal and policy tools for civil society engagement in TFCA design and engagement
- Raising awareness and building community capacity to effectively participate in TFCA design and in community-public-private partnerships (CPPs) and
- Supporting development, implementation and marketing of natural resources enterprises in the ZIMOZA TFCA area.

## Activities carried out to date

ZELA reviewed a number of national laws and policies as well as Southern Africa Development Community (SADC) protocols to determine their implications on community participation in environmental governance in the ZIMOZA area. At the

The Zambezi River and the abundant natural resources around this area in this photo are shared by Zambia, Zimbabwe and Mozambique, hence the acronym ZIMOZA transfrontier conservation area.

national level these included the Environmental Management Act, Parks and Wildlife Act, the Draft National Environmental Policy, Wildlife Based Land Reform Policy, Communal Land Forest Produce Act, Water Act, Rural District Councils Act and the Indigenisation and

Economic Empowerment Act. At the regional level, these included the protocols on shared water courses, forestry, fisheries, wildlife, tourism and the draft ZIMOZA agreement of 2002. The general finding was that provisions in the various protocols and draft agreement with regards



Joint ZELA, CTV and AWF workshop at Tchuma Tshato Community in Mozambique

to community participation are more progressive when compared to those at the national level. The research findings have already been shared with a number of stakeholders. These include the ZIMOZA communities, national focal persons on the ZIMOZA initiative from the three countries and other relevant government departments.

ZELA is currently in the process of constituting the Kanyemba community on the Zimbabwean side of the ZIMOZA initiative into a trust. The ZIMOZA draft agreement makes provisions for the development of Community Based Organisations. One of the reasons that have been used by the state and the private sector to marginalise communities from natural resources governance is that they don't exist as legal entities and as such it is very difficult to deal with non legal entities. The constitution of the Kanyemba community into a trust will remove this impediment thereby enabling them to participate effectively in the conservation process.

The general feeling is that while the communities in the ZIMOZA area still cherish the ZIMOZA dream, they are growing disillusioned by the slow progress. The ZIMOZA initiative was started back in 1999 and 10 years down the line, its still a dream. Communities want it to happen as of yesterday as the three communities share a lot of commonalities. Despite having a draft agreement since 2002, the three governments of Zimbabwe, Mozambique and Zambia are taking their time to sign the agreement and this is not going down well with the communities.

At the ZIMOZA national focal persons meeting held in Harare in February 2009, the national focal persons were tasked with the responsibility of pushing the relevant ministries in their countries to sign the draft agreement. ZELA also recently engaged the Member of Parliament for Mbire constituency to initiate discussions with the Ministry of Environment and Tourism regarding the signing of the draft agreement. If signed, the progressive provisions of the ZIMOZA draft agreement can be used as a model for community participation in transfrontier conservation areas in Southern Africa. It is hoped that the process will not continue to drag further without any tangible progress and benefits, causing further disillusionment to the communities.



Members of the Ngwena Fishing Cooperative after a community meeting organised by ZELA in Kanyemba area (Mbire District-formerly Guruve North Constituency) which is part of the ZIMOZA transfrontier conservation area.



George Gapu of ZELA explaining the legal processes involved in registering a community trust to members of the Ngwena fishing cooperative in Mbire Constituency



## Rights Claiming and Protection Project for Chiadzwa villagers

By Shamiso Mtisi

The Zimbabwe Environmental Law Association (ZELA) launched a new project to promote the recognition and protection of economic, social, cultural and environmental rights of villagers in Chiadzwa communal area in Mutare West Constituency. There have been immense conflicts over diamond extraction in the area since 2006. The objective of the project is to capacitate and empower villagers in ward 29 and 30 (Betera village, Mutsago village and Tonhorai village) who live within the diamond mining area to participate in decision making and planning processes related to diamond mining in the area. The project also seeks to ensure that the villagers are able to demand for legislative and political accountability and to participate in natural resources management and governance. This is to be achieved through establishing links of communication between decision makers and the constituency. The

strategic interventions that ZELA will use to achieve the project objectives include; evidence based research, advocacy, litigation, conflict resolution and capacity building for community based groups to act as a vehicle for community participation in planning processes for the utilization of natural resources in the area. The main project activities will include environmental rights workshops, registration of community groups, outreach visits for legislators, national policy and legislative dialogue meetings and publications.

There have been a number of economic, social, environmental, political and civil rights violations that have taken place in Chiadzwa since the villagers and people from various parts of the country and the region started extracting and selling diamonds as a source of livelihood. During the lawyers' visit soldiers were observed camped at schools, local business centres and at



Desperate for help: A community member expresses his anger about government efforts to relocate some 4000 families from the diamond fields in Chiadzwa.

people's homes. The villagers are bitter about the way soldiers are treating them as there are reports of severe beatings, injury and even deaths as they tried to stop people from extracting the diamonds. Other reports indicate that the soldiers have been interfering in domestic family matters while other villagers had their vehicles

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Dewa Mavhinga of Human Rights Watch addressing the villagers at Betera villages in Chiadzwa



A lot of women attended the meeting



## The cholera outbreak in Zimbabwe: Causes and effects

Oblivious to the cholera outbreak, children fetch stagnant water for use at home in Harare. Adapted from: [www.thezimbabwean.co.uk](http://www.thezimbabwean.co.uk)

By Nyasha Chengeta

According to the United Nations, cholera has so far claimed over four thousand lives in Zimbabwe and has affected at least eighty-eight thousand people, a number that many people believe to be an underestimate of the real situation on the ground especially considering that many cases went unreported. Cholera is a waterborne disease that causes vomiting and acute diarrhoea and can rapidly lead to death from dehydration. It spreads fast in situations with poor sanitation or where contaminated water is used for drinking. It is this waterborne disease that has caused havoc in all of Zimbabwe's provinces

since from late 2008 until now. The epidemic was declared a national emergency by the Government opening doors for the mobilization of resources to deal with the epidemic. Available information shows that

Zimbabwe is relying largely on international assistance to rein in the cholera epidemic which has spread to almost all parts of the country. Assistance has been made available by numerous international agencies, and funding for water, sanitation

Cholera is a waterborne disease that causes vomiting and acute diarrhoea and can rapidly lead to death from dehydration.



Picture by Nyasha Chengeta (ZELA)  
Cherima – Highfields, Harare.



and hygiene programmes, emergency response and the provision of essential drugs has come from several governments and trans-governmental organizations.

The epidemic has been fuelled by the country's economic meltdown which has led to the collapse of the country's water, health and sanitation systems

prompting people to resort to shallow and unprotected wells and rivers for water to use for domestic purposes. Response to the epidemic by public health institutions was poor mainly because of the collapse of the country's health delivery system which has led to the unavailability of both drugs and

medical personnel. In addition to the monetary and in kind donations that were made by the various governments and organizations to deal with the epidemic, other institutions such as Medicins San Frontiers (Doctors Without Borders) had to respond by providing medical personnel to help in the treatment of cholera patients in the country.



Cholera victims lie in a hospital ward in Harare

Sewage gushing out through the mainhole next to a house in Waterfalls.

Source: en.wikipedia.org



Burst sewage pipes are a common site in Harare. Here raw sewage flows past a house in Budiriro Suburb, Harare.

Picture: Nyasha Chengeta (ZELA)

The cholera disease has always been there in Zimbabwe and other parts of the world. But it is the magnitude with which the epidemic spread in Zimbabwe and its fatality rate that were a cause for concern throughout the world. Many believe that seeds of this epidemic in Zimbabwe were sown in 2006, when the government seized control of water supply from local authorities and gave the responsibility to the Zimbabwe National Water Authority (ZINWA). Local authorities had been providing residents with water for decades and therefore had the capacity and experience for water supply in the country, something that ZINWA could not be credited with. The failure by ZINWA to supply clean water to residents for prolonged periods is therefore believed to have been the main trigger of the epidemic. Realising this mistake, the government has since given a directive that all urban water supply should revert to the local authorities while ZINWA concentrates on bulk water supply and management.

The situation will however take long to rectify. As a result of lack of potable water, people have now been forced to resort to other alternative sources of water as shown below. Some of the sources have however fuelled the spread of the epidemic and therefore measures have to be taken to ensure that the situation is put under control and does not recur.

One way of addressing the problem is to understand that if the authorities have failed to deliver



UNICEF provided water for residents of low income areas such as Glen-Norah. Picture by Shamiso Mtisi

services, then people have to take it upon themselves to treat the water that they use for different purposes rather than rely on public bodies that have failed to deliver and are mainly responsible for this problem. They also need to practice high levels of personal, household and organizational hygiene including finding ways of managing waste that has accumulated over time and continues to accumulate because local authorities are not doing their duty. To be able to do this however, people need information and education and civil society

organizations should play an important part in disseminating the information and raising awareness. The donor community should be encouraged to continue supplying medical requirements like oral rehydration salts so that infected people can get prompt and proper treatment. In addition, the same organizations should also continue to provide water treatment chemicals like chlorine tablets at the household level so that ordinary people can treat their own water and have control and certainty over the water that they use until confidence is restored in the capabilities of the public bodies to supply the required services.

Some of the steps that members of the public can take to help prevent cholera include the following:

- ★ Washing hands with soap after using the toilet.
- ★ Drinking safe water that has been boiled, chlorinated or filtered★ Eating cooked food whilst it is still hot
- ★ Peeling fruits and vegetables and washing them in clean water
- ★ Avoiding shaking hands unnecessarily since this can spread the cholera bacteria.
- ★ Promptly referring any suspected cases of cholera to health institutions



UNICEF has also been drilling boreholes in low income areas affected by the cholera outbreak in Harare.



# PICTURE SHOW ON THE CHOLERA EPIDEMIC IN ZIMBABWE



Cholera victims lie in a hospital ward in Harare



A man pushing his relative to a cholera treatment centre.

Source: [allafrica.com/stories](http://allafrica.com/stories)



A nurse administering salt and sugar solution to a child suffering from cholera in a ward at Budiriro Poly-clinic.

*Source: allafrika.com/stories*



A mother administering a salt and sugar solution to her child outside Budiriro Poly-clinic in Harare awaiting her turn to get into the clinic for treatment.

*Source: allafrika.com/stories*



# Rights Claiming and Protection Project for Chiadzwa villagers

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confiscated by the police and soldiers. The vehicles were bought using money from diamond mining activities.

Apart from living in perpetual fear of the soldiers, the villagers have also been threatened with relocation by the government. The Governor for Manicaland has been quoted on several occasions by the media stating that families living in the area where diamonds are found will be removed and resettled in another area. However, the situation on the ground shows that there is not enough communication between the government and the villagers about the relocation plans. The relocation is likely to affect 4 000 families living around the Chiadzwa diamond area to facilitate diamond exploration and mining in the area by the government and the private sector. The government has already started pegging a farm near Mutare City for purposes of resettling the people. However, only 60 stands were pegged out of a proposed 4 000 stands and the government workers have already abandoned the site as government does not have money to pay them and continue the process. Through the exploratory meetings with villagers the lawyers noted that many people are opposed to the relocation exercise and the fact that there is poor communication between the authorities and communities about the proposed relocation. Further, it also came to the attention of the lawyers that some of the villagers were once moved from the eastern highlands to make way for forest plantations.

Instead the villagers want to economically benefit from the diamond mining activities than being moved.

Therefore, ZELA has also partnered with the Zimbabwe Lawyers for Human Rights to assist



Josiah Chinherende (in white shirt and seated on bench) of ZELA listening attentively to the narration of human rights abuses in Chiadzwa.

the communities to reclaim their economic, environmental, social and cultural rights. ZELA will also

work with other stakeholders to ensure that the rights of the villagers are respected.



In attendance were: from left, Dewa Mavhinga (Human Rights Watch), Josiah Chinherende (ZELA), Shamiso Mtisi (ZELA) and the Member of Parliament for Mutare Constituency (Hon. Shuah Mudiwa).



# ZELA HOSTS KNOWLEDGE AND EXPERIENCE SHARING WORKSHOP FOR THE JUDICIARY

By Gilbert Makore

In December 2008, ZELA facilitated a Knowledge and Experience Sharing Workshop in Bulawayo to enhance the capacity of the judiciary to effectively adjudicate on environmental cases. The workshop primarily targeted Magistrates and Prosecutors in Bulawayo. The workshop was attended by 39 participants including Bulawayo Magistrates and Prosecutors, representatives from the Environmental Management Agency (EMA), the Bulawayo City Council (BCC), the Forestry Commission, the Zimbabwe National Water Authority (ZINWA), the Zimbabwe Republic Police (ZRP), the National Parks and Wildlife Authority and the academia. The overall objective of the workshop was to provide a dialoguing platform for judicial officers to explore their challenges and experiences in adjudicating on environmentally related cases. The specific objectives of the workshop were to review the role of the courts in enforcing environmental law, exchange views, knowledge and experience in litigation environmental cases and to dialogue on the challenges faced by the judiciary in adjudicating environmental cases. The theme of the workshop was *“Strategies for strengthening the role of the judiciary in enhancing environmental justice in Zimbabwe”*.

The fact that until recently there has only been limited training on environmental law at Law faculties in Zimbabwe also means that some judicial officers have not had the

*“ Strategies for strengthening the role of the judiciary in enhancing environmental justice in Zimbabwe” .*

opportunity to get training on environmental law. Further, experience sharing workshops for the judiciary have also been limited and too far apart to effectively strengthen the capacity of the judiciary to deal with environmental cases.

The workshop provided a platform for ZELA to engage, strengthen and nurture the role of the judiciary in promoting environmental justice in Zimbabwe. The participants generated contributions that allowed for an in-depth analysis of the challenges faced by judiciary, strategies to be used for effective adjudication and promotion of environmental justice. The workshop participants agreed that the judiciary needs to partner more with the Environmental



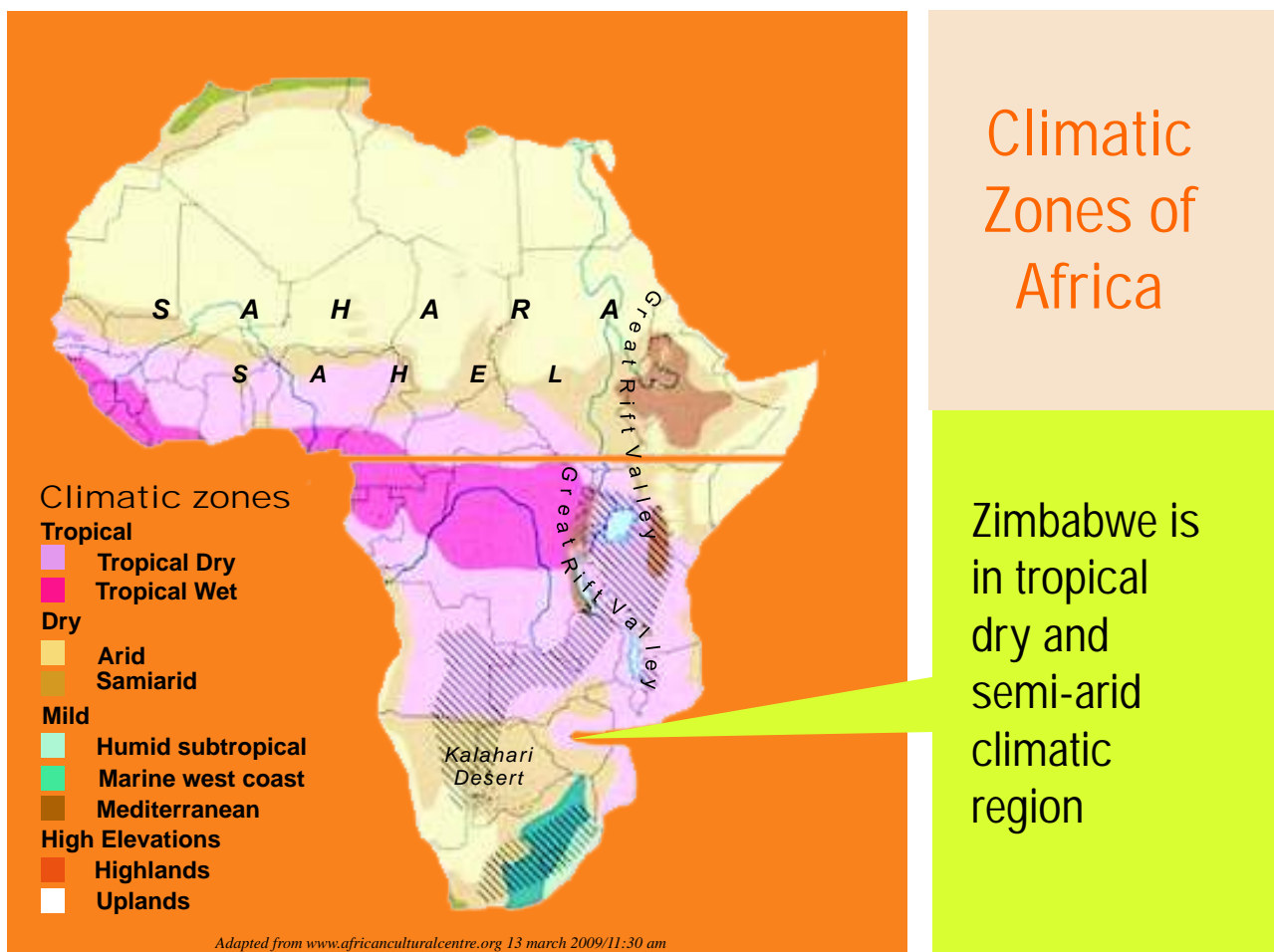
Management Agency in order to ensure that it understands some environmental issues thereby positioning itself to adjudicate effectively on environmental cases. The workshop also identified the need for police officers to be trained in environmental law and the importance of the environment as they are the ones who arrest the perpetrators of environmental crimes and conduct investigations on environmental cases. Additionally, a review of the fines under the Environmental Management Act was seen as a matter of urgency as the current fines are not deterrent enough to ensure compliance with environmental laws. It was also suggested that a new Constitution for Zimbabwe should guarantee environmental, economic, social and cultural rights for the people. This position is pertinent in light of the proposed formulation of a new Constitution in Zimbabwe as part of the Global Political Agreement signed in September 2008.



# The Effects of Climate Change on Agriculture and Food Security in Zimbabwe

By Jeremiah Mushosho

The global climate change presents a risk to the current and future generations in terms of agriculture and food security especially for developing countries, Zimbabwe included. These countries are heavily dependant on agriculture as the mainstay of their economies. Zimbabwe, being located in the developing region of Sub-Saharan Africa is highly vulnerable to the effects of climate change such as declining agricultural productivity which induces food insecurity. Food shortages can cause further environmental degradation as people scramble for the available environmental resources and alternatives in order to survive.



The three main environmental challenges related to agriculture and food security in Zimbabwe are dry spells (extreme heat), shifting of seasons and flash floods and these are mainly climate change induced. The 2008-2009 maize harvest is likely to be reduced because of dry weather spells that were experienced in the middle of the agricultural season in several

provinces of the country. This scenario is promising to aggravate an already precarious food security situation. Taking into consideration that agriculture is the mainstay of Zimbabwe's ailing economy and this agriculture is ultimately rain fed, food security for the country has become an issue of concern locally, regionally and internationally.

The New Year 2009 ushered in widespread flooding in low lying areas of Zimbabwe and this again had an effect on the growth of maize which is the staple food in the country. This in turn will have an effect on the yields to be harvested in April/May. Farmers in flood affected districts, who had planted early trying to take advantage of the predicted good rains, have seen their crops



drowned, along with their hopes of a marketable surplus of their crops. A report compiled by the Metrological Services using 30 years' data collected at stations at Belvedere, Harare, Bulawayo Goetz, and Beitbridge between 1987-June 2007 illustrates that weather extremes are the source of the problems. For the various sites presented, rainfall data shows no consistent trend indicating that changes in temperature and weather patterns were affecting the frequency and severity of rainfall, droughts, floods, access to water and subsequently the use of land. The findings by the Met Services also showed that floods and droughts in the region are gradually increasing in number and frequency:

*Source: The Herald: 22 May 2008*

One of the rivers in flood in the Muzarabani lowlands, a result of heavy rains over the highlands in the distance.

Picture by Mark South

The same Metrological Services Department study also indicates that:

- Water resources are expected to dwindle
- The evergreen forests of the Eastern Highlands of Zimbabwe may be reduced to seasonal forests
- Southwest Zimbabwe may produce desert conditions
- ? Maize yields are likely to decrease considerably
- Climate change may negatively impact on our efforts to achieve sustainable development
- Climate change may lead to declining water resources, reduced agricultural productivity, spread of vector-borne diseases to new areas, high risks to forests (outbreaks of fires), drop in fish population and increased flooding from sea level rise and heavier rainfall