

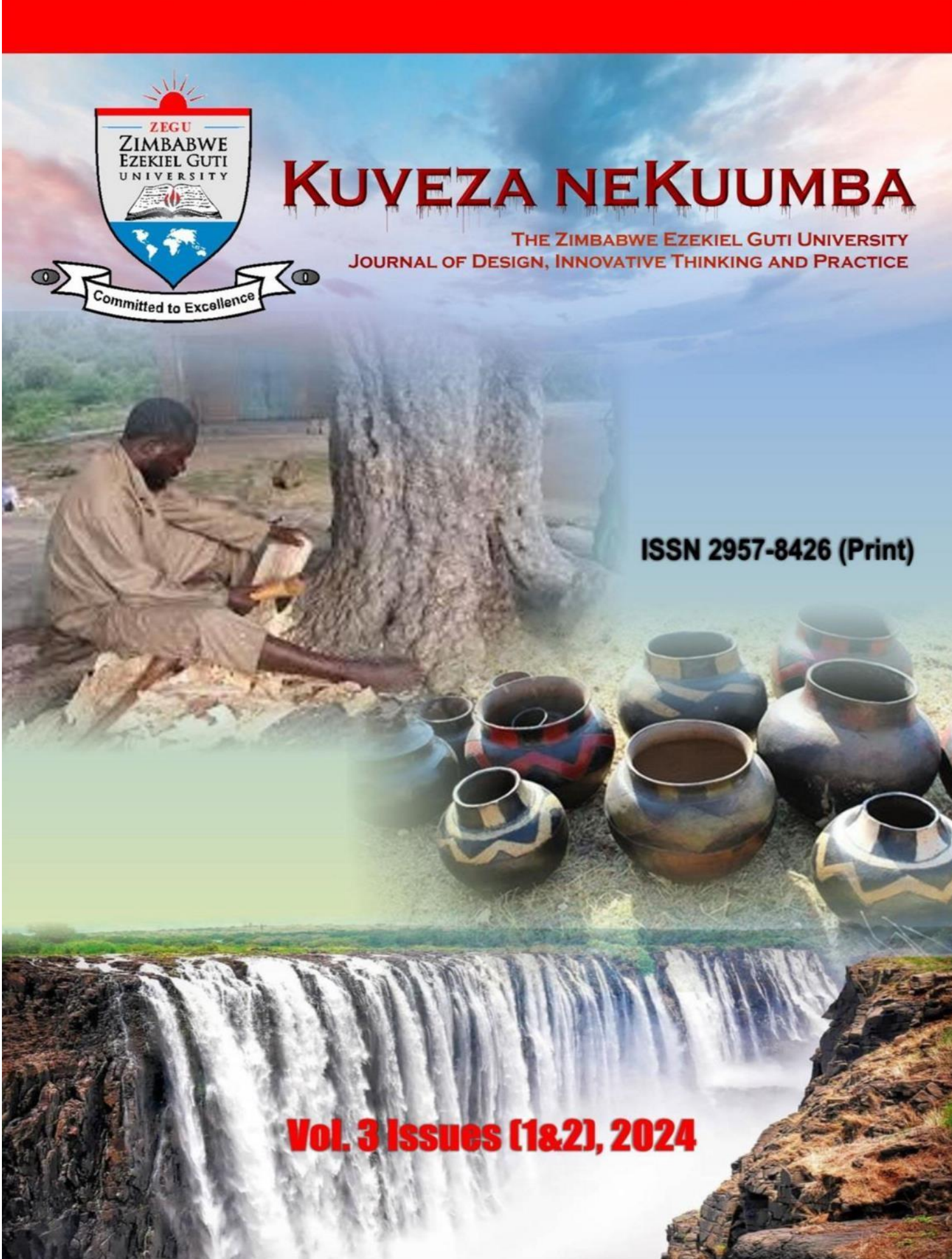


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The purpose of the *Kuweza neKuumba - Zimbabwe Ezekiel Guti University Journal of Design, Innovative Thinking and Practice* is to provide a forum for design and innovative solutions to daily challenges in communities.

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Planners, engineers, social scientists, business experts, scholars and practitioners from various fields.

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Abstract: must be 200 words

Keywords: must be five or six containing words that are not in the title

Body: Where the authors are more than three, use *et al.*, Italicise *et al.*, *ibid.*, words that are not English, not names of people or organisations, etc. When you use several authors confirming the same point, state the point and bracket them in one bracket and ascending order of dates and alphabetically separated by semi-colon e.g. (Falkenmark, 1989, 1990; Reddy, 2002; Dagdeviren and Robertson, 2011; Jacobsen *et al.*, 2012).

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Wildlife Conservation and the Law under the Impact of Climate Change in Zimbabwe

MARKNOUGHLER CHIPETIWA¹ AND NOAH MARINGE²

Abstract

The inarticulate major premise of the article is to examine the role of wildlife conservation in mitigating the impact of climate change. This article is premised on the foundation that wildlife plays a pivotal role in mitigating climate change. Since the beginning of time, humans have regarded wildlife as a means to an end. However, in the fight against climate change, there is need for a significant shift of the human mindset as wildlife is important in fighting climate change. This article discusses the effects of climate change, especially on wildlife and also how wildlife can contribute to mitigating climate change in Zimbabwe. It seeks to show how the law can be used as an instrument to protect wildlife threatened by the impact of climate change. The article focuses on wildlife conservation and the law under the impact of climate change in Zimbabwe. The study will show the current legal regime relating to wildlife conservation and determine whether the prevailing laws are sufficient to deal with wildlife conservation, especially under the impact of climate change.

Keywords: legal provisions, climate variability, policy, management

INTRODUCTION

The modern world is battling with the phenomena of climate change. Climate change has been a phenomenon since time immemorial. Human activities such as the burning of fossil fuels and agricultural activities leading to the production of greenhouse gases have been linked with climate change. The effects of climate change are being felt in the current contemporary world. Climate change has had various effects on the global environment such as frequent droughts, increases in rainfall from tropical cyclones and rampant wildfires. Wildlife has been directly affected by climate change as it affects the natural environment of the wildlife and wildlife must adapt to suit the changing environment. This has led to diseases, death, increased migration of wildlife and a decrease in wildlife reproduction, just to mention a few. The law is of paramount importance in regulating human conduct. The law has been instrumental in wildlife conservation by regulating human conduct towards wildlife. This is the reason for laws that criminalise conduct that endangers wildlife. It is the inarticulate major premise of this article to determine how the interplay of wildlife conservation and the law can be used against climate change. Therefore, this article discusses the role of wildlife conservation and the law under the impact of climate change in Zimbabwe.

CONCEPTUAL FRAMEWORK

DEFINITION OF KEYWORDS AND CONCEPT

Keywords identified in this study are wildlife, wildlife conservation, law, climate change and the impact of climate change. Wildlife refers to animal and plant species occurring within natural ecosystems and habitats (Protocol on Wildlife Conservation and Law Enforcement, 1999). In this study, wildlife is restricted to undomesticated animals and plants in their natural habitat. Wildlife includes animals, birds and insects that live on their own in the natural environment. Wildlife conservation is the protection, maintenance, rehabilitation,

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restoration and enhancement of wildlife and includes the management and use of wildlife to ensure the sustainability of such use (Schmitz, 2023).

The law refers to a set of rules and regulations that govern human conduct and other societal relations and is enforceable by the state (Madhuku, 2010). The law, in this case, is seen as a medium which can be used to mitigate the effects of climate change towards wildlife conservation. The law is regarded as a social catalyst for reform. Climate change means a change of climate attributed directly or indirectly to human activity that alters the composition of the global atmosphere and is in addition to natural variability, observed over comparable periods (United Nations Framework Convention on Climate Change, 1992).

The impact of climate change means adverse changes in the physical environment or biota which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or the operation of socioeconomic systems or on human health and welfare. The impact of climate change will be focused on the effects of climate change such as increased global temperatures and changes in rainfall and wind patterns (*ibid.*).

RESEARCH METHODOLOGY

The desk research methodology was used since there was no need to conduct physical research such as interviews and questionnaires. The study made use of secondary information such as textbooks, online articles and publications. Legislation, international conventions, case law and newspaper articles were used as sources of information.

LITERATURE REVIEW

The world's wildlife population has declined significantly in the last century. On average, wildlife numbers declined by 68% between 1997 and 2016 (Chami *et al.*, 2020). Causes of the wildlife decline include exponential human population growth, increasing livestock number, declining rainfall and a striking rise in temperature, but the fundamental cause seems to be policy, institutional and market failures (Ogotu *et al.*, 2016). If such a state of affairs is allowed to continue in the next 50 years, there will be no wildlife to talk about in this world.

The New York Times (Rogers, 2015) reported the killing by Andrew Palmer, an American dentist, of Cecil the iconic blackmaned alpha male lion from Hwange National Park and this sparked debate on the issue of trophy-hunting. Cecil is just part of the statistics as a vast number of animals are killed due to trophy-hunting in Africa. From a disinterested perspective, trophy-hunting can be a source of revenue for economically less developed countries such as Zimbabwe. However, the reality is that trophy-hunting is significantly contributing to the wildlife population decline in Africa. The population of African lions has markedly declined as research shows that there has been a decline of 75% over the last five decades (Loveridge *et al.*, 2022).

The African elephant is being threatened by severe poaching. It is estimated that more than 25 000 elephants were poached in 2011 (Convention on International Trade in Endangered Species of Wild Fauna and Flora, 2011). Even if the current onslaught of poaching stopped, viable populations of *in situ* wildlife in Africa will not survive due to habitat loss. Habitat loss is an African wildlife silent killer (Fitzgerald, 2015). Plants are also part of wildlife. The importance of plants in the natural ecosystem is underestimated. Plants are key for food and habitat that they provide. Plants are key in the purification of air. The world is recording significant declines in plant populations. Half of Britain and Ireland native plants have declined in the past 20 years (Horton, 2023).

Climate change and biodiversity crises are not separate issues and the restoration of animal populations should be included in the scope of nature-based climate solutions. Rewilding

animal populations to enhance natural carbon capture and storage is known as animating the carbon cycle (Cromsigt *et al.*, 2018). Wild animals play a critical role in controlling the carbon cycle in terrestrial freshwater and marine ecosystems through a wide range of processes, including foraging, nutrient deposition, disturbance, organic carbon deposition and social dispersal. The dynamics of carbon uptake and storage fundamentally change with the presence or absence of animals (Schmitz *et al.*, 2023). This shows that wildlife is key in reducing climate change and there is need to fight climate change through nature-based solutions such as rewilding.

Wildlife is crucial in fighting climate change. This can be seen by wildlife such as African forest elephants helping reduce carbon by trampling smaller aggressive growing plants and allowing slower-growing trees to become well established and grow taller and such trees store more carbon from the air than smaller trees (*ibid.*). The African forest elephants have been nicknamed the ‘_Gardeners of the Congo’. African forest elephants also been termed ‘_environmental engineers’, are providing \$150 billion worth of carbon capture services every year (Chami *et al.*, 2020).

IMPORTANCE OF WILDLIFE CONSERVATION

Wildlife has existed since the beginning of time. Biblical reference shows that wildlife existence predates the creation of human beings (King James Version, 1769). Humans and wildlife have existed together since creation. Wildlife is usually sought by humans for skins, horns and as a source of food. As human needs increased, wildlife has been diminished as these needs have to be satisfied at all costs. The major cause of wildlife destruction is the conversion of natural wildlife habitats into agricultural land and related infrastructure. Vast tracks of forests are being cleared to pave way for human settlement.

Wildlife plays an important role in the existence of human beings. Wildlife is crucial in the maintenance of ecological balance and biological diversity. The term ‘_biological diversity’ means the variability among living organisms from all sources, *inter alia*, terrestrial, marine and other aquatic ecosystems, and the ecological complexes of which they are part. This includes diversity within species, between species and of ecosystems (Convention on Biological Diversity, 1993).

The Convention on Biological Diversity echoes the importance of biological diversity in the economic and social life of human beings. Wildlife plays a key role in biological diversity through processes such as pollination, seed dispersal and decomposition. Wildlife is an asset in biological diversity as can be seen by the way some animals prevent overpopulation in an ecosystem. Herbivores are crucial to biodiversity as they help plant reproduction. Carnivores, on the other hand, are crucial in keeping herbivore populations in check. Decomposers and scavengers are key in breaking down dead organic matter.

Wildlife plays an important part in most countries’ economic activities through wildlife tourism. Wildlife tourism can be a catalyst for community development and benefit rural communities by stemming rural-urban migration. Wildlife tourism facilitates investments in infrastructure and livelihood opportunities in rural areas, increases demand for agricultural and artisanal goods, employs and empowers women and provides an economic incentive for conservation for communities living alongside wildlife (World Bank, 2018). It is estimated that 80% of trips to Africa are for wildlife watching, making it the most important tourism segment in the region (United Nations Trade World Organisation, 2015).

It is of paramount importance to note that wildlife conservation and climate change are seen as different issues in most cases, but both are intrinsically connected. Fighting climate change positively saves wildlife across the world and while wildlife conservation helps in

dealing with climate change. Humans should be aware of the logical fact that climate change harms the very existence of human beings and also wildlife. Ironically, humans and wildlife now have a mutual enemy as the survival of wildlife is key to fighting climate change and, hence, humans have to be the custodians of wildlife.

IMPACT OF CLIMATE CHANGE AND WILDLIFE

The impact of climate change is being felt across all facets of the human existence. The ozone layer is being depleted by greenhouse gases. Temperatures are increasing, leading to the world being warmer. Glaciers are melting resulting in increased sea levels. Droughts are now frequently more prolonged and severe. Wildlife, which has since time immemorial been under human threat, is now suffering a double jeopardy as wildlife is now also being affected by the impacts of climate change.

The rising of global temperatures negatively affects vegetation and water. Wildlife is affected by the changes in temperatures. Herbivores, which depend on the plants, lose their primary source of food. Once there is a problem in any part of the ecosystem, the whole ecosystem is affected. Water challenges in an ecosystem affect the whole ecosystem. Animals require drinking water and any shortages will be detrimental. In 2019, it was reported that 55 elephants had died in Zimbabwe at watering holes showing that such elephants would have walked a great distance to access the water (Al-Jazeera, 2019). In the year 2022, hundreds of animals died in Kenya preserves as a result of lack of food and water (France24, 2022) This shows that the impacts of climate change are being felt by wildlife significantly.

Most rural communities in Zimbabwe are now battling with the issue of human-wildlife conflict as wild animals are coming into their communities scavenging for food and water. In Kariba, it is common to find elephants and zebras in human settlements (Svotwai *et al.*, 2007). Thus, from this, it can be deduced that there is now increased human-wildlife conflict due to climate change. Humans and wildlife are now in fierce competition for resources required for both their survival such as food and water. Wildlife that finds itself in human settlement is killed in most cases, leading to further losses of wildlife.

In Mberengwa District, hyenas invaded local communities and decimated donkeys, goats and cattle, leading to the impoverishment of the affected people (Ndlovhu, 2023). In November 2020, it was reported that an elderly man had been killed by a pack of hyenas after they pulled him from his bed while sleeping in Chirumanzu central Zimbabwe (Kolirin, 2020). Climate change has had a significant impact on wildlife reproduction (Pilakout, 2023). The shifts in season affect the reproduction of wildlife as some animals can reproduce only during wet seasons and others in dry seasons. As such, the shifts in the weather greatly affect the reproduction of wildlife leading to a decrease in wildlife population. Due to climate change, heat waves have become normal. Heat stress can affect all aspects of reproduction, including gamete development, fertilisation success, parental care and offspring survival (Pilakout, 2023). The net effect of reduced reproduction of wildlife is that there will be an inevitable wildlife population decline.

Wildfires are caused mostly by increased temperatures and heat waves (Chinembiri, 2022). Wildfires harm wildlife habitats and, as such, fires consume large areas of forests which are the primary habitats for wildlife (Chinematira, Mtetwa, Nyamadzawo, 2016). The direct effects of wildfires can be seen through the high mortality of animals, especially slow-moving animals through flames and smoke. Once animals lose their natural habitats, they become vulnerable to starvation and predation.

Emerging infectious diseases are now on the rise due to climate change and wildlife is on the receiving end. Increases in temperature and humidity affect wildlife and make them

susceptible to infectious diseases. The danger of infectious diseases, such as Sars and influenza, is that they are easily communicable to humans..

Through wildlife migration, infectious diseases are easily transmitted from one geographical location to another. The diseases contribute massively to the death of animals causing an increase in wildlife population decline. Wildlife cannot be immunised or vaccinated against infectious diseases as can be done for humans. In 1994, a climate change-linked canine distemper virus (CDV) decimated a third of the lion's population in the Serengeti National Park in Tanzania (Yong, 2008).

THE FUNCTIONS OF LAW IN SOCIETY

Laws have been in existence since time immemorial. The emergence of the law can be traced back to creation. All human societies have had laws in one form or another. The law qualitatively changed as societies progressed in the course of history. Then, the law was primitive in communal societies. However, it progressed qualitatively over time and the law in the modern world is sophisticated. The major function of the law has been to preserve law and order (Madhuku, 2010). It is propounded that without law, the society would break into unprecedented chaos and anarchy. It is propagated that society is much safer and more civilised through the medium of the law. Without law, it would be survival of the fittest.

The development of the law has been linked to the rise of private property (Marx and Engels, 1847). It is argued that in primitive societies, the law was less developed as all affairs of the society were communal. In a communal setup, there was no private property and the resources and means of production were all shared. This changed drastically with the introduction of private property. There was no great need for law to protect those with private property. The law changed from being communal to protecting the interests of those with property (Marx and Engels, 1848). This theory is evidenced by the way the law has been protecting a particular group at all stages of human development, from feudalism to modern-day capitalism. During the feudal period, the law protected feudalism. In the slave era, the law protected the slaves. Colonialists were also protected through the medium of the law. In the modern-day capitalist era, the law favours capitalism.

The law has also been seen as a function to oppress certain groups in society (Engels and Marx, 1848). Radical feminists argue that the law has been a means to promote patriarchy since the historical defeat of matriarchy. This argument is given life by how the law has historically oppressed women systematically (Thomas, 2021) It was only in 1920 that there was women's suffrage in the United States (United States Constitution, 19th Amendment). In South Africa, the law was used to entrench apartheid, a system that legitimised racial segregation resulting in political, economic and social domination of native South Africans by the white minority population (Constitution of Republic of South Africa, 1988).

THE LAW AND WILDLIFE CONSERVATION UNDER THE IMPACT OF CLIMATE CHANGE

The law can be used as a positive tool in the fight for wildlife conservation under the impact of climate change. The law is useful in setting standards for wildlife conservation. It is submitted that the law is reactionary in most cases and comes into play only after a problem has emerged. Most laws are promulgated to deal with a particular mischief. This can be seen by the way governments reacted to the global Covid-19 pandemic and set out laws to mitigate its effects.

It is submitted that the law has not responded swiftly to the worldwide reality of climate change. The law has been silent on wildlife conservation under climate change. As such, there is a gap in the law concerning wildlife conservation. The laws on wildlife conservation with

particular attention on the impact of climate change are not enough or do not exist at all. There is need for the law to react to and address the challenges being actuated by climate change so that wildlife protection and conservation can be possible. The way the law may prescribe the amount of carbon content being released to mitigate the depletion of the ozone law, is the same way the law should have measures in place to protect wildlife under the impact of climate change.

In Zimbabwe, the Parks and Wildlife Act [Chapter 20:14] commenced on the 1st of November 1975. This is the principal legislation on wildlife in Zimbabwe. It is important to note that this piece of legislation was promulgated during the colonial era. During this historical period, there were no international legal instruments on wildlife conservation and climate change.

The prevailing international instrument dealing with wildlife in 1975 was the Convention on International Trade in Endangered Species (CITES) (1975), which was meant to ensure that international trade in species would not threaten the survival of such species. The CITES does not make any reference to species being endangered by climate change. The spirit of the CITES probably informed the text of the Parks and Wildlife Act. It is important to note that the Stockholm Declaration (1972) focused only on the environment and did not pay special attention to wildlife and climate change.

It was only in the early 1990s that the world started realising that the natural environment was changing due to climate change. The world was caught unprepared. The Rio Declaration and the United Nations Framework on Convention on Climate Change (UNFCCC) (1992) were internationally promulgated. The Convention on Biological Diversity (1993) was targeted at biodiversity and not specifically related to climate change and wildlife conservation.

The Paris Agreement (2015), also known as the Paris Accords, is an international treaty under the UNFCCC, which is concerned with mitigation of climate change effects such as reduction of carbon and temperatures. Zimbabwe is a signatory to the Rio Declaration, the UNFCCC, the Convention on Biological Diversity and the Paris Agreement. Zimbabwe is a dualist state and all international treaties have to be signed first at international level and then domesticated in Zimbabwe through an Act of Parliament (Constitution of Zimbabwe, 2013).

The Protocol on Wildlife Conservation and Law Enforcement was promulgated by the Southern African Development Community (SADC). Zimbabwe is a signatory to this Protocol. However, the Protocol has not been made law in Zimbabwe. The thematic concern of this Protocol was to establish a common framework for the conservation and sustainable use of wildlife in Southern Africa. This was a positive Protocol as far as wildlife is concerned, but it did not pay attention to how climate change was affecting wildlife conservation. This was a significant drawback given that the greatest threat to wildlife, alongside humans, is climate change. The UNFCCC had already shown how climate change was a reality and affecting the world and, as such, the Protocol ought to have recognised the issue of climate change. This shows that climate change was not regarded as an issue in Africa from the onset. The effects of climate change which are now being felt more in this day were present two decades ago.

Apart from the Parks and Wildlife Act, the Environmental Management Act [Chapter 20:27] is also another principal legislation that is concerned with the environment. The Environmental Management Act, despite being promulgated in 2002 and being amended in 2004 and 2006, fails to acknowledge climate change. This is a significant drawback of the Act. Equally important is that the Act does not concern itself with wildlife conservation.

Not to escape mention is the Forestry Act [Chapter 19:05], which came into force on the 9th of December 1945. This piece of legislation is supposed to be the one dealing with the

conservation of forests in Zimbabwe. Forests are important because they are the natural habitats for wildlife. The conservation of forests is key for the preservation and conservation of wildlife. The Forestry Act is silent on climate change and wildlife conservation.

There is an international legal framework focused on climate change as can be seen from the UNFCCC and Paris Agreement.

The international community has responded swiftly to the issue of climate change. The international community is now aware of the fact that there is great need to take urgent action against climate change. In as much as the international community has been alive to the reality of climate change, there has not been much emphasis on wildlife conservation under climate change. Wildlife has not been given full attention, yet it is key in fighting climate change.

At a municipal level, there is no legal framework to deal with climate change. The legal regime in Zimbabwe does not refer to climate change at all. The conventions, protocols and declarations that have been held and made at an international level, have not been made part of the municipal law. There is great need for having these international instruments made part of the Zimbabwean law for purposes of enforcement. The effects of climate change are being felt in Zimbabwe and there is no justification why there should not be urgent action to be taken in the fight against climate change.

The legal regime dealing with wildlife conservation in Zimbabwe is limited. The Parks and Wildlife Act is outdated. The Act does not have any provisions on the impact of climate change. It does not have sufficient provisions for wildlife conservation. At the time the Act came into force, the prevailing concern was to reduce the destruction of wildlife by human beings and hence the criminalisation of specific acts. The greatest modern-day threat wildlife is facing is climate change. Most wild animals in Zimbabwe are dying because of drought and diseases. Gone are the days when poaching used to be a major threat to animals.

It is interesting to note that the Act defines wildlife as all forms of animal life, vertebra or invertebrates, which are indigenous to Zimbabwe and the eggs or young thereof, other than fish. Under this definition, plants are not defined as wildlife and such is incorrect. There is need for the amendment of the Parks and Wildlife Act so that it has a proper working definition of the phrase 'wildlife'.

The legal regime must be sensitive to the plight of wildlife, especially when it comes to climate change. Wildlife is particularly vulnerable to the effects of climate change. There is need for laws to deal with the conservation of wildlife under the impact of climate change. Law reform can be done through criminalising the commercial sale of wild fruits and wild plants. Humans are making profits through wildlife, while wild animals are suffering due to a lack of food. It should be noted that wild animals are protected only when they are in national parks and once they are outside such boundaries, they are no longer protected. This is how Cecil the iconic lion was killed. Thus, there is need for law reform in this area so that the law is clear on that hunting wild animals, even outside game reserves and national parks, is a criminal offence.

The Parks and Wildlife Act does not have enough financial provisions. For the Act to be administered efficiently, there is need for a Wildlife Fund to be established in the same way the Environmental Management Act creates an Environmental Fund. A Wildlife Fund will then cater for the provision of food and water for wildlife during periods of drought and also veterinarian provisions in cases of diseases.

A Wildlife Fund will also capacitate the Parks and Wildlife financially so that it can have the necessary personnel and equipment. The issue of wild animals escaping can be minimised if there is funding as this can be used to adequately fence parks and protected areas. If there is enough funding, technology can be used through the use of CCTVs and wildlife animal tagging. Rhinos can be saved from poaching through de-horning as dehorned rhinos are not targeted by poachers. Such a process requires funding and hence the need for the law to enable the establishment of the Wildlife Fund. As of this day in Zimbabwe, wildlife protection is dependent on donor funding. The challenge with donor funding is that it is not sustainable as such funding can be withdrawn, hence the need to have a specific Wildlife Fund.

The major challenge wildlife is facing is the loss of their natural habitat. Vast tracks of land are being cleared to pave way for agricultural activities and human settlement. Human settlements are being created in forests and mountains which are the traditional habitats of wildlife. Wildlife is being displaced from its natural habitat. It is important that before such land is cleared, there be a wildlife impact assessment to consider if such human developments will not affect wildlife and if the same is affected, how best the situation can be ameliorated.

Thousands of wildlife perished during the construction of Lake Kariba (Svotwa, 2007). This could have been easily prevented if there had been a wildlife impact assessment. The wildlife impact assessment can be a provision that is inserted into the Parks and Wildlife Act. The importance of a wildlife impact assessment is that it protects humans settled in traditional animal habitats who are sometimes at the mercy of wildlife such as snakes. Human-wildlife conflicts have been induced by climate change. Wildlife and human beings are now competing for scant resources. Due to limited pastures, communal farmers are now trespassing into parks and protected areas for grazing land. On the other hand, wild animals are now straying into communal areas for food and water. There is need for laws that specify areas for human settlement. Areas close to parks and wildlife should be reserved to prevent human-wildlife conflict.

CONCLUSION

Climate change is a reality. The world is feeling the impact of climate change. Wildlife is especially vulnerable to climate change. There is a significant wildlife decline been actuated by climate change. The climate change and biodiversity crises are interlinked. Wildlife can be used as a tool to combat climate change. There is need for law reform so that the legal regime dealing with wildlife is sensitive to the plight of wildlife under the impact of climate change. The current legal regime as alluded to above, is outdated and does not provide for the protection and conservation of wildlife.

References

- Al-Jazeera (2019). Zimbabwe Says 55 Elephants Died from Starvation after Drought. AlJazeera 22 October 2019. Available online: <https://www.aljazeera.com/news/2019/10/22/zimbabwe-says-55-elephants-died-from-starvationafter-drought>.
- Brake, D. *et al.* (Eds/) (2023). *The Oxford Handbook of Feminism and Law in the United States*. Online (edn), Oxford Academic 9 June 2021. Available online: <https://doi.org/10.1093/oxfordhb/9780197519998.001.0001>.
- Chami, R. *et al.* (2020). On Valuing Nature Based Solutions to Climate Change: A Framework with Application to Elephants and Whale. Economic Research at Duke Working Paper 297, Duke University Durham. Available online: <https://scholars.duke.edu/publication/1471371>.
- Chinamatira, L., Mtetwa, S., Nyamadzawo, G. (2016). Causes of Wildland Fires, Associated Socio-economic Impacts and Challenges with Policing in Chakari Resettlement Area, Kadoma. Available online: scholar.archive.org/work/nhkctrsg7fgttglmgesj6sajra.
- Cohen, J. *et al.* (2010). *Marx and Engels' Collected Works*. London: Lawrence and Wishart.
- Chinembiri, V. (2022) Did Hot Tempers Ignite a Rise in Wildfires? *Global Press Journal*, 23 March 2023. Available online: <https://globalpressjournal.com/africa/zimbabwe/hottempers-fueling-wildf>.
- Constitution of the Republic of South Africa (1988). Available online: https://www.gov.za/sites/default/files/gcis_document/201505/act-43-1988.pdf.
- Cromsigt, J. *et al.* (2018). Tropic Rewilding as a Climate Change Mitigation Strategy? *Phil Trans R. Soc* B3732017044020170440. Available online: <http://doi.org/10.1098/rstb.2017.0440>.
- Fitzgerald, K. (2015). The Silent Killer of Africa's Wildlife. African Wildlife Foundation. Available online: <https://www.awf.org/blog/silent-killerafricas-wildlife>.
- France 24 (2022). Hundreds of Animals Die in Kenya Wildlife Preserves amid Region's Worst Drought in Decades. France24, 5 November 2022. Available online: <https://www.france24.com/en/africa/20221105-hundreds-of-animals-die-in-kenyanwildlife-preserves-amid-region-sworst-drought-in-decades>.
- Kolirin, L. (2020). Hyenas Dragged a Man from his Bed and Mauled Him to Death. CNN, 20 November 2020. Available online: <https://edition.com.cnn.com/2020/11/20africa/hyenas-kill-man-scli-intl/index.html>.
- Loveridge, A. *et al.* (2022). Where Have All the Lions Gone? Establishing Realistic Baselines to Assess the Decline and Recovery of African Lion Diversity and Distributions. Available online: <https://doi.org/10.1111/ddi.13637>.
- Madhuku, L. (2010). *An Introduction to Zimbabwean Law*. Harare: Weaver Press.
- Marx, K and Engels, E. (1848). Manifesto of the Communist Party. Available online: <https://www.marxists.org/archive/marx/works/1848/communist-manifesto>.
- Ndlovhu, V. (2023). Hyenas Cause Havoc in Mberengwa. *The Sunday News*, 28 January 2023. Available online: <https://www.sundaynews.co.zw/hyenas-cause-havoc-inmberengwa>.
- Ogutu, J. *et al.* (2016). Extreme Wildlife Declines and Concurrent Increase in Livestock Numbers in Kenya: What are the Causes? Available online: <https://repo.mel.cgiar.org/handle/20.500.11766/5635>.
- Pilakouta, N. *et al.* (2023). The Consequences of Heatwave for Animal Reproduction are Timing-dependent: British Ecological Society. Available online: <https://www.semanticscholar.org/paper/Theconsequences-of-heatwaves-for-animal-are-Pilakouta>.

- Riedy, C. (2016). Climate Change. *Blackwell Encyclopaedia of Sociology*. Blackwell. Available online: https://books.google.co.zw/books/about/The_Blackwell_Encyclopaedia_of_Sociology.html.
- Rogers, K. (2015). American Hunter Killed Cecil, Beloved Lion Who was Lured out of his Sanctuary. *New York Times*, 28 July 2015. Available online: <https://www.nytimes.com/2015/07/29/world/africa/american-hunter-is-accused-ofkilling-cecil-a-beloved-lionin-zimbabwe.html>.
- Schmitz, O., Sylven, M. and Atwood, T. (2023). Tropic Rewilding Can Expand Natural Climate Solutions. Available online: <https://doi.org/10.1038/s41558-023-0163>.
- Southern Africa Development Cooperation Protocol on Wildlife Conservation and Law Enforcement (1999). Available online: <https://www.sadc.int/document/protocolwildlifeconservation-and-law-enforcement-1999>.
- Svotwa, E. *et al.* (2007). Residents Perception of the Human/ Wildlife Conflict in Kariba Urban. *Journal of Sustainable Development in Africa*. Available online: https://jsdafrica.com/Jsda/V9N2Summer2007/ARC_ResidentsPerception.pdf.
- United Nations Framework Convention on Climate Change (1992). Available online: https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf.
- United Nations World Tourism Organisation (UNWTO) (2015). Towards Measuring the Economic Value of Wildlife Watching Tourism in Africa- Brief Paper. Available online: <https://sustainabledevelopment.un.org/org/content/documents/1882unwtowildlifepaper.pdf>.
- World Bank (2018). Supporting Sustainable Livelihoods through Wildlife Tourism. Available online: <https://documents1.worldbank.org/curated/en/494211519848647950/pdf/123765WP-Revised-Public.pdf>.
- Yong, E. (2008). Lions Killed by Perfect Storm of Changing Climate, Virus and Parasites. Available online: <https://www.nationalgeographic.com/science/article/lions-killed-by-perfect-storm-of-changing-climate-virus-and-parasites>.
- Zenda, C. (2022). Fairplanet Human-Wildlife Conflicts Soar so do Calls for Compensation. Available online: <https://www.fairplanet.org/story/as-human-wildlifeconflicts-soar-so-do-calls-for-compensation>.

Who Makes a Good Ward Councillor? The Ongoing Debate on The Local Government System in Zimbabwe

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Abstract

This article examines the role of councillors as overseers, representatives of the electorate and policy-makers in Zimbabwe's urban local authorities using document analysis and key

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informant interviews with local government experts and former ward councillors. The study unpacks the criteria set in legislation and the Constitution of Zimbabwe Amendment (Number 20) Act of 2013, examines the role of councillors within local authorities, the residents' expectations of ward councillors and concludes with debates on the minimum educational requirements for councillors. Councillors play three critical roles, those of policy-making, representation and oversight, as well as facilitating community development within their respective wards. The study scrutinises the criteria required for one to effectively deliver in their role as ward councillor. To have an appreciation of the functions of a councillor and the criteria needed to be more effective and efficient, the article highlights the key functions of the local authority as the institution through which councillors conduct their work to meet social service delivery needs of the citizens.

Keywords: local authority, democracy, criteria, electorate

INTRODUCTION

This article examines the criteria for election into the office of ward councillor in Zimbabwe based on the provisions of the Electoral Act (Chapter 2.13) and the Urban Councils Act (Chapter 29.15), the UCA. In the Zimbabwean context, most councillors are initially chosen through political party-driven primary elections, where various interested candidates from the same political party compete against each other with one emerging as the winner to represent the party against candidates from other political parties in harmonised elections. For one to be chosen as the winner, the political parties allow everyone interested to contest to stand in the primary elections without any limitations based on education, experience or record of service to the people but based on popularity and loyalty to the political party.

However, the role of a ward councillor is beyond popularity and loyalty to one's political party leaders. It remains a critical determinant of the success or failure of a local authority in meeting service delivery needs of the electorate. When elected into office, councillors find experienced and more knowledgeable bureaucrats leading the various council departments, which sometimes breeds conflict between them. It is mostly after councillors are in office that the electorate begins to ask critical questions about the competence and experience of individual councillors, service delivery, project priorities, resource allocation, strategic planning, budget formulation and recruitment of key personnel. Therefore, for one to be a ward councillor, they simply have to meet the criteria set in the Electoral Act and the UCA.

What qualifications should one possess to be an effective and efficient councillor? The Harare Residents' Trust (HRT) in 2013 and 2018 reiterated calls for the government to set up a definite criterion in the election of councillors. This did not succeed and the status quo remains. There have been efforts to introduce minimum academic and professional qualifications by the government of Zimbabwe (Murwira, 2023). The Zimbabwe Cabinet received, debated and approved principles of the Rural District Councils Amendment Bill which sought, among other things, to fix the qualifications of councillors for local authorities in Zimbabwe. Shumba and Zinyama (2013) argue that the more experienced bureaucrats within local authorities manipulate the inexperienced, and sometimes naïve, councillors for their benefit. The authors, therefore, propose a minimum educational qualification as the best way to improve the quality of policy-makers in local authorities. They concluded that the Zimbabwe political system has let down the people by allowing the political party system to dictate who becomes a councillor, instead of setting a meritocratic system to elect a mayor and councillors to enhance service delivery.

Traditionally, Zimbabweans vote for political party-selected candidates, making them passive voters who are not necessarily involved in the selection of the candidates by the political parties in the first place.

There were significant changes to the local government system after independence in 1980. The Urban Councils Act (Chapter 214) was repealed and replaced by the Urban Councils Act (Chapter 29:15) in 1997. The changes ushered in the executive mayors directly elected by residents. Maybe concerned with the quality of policy and decision-making among councillors, the government of Zimbabwe inserted a section in the Local Government Amendment Laws of 2008 that allowed for the election of one of the councillors or another person from outside council to be elected by the councillors as mayor of a city or a municipal council, abandoning the executive mayors. Former Harare mayors Advocate Muchadeyi Masunda and Bernard Manyenyeni bemoaned the functional illiteracy of most councillors in Harare (Razemba, 2015).

However, this changed in 2008 ahead of the harmonised elections, returning to the period of ceremonial councillors and mayors (Parliament, 2008). Section 274(5) of the Constitution of Zimbabwe of 2013 states that an Act of Parliament may confer executive powers on the mayor or chairperson of an urban local authority, but such a mayor or chairperson should be directly elected by registered voters. The assumption is that executive mayors wield more executive authority to supervise and preside over the affairs of their respective local authorities. In this article, the focus is on the criteria for one to be a ward councillor, therefore the executive mayoral position is not thoroughly investigated.

Before the 1997 amendments to the UCA, one was required to be a property owner, above the requirements of being registered as a voter in the ward one is interested in and be 21 years of age and above. While this study argues for a set of minimum academic qualifications for one to be elected as a ward councillor, there is another school of thought that posits that having academic qualifications alone is insufficient to make one a successful councillor. Democracy promotes inclusivity and even uneducated policy-makers can articulate the aspirations of their constituents.

CONCEPTUAL FRAMEWORK

The electorate elects into office their ward councillor from among a host of candidates presented by political parties. Other candidates contest as independents to represent the electorate in the local authority ward elections. In this article the focus is on the political party-chosen candidate who contests against candidates from other political parties until one of them emerges as a winner, becoming a ward councillor. A ward councillor is the one directly elected by the electorate to represent a ward within a local authority. This is the smallest unit of representation in Zimbabwe's electoral democracy. There are 1 970 such wards in Zimbabwe.

This study argues that for one to be an effective and efficient councillor within a local authority, they have to have a minimum level of education that enables them comprehend the most basic of council documents in their policy-making, oversight and representative roles.



Figure 1. *Conceptual Framework on Councillors*

As visualised in Figure 1, the election of ward councillors is an inclusive service delivery outcome where the citizens experience positive public goods and services from the local authority. For this to happen, political parties have to adopt and implement transparent, accountable and meritocratic candidate selection processes, thus limiting opportunism in the office of ward councillor. The result is that educated and experienced councillors can develop good corporate governance within the local authority, resulting in inclusive service delivery outcomes.

THEORETICAL FRAMEWORK

The study used the human rights approach, democracy and the rational choice theory in examining the criteria used to select ward councillors and the roles of councillors in Zimbabwe's local authorities. Hausen and Launiala (2015:8) assert that a human-rights based approach has two distinct objectives to achieve which are:

[to] empower people to claim and exercise their human rights and to strengthen the capacity of dutybearers who have a particular obligation or responsibility to respect, protect and fulfil the rights of the poorest, weakest, most marginalised and vulnerable and to comply with these duties and obligations.

The human rights-based approach (HRBA) to development includes civil and political rights and freedoms, as well as economic, social and cultural rights. The HRBA is a lens, through which barriers to development and patterns of discrimination, can be identified, according to Hausen and Launiala (2015). It considers the rights-holders as individuals or social groups that have specific entitlements concerning specific rights. Some duty-bearers are mainly the state and official authorities who have the duty and obligation to respect, fulfil and protect the rights of the citizens.

According to Haugaard (2010:1056), democracy is a –system for moving conflict from coercion to regularised institutional procedures. The contestation for political power by candidates and their political parties is done within a system of conflict containment. The contestation for political power begins within political parties which create the rules and procedures for contestants to fight for majority votes to earn the right to represent the respective political party in the national harmonised elections, in the case of Zimbabwe. When political parties contest for power, they promise to serve the interest of all citizens from whom they seek the mandate to govern. However, in each election, there is only one winner, thus losers and winners can reproduce the democratic system by agreeing to respect the rules of the game of politics. As Haugaard argues (*ibid.*), democracy constitutes a ‘stable decisionmaking process’ anchored on the principle of equality and impartiality, where all contestants and participants are treated objectively as equal stakeholders in the electoral processes.

Cincotta (2007) says that the word 'democracy' is derived from the Greek word *demos* or –people and defines it as a government whose supreme power is vested in the people. He asserts that in small associations or communities, democracy can be exercised directly by the people who make the decisions as a collective whole while in bigger societies like nations, democracy is exercised through representatives chosen by the people to represent them in public policy. Councillors are representatives of the people, elected first through political party primary election systems before they participate in local authority elections conducted by the Zimbabwe Electoral Commission (ZEC) in terms of Zimbabwe's Constitution and electoral and local government laws. Under the governance system of democracy, a set of ideas and principles about the freedom of the people have been developed over a long time through undergoing significant transformation. Citizens within a democracy not only have rights, but also have responsibilities to fully participate in the –political system that in turn protects their rights and freedoms (Cincotta, 2007:3).

In the electoral processes, councillors are thinking beings and in everything that they do in pursuit of their political objectives, they are purposive and considerate. The study uses the rational choice theory propounded by Friedman and Hechter (1988) as cited in Ritzer (2010). According to Ritzer (*ibid.*), actors take action intending to achieve objectives that are consistent with their preferences. However, in taking these actions or decisions, the actors are constrained by the opportunity costs and the scarcity of resources. Ultimately, the behaviours and conduct of potential councillors in their campaigns for political office are influenced by their desire to achieve their political objectives, within their reach and will avoid contestations for political office where their prospects of emerging victorious are slim. This, therefore, helps to explain why council candidates contest elections in the wards that they contest in.

LITERATURE REVIEW

Elections in Zimbabwe are highly contested. Political parties field their preferred candidates, presumably the best among their members. Independent candidates also take part in the elections. However, the majority of the people still vote for political party-chosen candidates. Zimbabwe is dominated by the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF), while the opposition is presently dominated by the Citizens Coalition for Change (CCC). To be elected as a ward councillor in Zimbabwe is a matter of being 21 years of age, being a citizen of Zimbabwe and being a registered voter in the ward being contested.

Citizens of a country have the right to participate freely in the affairs of their government, directly or indirectly through freely chosen representatives, (Organisation of African Unity, 1986:5). This is achieved through legally provided citizen participation where the citizens are provided with the opportunity to elect, in a democratic, free, transparent and credible election, their preferred candidates (Mapuva and Takabika, 2020). The Zimbabwean scenario offers everyone who disqualifies, the opportunity to elect or be elected into public office. Within a democratic state, democracy is government by debate and discussion by the people as opposed to rule by arbitrary will or dictatorship by an individual or a few individuals, (OpuamieNgoa, 2010). This, therefore, shows that the Zimbabwean system provides fundamental freedoms to the citizens to elect councillors of their choice, irrespective of their levels of academic qualifications.

The minimal qualifications of elected councillors are specified in legislation but exclude the requirement for minimum academic qualifications. In research done by the Institute for Democratic

Alternative for Zimbabwe (IDAZIM) in July 2010, they established that one of the major sources of poor performance by local authorities in the country was the lack of competent and experienced technocrats. The situation was worsened by the inexperienced councillors whose policy-making, oversight and representative roles were found wanting in the

formulation of council budgets, development of strategic plans and other important policy documents, (IDAZIM, 2010). These findings are consistent with the earlier research by Jonga (2009) who argues that the high demands on local authorities can be complemented only by councillors with high academic and professional qualifications who could correctly interpret problems faced by people and their development needs.

In their study in assessing the role of councillors in service delivery at the local government level in South Africa, Paradza *et al.* (2010) establish that literate, experienced and skilled councillors performed far much better than those without much experience and education. Despite the South African system not providing for any minimum academic qualifications for one to be a councillor, the majority of councillors are chosen because of their competencies and their capacity to articulate residents' issues. The Municipal Turnaround Strategy that the Ministry of Cooperative Governance and Traditional Affairs launched in 2010 following a review of the state of local governance in South Africa identified internal and external factors that contributed to municipal service delivery problems. They identified the internal factors over which the municipal council had direct influence. These included the quality of decisionmaking by councillors, the quality of appointments within the municipal administration, procurement and financial governance, (Paradza *et al.*, 2010:6). The study's focus on the quality of decisions by the councillors dwells on their academic qualifications, experiences, skills and competences and how this contributed to resolving municipal service delivery challenges.

According to Paradza *et al.* (2010), councillors who previously worked in other professions like teaching, public relations, engineering, municipal and banking, significantly drew from their experiences to enhance the performance of their roles in the council. They said:

For example, a former city engineer felt his understanding of municipal managers enhanced his interaction with municipal management, whilst a councillor who had previously worked as an administrator in the provincial government, felt the experience increased her capacity to understand municipal structures. As there are no minimum qualifications for councillors, it is assumed that councillors can read, understand and analyse the large reports that they are presented with before the Portfolio Committee meetings.

The South African study focused on four municipalities of Khara Hais, Northern Cape Province; Randfontein Municipality, Gauteng Province; Phumelela Municipality, Free State Province; and Madibeng Municipality in the North-West Province, (*ibid.*). In the 2020 study, the Randfontein Municipality Speaker decried the shortcomings displayed by councillors with lower educational qualifications. It was found that they struggled with comprehension of council documents and legislation to perform their work. Councillors with lower qualifications and literacy levels have limited capacity to interrogate council technocrats, scrutinise their work and hold them accountable, (*ibid.*). Council workers are recruited based mostly on their expertise, experience and skills.

In Botswana, there are no academic qualifications required for one to be elected into office as a ward councillor. According to Sharma (2010), the country does not have many experienced and highly qualified people to run their local authorities. However, the Government of Botswana, through the Local Government Service Management (LGSM), focuses on staff in local authorities and is responsible for recruiting, posting, training, transferring, disciplining, promoting and setting the conditions of service, thus making local authorities deconcentrated units (*ibid.*). The competencies and capacities of councillors drawn from political parties leave a lot to be desired (*ibid.*). This has limited the participation of communities and local-level grassroots structures. The Government of Botswana has been involved in increasing the capacity of technocrats in local authorities without similar efforts at developing the capacities of the elected councillors.

METHODOLOGY

The article is based on data collected through a review of literature from South Africa, Botswana and Zimbabwe, the Constitution of Zimbabwe Amendment (Number 20) Act of

2013, the Urban Councils' Act (Chapter 29.15) and the Electoral Act (Chapter 2.13), key informant interviews with participants conveniently selected for their willingness to participate and their availability and because they are experienced and knowledgeable in local government. According to Bowen (2009), document analysis is an important social research tool in its own right, which is useful in triangulation and used in most schemes of triangulation and a combination of methodologies in the study of the same phenomenon.

NUANCING THE EVIDENCE ON THE GROUND TO TRUTHS

The importance of councillors in the life of residents is not reflected in the requirements for one to qualify to be elected as a ward councillor. A thematic approach was used to critically analyse the findings of this research.

QUALIFICATIONS SET IN THE ELECTORAL ACT (CHAPTER 2.13)

According to Section 119 (1) of the Electoral Act (Chapter 2.13), the criteria for one to qualify or be disqualified from being nominated to contest as a council candidate in an election is stated. Subsection (1) states that —Any person who— (a) is a citizen of Zimbabwe; and (b) has attained the age of twenty-one years and (c) is enrolled on the voters roll for the council area concerned; and (d) is not disqualified in terms of subsection (2), shall be qualified to be elected as a councillor. It further states in subsection (2) that one is disqualified, among other reasons, for being a Member of Parliament, having been convicted of dishonesty, or being declared insolvent in the past five years. This makes it very easy to contest as a councillor in Zimbabwe. In a country with high levels of unemployment, one simply needs to be 21 years old, a citizen, a registered voter and without any criminal conviction to qualify for office. Viewed from a democratic perspective, this appears to be inclusive and reasonable.

It is consistent with section 3(b) of the Electoral Act on general principles of democratic elections, which asserts in (i) that every citizen has a right to

—participate in government directly or through freely chosen representatives and is entitled, without distinction on the ground of race, ethnicity, gender, language, political or religious belief, education, physical appearance or disability or economic or social condition, to stand for office and cast a vote freely

Maouva and Takabika (2020) recognise that the Constitution of Zimbabwe, the Electoral Act and the UCA do not provide for any academic qualifications, maybe as a recognition of section 56(3) of the constitution which states that every person has the right not to be treated in an unfairly discriminatory manner on any grounds.

ELECTIONS IN LOCAL AUTHORITIES

For the past decade, Zimbabwe had 1 958 wards covering 60 rural and 32 urban local authorities until the 2023 delimitation exercise, which increased the number of wards to 1 970. Councillors, Members of Parliament, Senators and the President come into office through elections held simultaneously every five years in terms of the Electoral Act and the Constitution. Local authorities are one of the three tiers of government and are the closest to the people. At the helm of policy-making are councillors, both elected and the 30% women's quota representatives (Government of Zimbabwe, 2023). Beginning on 23 August 2023, 30% of women councillors were chosen based on proportional representation using political party lists to work together with the directly elected ward councillors, according to section 277(4) and (5) of the 2013 Constitution of Zimbabwe.

The last harmonised elections were held on 23-24 August 2023. Zimbabweans voted along political party lines. Councillors are not elected based on their experience or academic or professional qualifications, but on the strength and popularity of their respective political parties. Based on these concerns, one is persuaded to argue that an enlightened policy-maker is easier to train on several aspects of local government than an uneducated councillor. On

the contrary, there is very little evidence to suggest that any particular councillor was elected based on their brilliance, track record or competence other than party affiliation. This trend, therefore, demonstrates that Zimbabweans are a highly partisan people whose electoral choices are either the major opposition or the ruling party, without any scrutiny of the capacities of the elected officials.

RESIDENTS' UNDERSTANDING OF THE ROLE OF WARD COUNCILLOR

Residents understand the role of a ward councillor to be that of a community developer, community representative, policymaker and one who oversees the work of council workers. It is the community development role that is most prominent in the view of the majority of residents. When evaluating the performance of a councillor, residents talk about tangible projects and other deliverables that the respective ward councillor did. Residents endure poor service delivery by local authorities, yet their understanding of the role of councillors remains elusive and unclear. They expect councillors to make a difference and improve their quality of life. Therefore, it suggests that mere age, citizenship and registered voter criteria do not resolve the challenges facing local authorities in Zimbabwe.

The HRT (2021) asserts that residents are totally confused about the roles of a councillor, especially between being a benefactor to residents and being their representative in the council. Residents expect their councillors to bring tangible community developments and touch individual residents' lives by responding to their practical needs. The councillor is expected to do more than what the law currently provides. An Eastlea resident expects the ward councillor to attend to cultural sites, recreational facilities, provision of social services and low rates for services. This has meant that councillors have to consent to the electorate's demands to get the vote. Once they are voted into office, they forget and neglect the residents. It may not be neglect as such, because the law is silent on the monitoring and evaluation of a councillor in office. However, after the vote, councillors concentrate more on their council committee and full council meetings and they rarely conduct ward feedback meetings, thus making them seem like council workers instead of being representatives of the residents in the council.

Residents observe their councillors changing their lifestyles while their service delivery conditions worsen. The implication is that councillors benefit more as individuals in their positions than improve the living conditions of residents. Therefore, one may conclude that councillors serve their interests mostly when elected into office, instead of representing the interests of residents. From a rational choice theory perspective,⁴ the explanation is that councillors use their positions as a means to an end. They consider getting into office more important than serving the electorate's interests.

FUNCTIONS OF LOCAL AUTHORITIES TO CITIZENS

The Urban Councils Act (Chapter 29.15) allocates 54 duties and powers which urban local authorities can perform in their areas of jurisdiction, as stated in the Second Schedule (section 198). Section 71 of the Rural District Councils Act (Chapter 29.13) confers upon rural local authorities 64 functions where the council may exercise its powers. Like in Botswana, where the central government has superior control of both rural and urban local authorities (Sharma, 2010), the functions of local authorities in Zimbabwe remain subordinate to the national government. Local authorities in Zimbabwe, like in Botswana, are deconcentrated structures of central government. Deconcentration refers to the transfer of authority and responsibility from one central government to another, while maintaining the same hierarchical levels of accountability from local units to the central government agency, department or ministry, (Work, 2002). Local authorities are not autonomous institutions but

⁴ Rational choice theory asserts that all action is rational in character and that people calculate the likely costs and benefits of any action before deciding on what to do. It holds that individuals must anticipate the outcomes of alternative courses of action and calculate what will be best for them.

are dependent on the national government for some fiscal, administrative and policy decisions, (Madhekeni and Zhou, 2012). In terms of the UCA, local authorities are responsible for the provision of water, sewerage reticulation, education at the primary level, cemeteries, swimming pools, housing, roads, street lighting and town planning, among other key roles.

The Constitution of Zimbabwe Amendment (Number 20) Act of 2013 provides more functions for the local authorities in the country. Section 274(1) and (2) state that

—(1) There are urban local authorities to represent and manage the affairs of people in urban areas throughout Zimbabwe. (2) Urban local authorities are managed by councils composed of councillors elected by registered voters in the urban areas concerned and presided over by elected mayors or chairpersons, by whatever name called.¶

Section 274(5) of Zimbabwe's Constitution states that:

—An Act of Parliament may confer executive powers on the mayor or chairperson of an urban local authority, but any mayor or chairperson on whom such powers are conferred must be elected directly by registered voters in the area for which the local authority has been established.¶

Section 276(1) of the constitution states that subject to this constitution and any Act of Parliament,

—a local authority has the right to govern, on its initiative, the local affairs of the people within the area for which it has been established and has all the powers necessary for it to do so.¶

In terms of section 276(2), an Act of Parliament may confer functions on local authorities, including (a) the power to make by-laws, regulations or rules for the effective administration of the areas for which they have been established. The same provision (b) states that local authorities should have the power to levy rates and taxes and generally to raise sufficient revenue for them to carry out their objectives and responsibilities. The constitution gives local authorities so much power as guided by the principles of devolution and citizen participation. In light of these functions, it is most important that whoever is elected by the citizens as a councillor to govern their local affairs, should be competent enough to give value to the investment by the electorate. These functions are executed with the governed's full consent; therefore, the governed have to be informed and knowledgeable about what is involved. While the governing falls largely on the elected officials, the implementation, administration and management of council affairs are done by technocrats who advise policy-makers on the best way forward in decision-making. Arguably, it takes more knowledgeable and vigilant elected officials to play their roles without compromising service delivery.

THE ROLES AND RESPONSIBILITIES OF THE MAYOR, COUNCILLORS AND EXECUTIVE COMMITTEES

In the 1996 edition of the Urban Councils Act (Chapter 29.15), there was provision for the direct election of the executive mayor by registered voters and the appointment of an executive committee to run municipalities and cities. According to section 93 of the 1996 UCA, the functions of executive committees were stated as follows:

—(1) Subject to this Act, the functions of an executive committee shall be— (a) to assist the mayor in the performance of his functions; and (b) to supervise and monitor the organisation, operations and affairs of the council with a view to achieving co-ordination, efficiency and economy and, for that purpose, the executive committee may call for reports from the town clerk and direct him to investigate any matters it considers necessary; and (c) subject to Parts VIII and IX, to appoint and discharge senior officials of the council; and (d) to administer and control the collection of income and the expenditure of moneys by the council; and (e) to supervise the preparation by the town clerk of annual draft estimates of income and expenditure for consideration by the council; and (f) to initiate the making, amendment or repeal of by-laws; and (g) to report to the council on any matter referred to it by the council; and (h) to exercise any other function that the council may delegate to it in terms of subsection (2).¶

The executive committee and the position of the executive mayor were abandoned when the UCA was repealed in 2008 ahead of the harmonised elections. These changes transferred most of council responsibilities to the town clerk of a municipality or city as the accounting officer. Mayors became ceremonial then. Their major function, provided in section 104(1) of the Urban Councils' Act (Chapter 29.15) is that:

—The mayor shall preside at all meetings of the council at which he or she is present and, in the event of an equality of votes on any matter before the council, he or she shall, subject to sections 103(7) and 290(2)(a), have, in addition to a deliberative vote, a casting vote.¶

This was a significant change from the functions assigned to the mayor in the 1997 UCA, which gave mayors sufficient powers to manage their local authorities with more autonomy. They include, but are not limited to, presiding over ceremonial functions and meetings, but also include (a) the supervision and coordination of the affairs of the council concerned and the development of the council area and (b) through the town clerk, controlling the activities of employees of the council concerned. These functions worked with executive committees, which were presided over by the mayors.

WHAT TO EXPECT OF COUNCILLORS?

In interviews with experts, practitioners and residents, there was consensus that for one to be elected as a ward councillor, there must be some agreed educational criteria on who should be allowed to contest in Zimbabwe. Past elections in the country have not yielded councillors who have transformed the lives of residents. This has been attributed largely to the failures of political parties to establish democratic conditions to regulate who gets elected into local authorities as ward councillors.

When asked what in her experience in Zimbabwe's local government system would be the ideal criteria for one to be a good councillor, Erica Jones, a long-time local government bureaucrat and a former chief director in the Ministry of Local Government and Public Works, said the most important thing is that a councillor should occupy a property which demonstrates that they have a vested interest in council working.

—The person should have an income so they do not have the attitude of wanting to earn from council,¶ Jones said.

—The person should be literate because there is a lot to read and research - many council staff manipulate councillors by not giving them all the facts. Therefore, the councillor must check things for themselves. They also have to be able to read and comprehend the law and complex council documents like budgets and by-laws. Unfortunately, most councillors just [rubber] stamp and adopt policies without fully understanding them.¶

Council is serious business and councillors should be willing to constantly talk to their wards, getting input from residents and giving feedback. Jones argued that this was not happening in most local authorities, which is why councils are underperforming. She said councillors should be able to earn the trust of the residents and not demand it. Having a record of civic responsibility contributes to producing more caring councillors, who should not owe the council any money.

Engineer Bernard Musarurwa, a civil engineering expert, believes one should have at least two years of tertiary education, aged 25 years and above and owning or renting a property in the ward or constituency one wants to contest. More importantly, he suggests that every candidate should be legally required to publish their CV among the residents so that their track record is easily known and verified before they are voted into office. He was supported by a local government expert who said,

—I think we need a ratepayer, someone with a property, someone with that track record or proof of having achieved something for themselves, at family or community level. This person should not have any criminal record. A police clearance is a must.¶

The expert believes there is no benefit to the electorate or residents with councillors who are clueless about what governance and local government are. Some strict criteria ensure that the system of chancers simply riding on the political fortunes of their chosen political party to get into this strategic position, must done away with.

Stewart Mutizwa, a former ward councillor and Acting Mayor of Harare, argues that residents should elect a councillor who is resident in the area they are interested in contesting, approachable and who listens more to the views of other people. —Education is an added advantage but not important,|| Mutizwa said. —A councillor must be someone with a good community record, a family person with impeccable integrity.||

In their 10-point criteria, the HRT, an independent and nonpartisan residents' grouping, highlights that there must be an emphasis on community service and experience of the councillor and a minimum of tertiary education at certificate level, without a previous conviction and residing in the ward they are registered to vote. Residents look at the councillor with the main focus on water supplies, waste management, employment creation, participation and contribution during community funerals and programmes.

Dr Jonathan Muringani, based in Norway, argued that in a modern society, everyone must have a basic secondary education. —The idea of education is to prepare people for citizenship (Dewey), so the ordinary level becomes the minimum,|| hesaid.

CRITICISMS OF SETTING EDUCATIONAL QUALIFICATIONS CRITERIA

Despite strong views supporting setting a minimum educational level for one to be elected as a ward councillor, there are proponents of equality without considering meritocracy in choosing elected public officials. Section 56 of the Constitution states that all —people are equal before the law and have equal protection and benefit of the law|| .

Their main argument is that Zimbabwe has had a record of highly educated cabinet ministers and the late president, Robert Gabriel Mugabe, had seven learned degrees and dozens of honorary awards. However, the country still struggled to address the population's immediate needs.

Wilton Janjasi, a former Ward 38 Councillor, Kuwadzana in Harare, has spoken against making public office an exclusive preserve for the educated elite, arguing that with their degrees and high education, Zimbabwe's problems were not being resolved. He argues that real education is understanding the needs of the people and taking them where they must be resolved and not necessarily the qualifications that people boast about. He argued that there must be a mixture of the educated and the experienced to improve service delivery.

Professor Innocent Nhapi of the Centre for Urban Resilience, Water and Climate Change (CURWCC), strongly argues for setting minimum qualifications, but emphasises difficulties in setting these standards, especially for councillors when there are none for Members of Parliament. For councillors, he believes five Ordinary Level subjects should be sufficient. However, as elected officials, once there is one standard for one group and not all, there are bound to be more problems to overcome. The legislature must make the laws for the country and there is no minimum qualification for them to be voted into office. If the MPs are to debate such a bill if it is tabled in Parliament at one point, they would have to set a standard for themselves as well, before they can enact a law targeting councillors only. Professor Nhapi's concerns demonstrate that ending up with standard minimum qualification criteria for ward councillors will take very long to find its way into the legislative chambers. He said:

—What you need is a good chief executive officer and a team of technocrats plus standards/regulation of performance by the central government to ensure that all councils conform to best practice.||

While democracy is good, as highlighted in legislation, it fails to produce competence-driven leadership which can translate the citizens' aspirations expressed through the democratic vote into tangible outcomes that improve people's lives. Given these shortcomings, one may argue that democracy has a habit of producing mostly popular but incompetent leaders who thrive on sloganeering. Meritocracy is not a consideration when it comes to political office in Zimbabwe.

CONCLUSION AND RECOMMENDATIONS

Without a legal requirement for a minimum educational qualification, it may be time that Zimbabwe adopted a hybrid system that requires a threshold number of elected and proportional representation councillors to have at least a certificate above five Ordinary Levels secondary education. For committee chairpersons, a relevant diploma or degree is necessary to improve the capacity-building of local authorities. Political parties in Parliament have the most crucial role in determining the minimum qualifications for their council candidates to contribute towards the production of quality and improved policies and resolutions. As long as the constitution is not amended to determine the criteria for one to be elected into office as a ward councillor, inexperienced political party activists from main political parties will continue to be policymakers.

However, achieving a delicate balance between what makes a good councillor and political equality, as espoused by democracy, is not an easy task. Thus, while academic and professional qualifications enhance the knowledge of policymakers who run local authorities in Zimbabwe, democracy emphasises the equality of all citizens, irrespective of their political, social and economic status. Notwithstanding this delicate balance, there is consensus that holding local government elections separately from the parliamentary and presidential elections and the election of an executive mayor can enhance the quality of local authorities' policy-makers. If this is to happen, the decoupling may allow sufficient space and time to elect more competent and experienced ward councillors without the influence of the choice of who is president.

REFERENCES

- Bowen, G. A. (2009). Document Analysis as a Qualitative Research Method. *Quality Research Journal* , 9 (2), 27-40.
- Cincotta, H. (2007). *Democracy in Brief*. Washington DC: US Department of State.
- Government of Zimbabwe (2013). *Constitution of Zimbabwe*. Harare: Government Printers.
- Government of Zimbabwe (2023). Statutory Instrument 115 of 2023. Harare: Government Printers.
- Haugaard, M. (2010). Democracy, Political Power, and Authority- From Impunity to Accountability: Africa's Development in the 21st Century. *Social Research* , 77 (4), 10491074.
- Hausen, A. and Launiala, A. (2015). *Introduction to the Human Rights Based Approach: A Guide to Finnish NGOs and their Partners*. Minsk: UNICEF.
- Hausen, A. and Launiala, A. (2015). *Introduction to the Human Rights Approach - A Guide to the Finnish NGOs and their Partners*. Helsinki, Finland: UNICEF.
- HRT (2021). The Role of a Ward Councillor in Zimbabwe's Local Authorities. Harare: Harare Residents' Trust.
- IDAZIM. (2010). *Local Governance in Transition: Zimbabwe's Local Authorities During the Inclusive Government*. Harare: IDAZIM.
- Jonga, W. (2009). Looking Beyond Political Qualifications of Councillors in Managing Urban Councils of Zimbabwe. Addis Ababa: Ethiopian Civil Service College.
- Madhekeni, A., and Zhou, G. (2012). Legal and Institutional Framework: The –Achilles Heel of Local Authorities and Raison D'etre of Ministerial Intervention in Zimbabwe. *Journal of Public Administration and Governance* , 2 (3), 19-32.
- Mapuva, J., and Takabika, T. (2020). Urban Local Authorities In Zimbabwe and the New Constitution. *International Journal of Peace and Development Studies* , 11 (1), 1-8.
- Murwira, Z. (2023). Councillors to have Minimum Qualifications. *The Herald*, April 11.

- OAU (1986). *African Charter on Human and Peoples' Rights*. Monrovia: Organisation of African Unity.
- Opuamie-Ngoa, S. N. (2010). Functional Democracy and Mass Media: A Critique. *Global Media Journal African Edition* , 4 (2), 132-150.
- Paradza, G., Mokwena, L. and Richards, R. (2010). Research Report 125: Assessing the Role of Councillors in Service Delivery at Local Government Level in South Africa. Johannesburg: Centre for Policy Studies.
- Parliament of Zimbabwe (2008). Local Government Amendment Laws. Harare: Government of Zimbabwe.
- Razemba, F. (2015). *Councillors Functionally Illiterate*. *The Herald*, 28 August. Available online: <https://www.herald.co.zw/councillors-functionallyilliterate-mayor/>
- Ritzer, G. (2010). *Sociological Theory (Eighth ed.)*. New York: McGraw-Hill.
- Sharma, K. C. (2010). Role of Local Government in Botswana for Effective Service Delivery: Challenges, Prospects and Lessons. *Commonwealth Journal of Local Governance* , 6, 136-142.
- Shumba, P., and Zinyama, T. (2013). Are Minimum Qualifications for Local Councillors Panacea? Harare: Harare Residents' Trust.
- UCAZ (2009). *Leadership and Governance Training Handbook*. Harare: Urban Councils Association of Zimbabwe (UCAZ).
- Work, R. (2002). Overview of Decentralisation Worldwide: A Stepping Stone to Improved Governance and Human Development. *Philippine Journal of Public Administration* , XLVI (1-4), 1-24.