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**WATER IN THEORY BUT NOT IN PRACTICE:  
INTEROGATING THE PROVISION OF WATER TO WOMEN MANAGING VISUAL  
DISABILITY IN EPWORTH AND MABVUKU, HARARE, ZIMBABWE**

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## Abstract

The plight of visually impaired women in the high density areas of Epworth and Mabvuku of Harare (Zimbabwe's capital city) in relation to their human right to access clean water and safe sanitation facilities has never been told before and, as a result, their agonising problem remains a painful secret. Their story, however, is now powerfully revealed in this well-researched study which is sensitively and informatively conducted by the writer who is herself visually impaired and works closely with several organisations helping her fellow sufferers. As a result, she offers a unique insight into this problem and ways of solving it. Visually impaired people do not receive the attention they deserve from policy makers and so, without government assistance, they remain stranded and helpless, relegated to the bottom rungs of Zimbabwe's social and economic ladder. Usually, when tackling problems encountered by the disabled, policy makers utilise 'the personal disability model of disability' approach which perceives their disability as being the only challenge requiring attention. In this dissertation, however, the human-rights inspired 'social model of disability' approach is used to take a fresh look at this issue. It acknowledges that disability is only one part of a much larger problem whose many facets consist of the numerous barriers which exist within the environment and beyond the control of the impaired. The qualitative research was carried out using, among others, the Women's Law and Human Rights Approaches to reveal both the visible and hidden challenges faced by the 25 visually impaired women chosen as respondents for the study in Epworth (20 women) and Mabvuku (5 women). The findings of the research (extremely well-illustrated photographically and depicted graphically) reveal that these numerous obstacles are physical (e.g., long dangerous journeys to and from public ablution and water facilities and treacherous ablution conditions), institutional, social, cultural, economic and attitudinal. They impact upon the visually impaired separately or in different combinations resulting in their being exposed to water borne diseases due to poor sanitation standards and unemployment amongst other social and economic vices. The Human Rights of the visually impaired to development and to political representation and participation are also breached. This is the case in spite of the fact that disability problems are structurally derived and require a political and legal solution. Unfortunately, Zimbabwe's Constitutional and legal framework is not disability friendly. Therefore, this study suggests various recommendations to resolve this multi-faceted problem, the first of which requires policy makers to formulate corrective constitutional, legal, social and other measures to ensure that persons with disabilities enjoy their God-given right to enjoy a decent and dignified life.

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**Declaration**

I Winnet Kanyerere certify that this dissertation is my original work; it is an honest and true effort of my personal research. I certify that the work has not been presented anywhere else before for any other thesis.

Signed.....

Date.....

This dissertation was submitted for examination with my approval as the University Supervisor

Signed.....

Date.....

Professor J E Stewart

Director of the Southern and Eastern African Regional Centre for Women’s Law, University of Zimbabwe

Date.....Signed.....

## **Dedication**

*This work is dedicated to my husband, Rufaro Kanyera for the unwavering moral support despite the obvious abandonment of my share of familial responsibilities!*

*And to my son, Asher, for being so considerate and keeping out of bounds of the closed bedroom door despite hungering to play with mom. You are so special!*

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## **Acronyms and Abbreviations**

ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of Children
DPO	Disabled Persons Organisations
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NASCHO	National Association of Societies for the Care of the Handicapped
NGO	Non-Governmental Organization
UNICEF	United Nations Children Education Fund
WHO	World Health Organisation
ZAVH	Zimbabwe Association of the Visually Handicapped
ZINWA	Zimbabwe National Water Authority

## **Human Rights Instruments cited**

African Charter on the Rights and Welfare of the Child  
Covenant on Civil and Political Rights (1966)  
Convention of the Rights of the Child  
Convention on the Elimination of All Forms of Discrimination Against Woman (CEDAW)  
Convention on the Rights of Persons with Disabilities  
Covenant on Economic, Social and Cultural Rights (1966)  
Declaration on the Rights of People with Disabilities  
Declaration on the Right to Development  
General Comment 4 on Economic, Social and Cultural Rights  
General Comment 5 on Economic, Social and Cultural Rights  
General Comment 15 on Economic, Social and Cultural Rights  
General Comment 20 on Economic, Social and Cultural Rights  
Millennium Development Goals  
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ('The African Protocol on Women's Rights')  
Stockholm Declaration  
Universal Declaration of Human Rights (1948)  
United Nations Standard Rules on Equalization of Opportunities

## **Zimbabwe Legislation cited**

Constitution of Zimbabwe  
Disabled Persons Act, 1992  
Public Health Act [Chapter 15:09]  
Urban Councils Act [Chapter 29:15]  
Water Act [Chapter 20:24]  
Water Ordinance, 1920  
Zimbabwe National Water Authority Act

## **Other Legislation cited**

Constitution of South Africa  
Constitution of Kenya

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## Executive Summary

The story of the plight of visually impaired women in Epworth and Mabvuku in relation to their access to water and sanitation has never been told. This has resulted in a dearth of information about this socially marginalised and excluded group. Persons with visual impairment are not receiving the right attention from policy makers hence they still occupy the bottom rungs of the economic and social ladder. I undertook this research in order to explore the extent to which the Government of Zimbabwe is implementing the right to water for women with visual impairment in accordance with international principles, to identify the problems faced by women managing visual impairment in Mabvuku and Epworth in accessing potable water and to outline legal and non-legal strategies which might be needed to address challenges of water and sanitation affecting women with a visual handicap.

As a guide throughout this research I formulated objectives from which I drafted my main assumptions that I further streamlined into sub-assumptions to broaden the scope of the research. Thereafter I modelled these assumptions into research questions. Among the various methodologies I used were a combination of the Women's Law and Grounded Theory Approaches which helped to allay all my prejudices and keep an open mind. Using the Women's Law Approach I took a perspective of the visually impaired woman in Epworth and Mabvuku and at the same time I used the social model of disability which considers disability as the responsibility of the whole society. In this model it is understood that people with impairments, such as visual impairments that limit their activity, are disabled because of the social and economic environment, in which they live, which does not allow them to engage in 'normal' societal activities. I found that the obstacles that prevent the visually impaired from accessing water and sanitation in both Epworth and Mabvuku include, physical distance to latrines or ablution facilities and water sources, rocky terrain and rough paths, slippery floors, institutional exclusion, discriminatory legislation, policies and strategies that ignore disabled people's concerns, lack of consultation with disabled people, lack of mechanisms or forums for consultation with disabled people, social/cultural low status, harassment, negative traditional beliefs, all of which individually or in different combinations may result in the exposure of the visually impaired to water borne diseases and unemployment amongst other social and economic vices. However, policy makers and the society employ the traditional medical model which assumes that impairment of one kind or another is the main reason why disabled people are disadvantaged and that only a cure or care for the individuals concerned is the solution.

For the visually impaired women of both Mabvuku and Epworth a multi-pronged approach is needed for their water problems to be addressed. Therefore there is need for both immediate solutions and long term solutions. Documentation to bring to light the gender disparity and expose inadvertent discrimination in water policies is the first step towards mapping the way forward. Government and civic society should join hands and mobilize resources for the drilling of boreholes and installation of user friendly pumps such as hand pumps in Epworth for the visually impaired women to operate independently. These women should also be involved in the consultation process so that they may not be affected by the issue of distance and appropriateness and suitability of the infrastructure. A quick mobilization of resources is also needed for the

construction of Blair toilets<sup>1</sup> to avert the outbreak of water borne diseases such as cholera and typhoid. Water purification tablets can be used as long term solutions are being worked out; therefore there is need for awareness programs for the beneficiaries to be fully conversant with correct usage of the same.

Alternatively, as a medium term measure, all visually impaired persons in Epworth should be resettled to a developed area where there is sewerage and water. Such infrastructure should be designed factoring in the needs of the group in order to increase their independence and improve their health and social standing. In the interim, the residents should be protected against forced evictions and this, hopefully, would also prevent another “Operation Murambatsvina”<sup>2</sup>.

Another area that could redress this issue involves law reform which can be in the form of legislative reform or the setting of new judicial precedents. When undertaken in the spirit and letter of international instruments, law reform is a principled and imaginative method of introducing new law. It is also a vital catalyst of change that is responsive to the needs of the vulnerable members of the community and to the public under its jurisdiction. For it to work effectively there is a need for extensive lobbying and advocacy for the legislature to pass the reforms. Zimbabwe has to ratify first the CRPD then domesticate it so that the social protection provision is constitutionally guaranteed. Zimbabwe should take a cue from what other countries in the region have done. South Africa has the right to water in section 27 of their Constitution and has policies to support this. The Constitutions of Malawi, Zambia and Kenya (2010) now also protect their citizens’ right to water.

Another avenue available is public interest litigation which includes strategic litigation and the provision of legal aid to indigent individuals to facilitate access to justice. Using the derivative approach which has been used by the African Commission, visually impaired women in Epworth could sue the Government for breaching their constitutionally guaranteed right to life, the argument being that life, water, food, and health cannot be separated. In their case, the Epworth respondents are being forced to use water for their domestic use which is contaminated and they also have poor sanitation; this has a direct impact on their health and there is a real risk that those waterborne diseases will claim their lives. An example is the outbreak of cholera, attributed to the lack of potable water and poor sanitation.

Non-access to potable water and basic sanitation by the visually impaired women of Mabvuku is by and large due to poor governance and inadvertent discrimination on the part of the local authorities and policy formulators; there is therefore a need for administrative reform. The duty bearers being local authorities and NGOs responsible for the provision of water should adopt a human rights centred approach to water provision for visually impaired women. Thus particular attention to the needs of different vulnerable groups in the planning and designing of social amenities should be taken. In doing this there is need for collaboration with disabled people.

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<sup>1</sup> A type of pit toilet which does not allow flies to escape from the pit.

<sup>2</sup> In 2005 the Zimbabwean carried out an exercise meant to ‘clean-up slums’ by destroying all informal structures in urban and peri-urban areas. Donor structures were also reduced to rubble but the Government did not facilitate formalizing these settlements or provide any alternative accommodation to those affected.

Therefore, when planners and engineers start the process of designing a sanitation project, they should consult local disabled people's organizations, including women's sections, for their input.

From my findings I can safely generalize that the larger section of society treats persons with disabilities as dependents and/or minors as some visually impaired women in Epworth take it so because they beg for survival. There is a need to empower individual community members so that they are able to perform, function, solve problems and set to achieve goals in order to reduce poverty and promote self-reliance. This will in the long term improve the situation of the women of with visual impairment in Epworth and Mabvuku. Improving the capacity of visually impaired women in Mabvuku and Epworth to some extent will eventually lead to their empowerment. Whilst people have the right to safe water supplies, this does not mean that they have a right to free water. For a sustainable provision of potable water supplies and basic sanitation, they should cease to rely on aid and be able to pay for services.

Some visually impaired people in Epworth have academic and professional qualifications complained that they are discriminated against in the labour market hence there is a need for government to introduce tax-free incentives for firms that employ the disabled. Those without educational qualifications proposed that they can engage in entrepreneurial projects their organizations should facilitate that they get licenses to operate flea markets in designated areas by that the dependency syndrome will be a thing of the past.

Awareness raising is also required for visually impaired women to realize and use to their advantage rights such as the rights to representation, participation and development so that they can be empowered economically and intellectually. There is also a need to lobby local authorities for them to improve and prioritize the needs of vulnerable groups in their water distribution policies. DPOs should be actively involved in lobbying and advocacy work to pressurize the Government to meet its obligations to deliver services to the marginalized in society. This can be achieved also through utilizing the media to expose the Government's lack of initiative to remedy the problems in the areas of Epworth and Mabvuku. In addition, DPOs can also lobby for the domestication of these international instruments.

## CHAPTER 1

### 1.0 SAFE WATER AND SANITATION: FACT OR FALLACY?

#### 1.1 Introduction

*JUST IMAGINE* for a moment that you are visually impaired. How would you fetch water from the nearest borehole or unprotected well 2 kilometres away from your home? Imagine standing at the tail end of a long queue of forty people and when your turn comes up two hours later you cannot operate the borehole or draw water from the unprotected well but have to beg for assistance. There being no water in your house, imagine receiving the news that a bulk water tank has been delivered a few meters away but you need a guide to help show you where the tank is. You manage to get someone to help you get there but you are told that all the water is finished. Imagine it being your daily routine having to ask your child to guide you to the toilet or using one without a door or roof. How would you manage your family with a monthly income of less than one dollar a day, when your main source of income is begging in the streets of the city? The lived realities of visually impaired women are typical of the above scenarios and the pictures below show what you have been trying to imagine.

**Figure 1: Photograph of an unprotected well**





**Figure 2: Photograph of a pit latrine that has collapsed**



**Figure 3: Photograph of an open pit latrine without a door or roof**



Safe drinking water and sanitation are the main cornerstones for the sustenance of life and health. The crisis of poor water and sanitation may be traced to poverty, inequality and unequal power relationships, and it is exacerbated by social and environmental challenges as I discovered from women managing visual impairment in Epworth (who live in an informal settlement of disabled people on Belapezi Farm and is known as ‘Donoro’) and Mabvuku. The right to water has arrived late on the stage of human right discourse. The international and regional Human Rights frameworks both treat it as a derivative of other rights. Similarly, in Zimbabwe the right to water is not constitutionally guaranteed but it has had to be inferred as being necessarily incorporated in ‘the right to life’ provision of the Bill of Rights (Section 12 of the Constitution).

Yet, how can anyone live a life without water, food, shelter and other basic needs? Surely such a life would be ‘worse than death’. It is even doubly hard for a disabled woman when *de jure* (i.e., in law) there is equality but *de facto* (i.e., in fact) it is nowhere to be found. Disability is a complex phenomenon, especially in developing countries. Underdevelopment in itself is a further disabling condition for a disabled person (Mtetwa, 2008). Our understanding of, and everyday response to, phenomenon such as disability or poverty is profoundly shaped by values and beliefs brought to general acceptance by powerful social groups and actors (Drake, 1999). In Zimbabwe the medical or personal tragedy model is utilised by policy makers when they seek to deal with disability issues. In essence, the area of disability is grossly under-researched. What is abundantly clear is that persons with disabilities still face negative discrimination in all facets of life. They are poorly, if at all, represented at almost all levels of policy making, planning and implementation processes such as the residents’ association of Mabvuku and the city council.

Not only is it wrong but it is fundamentally flawed to treat disability as a homogenous condition because to each kind of disability there are challenges that are peculiar to it. Disabled persons encounter different challenges, hence, treating them as a homogenous group over-emphasizes problems of some groups whilst neglecting those of others. Tawengwa, a wheel chair-bound Disability Activist, aptly summarized this problem as follows:

“You people with visual impairment are not disabled because when you go to your rural areas you are able to use the pit latrines. If there is no pit latrine you can just ‘take a dump’ in the open because for you it does not

matter whether people see you or not since you don't see them. As for me, can I defecate in the open? It is quite a challenge to use a pit latrine.”

This is the perspective of a mobility challenged person; what then would the visually impaired, the hearing impaired and those with speech challenges have to say given the opportunity? I am sure that each group would highlight their personal difficulties in dealing with certain situations and we would find that what may be difficult for one group or person would not be difficult for another group or persons, given, amongst other things, their specific disability/ies. I therefore focused on women managing visual disability due to my own condition as a woman who is visually impaired. My perception as regards the visually impaired and the desire to make a difference for this constituency made this choice and the research I carried out all the more rewarding and enjoyable.

This dissertation is structured in such a way that Chapter 1 gives a general overview of the background to the study as well as the research topic, objectives, research assumptions questions, the conceptual framework and data collection methods. Chapters 2 and 3 discusses experiences of women managing visual disability in accessing basic water and sanitation as well as the research methodologies applied to this research while Chapter 4 establishes a case for the visually impaired women of Epworth and Mabvuku as I try to interrogate the right to water and the compliance thereof by Zimbabwe to the international principles and the conclusion and recommendations summed up in Chapter 5.

## **1.2 Research Objectives**

The three main objectives are:

1. To explore the extent to which the government is implementing the right to water for women with visual impairment in accordance with international principles.
2. To identify the problems faced by women managing visual impairment in Mabvuku and Epworth in accessing potable water.

3. To outline legal and non legal strategies which might be needed to address the challenges of water and sanitation affecting women with visual handicap.

### 1.3 Problem Statement

*“May you live, and all your people. I too will live with all my people. But life alone is not enough. May we have the things with which to live it well. For there is a kind of slow and weary life which is worse than death.”<sup>3</sup>*

Water regulates body temperature, helps carry nutrients and oxygen to cells, helps the body to convert food into energy and removes body wastes. Water also moistens oxygen for breathing and cushions joints and accounts for 35% of bones, 75% of muscles and composes 85% of the human brain, in fact water constitutes 69% of the whole human body. Research on water usages reveals that average urbanites use 40% of water for toilets, 35% in showers and taps, 10% for washing clothes and 15% for all drinking and kitchen functions. The right to water is inextricably linked to the rights to life, health, adequate standard of living and social protection. In Zimbabwe, people with disabilities in general and women with visual impairment in particular experience many barriers to their enjoyment of the right to water and sanitation chiefly due to intentional or inadvertent discrimination and social exclusion.

In rural areas and of late in urban areas, persons with disabilities have to travel long distances to fetch water. The plight of women with visual impairment is further compounded by the lack of information about water distribution; points of water distribution and water access, water pump design, and bulk water containers which are not accessible to them. In addition, for many, there is a lack of social networks or assistance where needed.

Visually impaired women are not receiving the right attention from policy makers and as a result many still occupy the bottom rungs of Zimbabwe’s economic and social ladder. Planning and

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<sup>3</sup> Prayer of Ezeulu (Ulu’s chief priest) in C Achebe’s *Arrow of God* (1964) 95.

building of social infrastructure does not take this constituency into account, and they lack opportunities to participate in policy making and discision-making bodies. Neither Zimbabwe's legal nor Constitutional framework is disability friendly, nor is the right to water and sanitation recognised as a human right despite the vast protection it receives in international human rights instruments.

The Convention on the Rights of Persons with Disabilities, hereinafter termed CRPD, adequately covers the right to water, the rights to live in the community, the right to accessibility, and the rights to life, health, adequate standard of living and social protection. It recognizes the inherent dignity of all persons with disabilities and requires non-discrimination by the state or any person, organization or private enterprise, including in the context of water and sanitation for the visually impaired, yet in Zimbabwe messages on water safety are not accessible. Disproportionately expensive water has a serious impact on visually impaired women especially those living in extreme poverty. In the present status quo, the legal rights of the visually impaired are still dependent on the goodwill of their able-bodied counterparts, and this prevents them from controlling their own destiny.

#### **1.4 Research Assumptions**

This research was anchored in the seven major assumptions listed below:

1. Safe, clean, accessible and affordable drinking water and sanitation form the essence of life and have been adequately defined by numerous international instruments as a fundamental human right.
2. Zimbabwe's Constitution does not define access to potable water and sanitation for visually impaired women as a human right.
3. Women and men with visual impairment are not represented in water management bodies and are not consulted when decisions relating to water management are made.

4. The government does not factor accessibility to water for persons with visual impairment into designing and building water reticulation and sanitation infrastructure.
  - 4(a) Distance to common water access points is not factored into the plight of the visually impaired thereby making water inaccessible to them.
  - 4(b) Information about water distribution, points of water distribution and water access, and water containers in times of crisis is not made accessible to visually impaired women and men.
  - 4(c) During a water crisis, there is a lack of social networks or assistance and information dissemination for the visually impaired.
5. Lack of sanitation and consistent water supply to visually impaired women and men impacts negatively on their health in disregard/breach of the groups' special rights as enshrined in Article 28 of the CRPD.
6. Duty bearers should consult and involve women with visual impairment in order to put in place specific measures and facilities to address their needs.
7. Illegal water disconnections by relevant authorities' limits/breaches visually impaired women and men's access to potable water.
  - 7(a) High tariffs of potable water result in women and men with visual impairment facing arbitrary water cuts which limit/breach their full enjoyment of their right to water and sanitation.
  - 7(b) Visually impaired women living in poverty resort to unprotected water sources and are therefore exposed to water borne diseases.

In the field research, the first six assumptions were confirmed. However, this constitutes bad news for the visually impaired woman living in Epworth and Mabvuku because the assumptions are in the negative. As for the seventh assumption it was partly challenged because on embarking on the research I assumed that disconnections of water had an impact on my respondents but was surprised to note that council water is not available most of the time. The situation in Mabvuku shows that there are “not connected” because all the water reticulation infrastructure is there but not functional as you shall see in Chapter 3.

## **1.5 Research Questions**

Research of this magnitude and depth requires vital questions that will keep the quest for answers alive. Hence, I formulated the following questions based on the assumptions above:

- 1(a) Does the provision of safe, clean, accessible and affordable drinking water and sanitation form the essence of life?
- 1(b) Has it been adequately defined by international instruments as a fundamental human right?
2. Does the legal system of Zimbabwe define access to potable water and sanitation for visually impaired women as a human right?
- 3(a) Are women and men with visual impairment represented in water management bodies?
- 3(b) Are they consulted when decisions relating to water management are made?
4. Does the government consider the accessibility of water for women and men with visual impairment into designing and building of water reticulation and sanitation infrastructure?

- 4(a) Is the distance to common water access points factored into the plight of the visually impaired and, if not, does it make water accessible for them?
  - 4(b) Is information about water distribution, points of water distribution and water access, and bulk water containers in times of crisis accessible to visually impaired women and men?
  - 4(c) During a water crisis, are social networks or assistance and information dissemination for the visually impaired inadequate?
- 
- 5(a) Does lack of sanitation and consistent water supply to visually impaired women and men impact negatively on their health?
  - 5(b) Does this disregard/breach the groups' special rights as enshrined in Article 28 of the CRPD?
- 
- 6. Should the duty bearers consult and involve women with visual impairment in order to put in place specific measures and facilities to address their needs?
- 
- 7. How do illegal water disconnections by relevant authorities' limit/breach visually impaired person's access to potable water and sanitation?
    - 7(a) Do high tariffs of potable water result in arbitrary water cuts?
    - 7(b) Do arbitrary water cuts limit/breach the full enjoyment of the right to water and sanitation for women and men with visual impairment?



7(c) Do visually impaired women living in poverty resort to unprotected water sources?

7(d) To what extent is this group's health exposed to water borne diseases?

## 1.6 Conceptual Framework

This research has adopted the so-called “social model of disability” in its analysis, in which disability is considered the responsibility of the whole of society. In this model it is understood that people with impairments, such as visual impairments that limit their activity, are disabled because of the social and economic environment in which they live, which does not allow them to engage in society in the same ways as able-bodied persons.

*“This led to the rejection by disabled academics and activists of the traditional medical model which assumes that impairment of one kind or another was the main reason why disabled people were disadvantaged. The solution of course was cure or care for the individuals concerned.”*

(UKDPC, 2002 quoted in Water Aid, 2008)

Instead they promote a human rights approach and ‘social model’ of disability, which refers to:

*‘...a complex system of economic and social constraints imposed on people with impairments by the organization of society.’*

(Editors, Disability, Handicap and Society, 1993 quoted in Jones, H. Parker, K.J and Reed, R. [2002] ).

Using this analytic tool, a number of international agencies now recognize that disabled people's participation is prevented not only by their individual limitations but also by physical and invisible structural barriers in the environment. For instance in the present case, obstacles preventing the visually impaired from equitable access to water and sanitation in both Epworth and Mabvuku include a multitude of examples: physical distance to latrines or ablution facilities and water sources, rocky terrain and rough paths, darkness, slippery floors, institutional

discriminatory legislation, policies and strategies that ignore disabled people, lack of consultation with disabled people, lack of information about accessible design options, lack of staff understanding, training, or experience on accessible designs, lack of mechanisms or forums for consulting disabled people, low social/cultural status, harassment, negative traditional beliefs, pity, stigma, shame, overprotection, isolation and misinformation. This results in the exposure of the visually impaired to water borne diseases and unemployment amongst other social and economic vices. The World Health Organization's (WHO) new International Classification of Functioning, Disability and Health (ICF) has also incorporated this social perspective, and now provides a classification of health and health-related domains as follows:

*'...body functions and structures; activities, i.e. the ability to carry out a task or action and participation, i.e. the involvement in a life situation. Environmental factors are also included in the analysis - the physical, social and attitudinal environment in which people live and conduct their lives'.*

(WHO, 2001 quoted in Water Aid 2010)

The '*social model of disability*' is also in line with '*the capabilities approach*'. The capabilities discourse has been advanced by people like Amartya Sen and Martha Nussbaum. It is credited with:

*'...making a major contribution to the theory of social justice and of gender justice, by arguing that capabilities are the relevant space of comparison when justice related issues are considered.'*

In essence this approach makes those determinant factors (which place an individual in a vantage position enabling him or her to enjoy certain privileges or rights) its focal point. In this regard, even though one might have the fundamental right to life, other external factors such as lack of potable water and proper sanitation, ill-health, increase infant mortality and reduced life expectancy prevent that person from enjoying the right to life. Such a situation is definitely different from someone with ready access to food and other social amenities necessary for a person's survival. As aptly put by Nussbaum M.C. (2003:37):

*'The right to political participation ... these and others are all best thought of as secured to people only when the relevant capabilities to function are present. In other words, to*

*secure a right to citizens in these areas is to put them in a position of capability to function in that area...'*

She further argues that one cannot simply accept that 'Country C' is democratic just because the right to political participation exists in its laws but rather if effective measures have been taken to make citizens capable of exercising their political will.

In line with the capabilities approach, Stewart, J. (2007:291) and Sardar Ali, S. (2007:316) in "*I can't go to school today*" and "*Where is the toilet? Getting down to basics in accessing women's rights*", respectively, argue that there are other political, social, economic and cultural factors which may have a direct impact on citizens' capability to access rights. They argue that the issues of water and sanitation became vital as enabling prerequisites for a girl child to access the right to education and other women to access the right to health (hospitals) as well as the right to employment in the public sphere. The key phrase should be '*equal opportunities*' rather than '*equal rights*' on paper. This also demonstrates the indivisibility, interdependence and the interrelatedness of human rights.

It is also necessary to incorporate in my analysis issues of poverty and disability since it is widely acknowledged that disabled people are among the poorest of the poor (UN, 2002). Poverty is both a cause and a consequence of disability (ACP-EU Joint Parliamentary Assembly, 2001; DFID, 2001 as quoted in Jones, H. Parker, K.J and Reed, R. [2002]). Poor people are more likely to experience a host of obstacles to health and well-being: inadequate nutrition, dirty drinking water, improper hygiene and sanitation, limited health services, accidents, dangerous working and living conditions, lack of information, war, conflict and disaster and HIV/AIDS (Bosch et al, 2001; May-Teerink, 1999; NORAD, 2002; quoted in Jones, H. Parker, K.J and Reed, R. [2002]). All or any of these cause impairment. Poor people also have least access to the services which would minimize the impact of impairments, such as timely medical intervention, access to assistive devices, or the benefits of mainstream development, such as good roads and public transport (Doyal, 1983; May-Teerink, 1999; Taunyane and Hirschowitz, 1995 quoted in Mtetwa, 2008).

At the same time, disabled people are more likely to be poor as a result of isolation, lack of opportunities for education, employment, socialization and political activity. The lost earning opportunity of careers also increases the burden on poor families (Helander, 1999 quoted in Mtetwa 2008). Research has also revealed that a poor child with impairment is least likely to survive - in some low-income communities there may be as many as two disabled people missing for every one that survives infancy. Research also shows that ninety per cent of disabled children will not survive beyond the age of 20 (Lansdown, 2001) and that disabled people are also at particular risk of HIV/AIDS infection as they lack access to health information and are least able to protect themselves (NORAD, 2002; Save the Children, 2000a quoted in Water Aid Nepal 2008).

A *feminist perspective to law* is also necessary in my analysis since the research focuses on women managing visual impairment. There are several feminist schools of thought which are categorized as radical, liberal, Marxist-socialist, psycho-analytical, existentialist and post-modern feminism. Juliet Mitchell in her two books '*Woman's Estate*' and '*Psychoanalysis and Feminism*' as quoted in Tong R. M. (1994:6), is credited with having made the best attempt at summarizing the underlying concepts in feminist theories. She argued that:

*“Women’s condition is over-determined by the structures of production (from Marxist feminists), reproduction and sexuality (from radical feminists) and the socialization of children (from liberal feminists). Woman’s status and function in all of these structures must change if she is to achieve anything approximating full liberation....woman’s interior world (her psyche) must also be transformed (as emphasized by psycho-analytic feminists), for without such a change, improvements in her exterior world will not liberate her from the kind of patriarchal thoughts that undermine her confidence (as emphasized by existentialist feminists).”*

The existentialist feminist concept was described by Simone de Beauvoir in '*The Second Sex*' as quoted in Tong (supra) where she argued that:

*“Woman is oppressed by virtue of “otherness.” Woman is the ‘other’ because she is not man.”*

An analogy can be drawn in the Zimbabwean situation in that the requirement for enforcing the equality and non-discrimination principle has been derogated from under Section 23 of the

Constitution. On the basis of one's sex, African customary law has been allowed to override the equality and non-discrimination principle in issues relating to land rights in communal lands. What is therefore pertinent to this discussion is the ultimate goal sought by these feminists which are equality and equity regardless of one's sex or gender. A visually impaired woman has to deal with intersectional discrimination on three levels: firstly, on the basis of her disability; secondly, on the basis of her class and, thirdly, on the basis of her sex and gender. This can best be illustrated in terms of women's law as a feminist theory which is based on the premise that women and men walk different paths in life and society and are therefore affected differently by society's different laws. Accordingly, we may deduce that equal laws do not preclude discrimination since law is man made and, in terms of it, the male is the norm. Thus, in order to understand how the law really works or fails to work for women in society we need to look at the law and society from a women's perspective, i.e., from the point of view of their 'lived realities'. This is the starting point of our understanding of the law and it is pertinent to this study. I took cognizance, however, of both the potential advantages and disadvantages for the effective implementation of this approach to law.

The ultimate purpose of the Women's Law Approach is to describe, explain and understand the legal position of women with the specific aim of improving the position of women in law and society. In reality the interplay between law and life is complex as not all areas which need to be brought to the attention of the law are considered. Direct and indirect discrimination arise as a result of the effects and consequences of both law and action, whether by commission or omission as in the case of visually impaired women in Mabvuku and Epworth who by default are discriminated against and excluded from social activities. The Women's Law Approach also distinguishes between positive and negative discrimination. In this regard, treating things from the perspective of their differences may be necessary in order to create equality. Neither women nor disabled women are a homogenous group, hence their individual lived realities are of paramount importance to help make amends. Positive discrimination is justified on the basis of woman's weaker position in society and attempts to seek redress it through affirmative action chiefly by advocating for the implementation of quota systems.

## 1.7 Location of Study

The research was carried out in two high density suburbs of Harare (Zimbabwe's capital) namely Mabvuku and Epworth. Mabvuku is located in the northern part of Harare and is about twenty-five (25) kilometres from the city centre. Mabvuku purportedly uses piped water and is connected to the main sewer line. However in reality the council water is not available and people use other sources of water as you shall discover in this paper. Epworth is located in the north-western part of Harare and it is a peri-urban settlement. I mainly focused on Belapezi Farm commonly known as Donoro since this is an informal settlement where most of my respondents dwell. Although Donoro has been in existence for more than ten years, it is neither supplied with piped water nor is it connected to an on-line sewage system.

In conducting the research I employed a qualitative approach spiced with a bit of pragmatism because there are times when statistics and use of figures was necessary in order to illustrate and establish the magnitude of the problem of potable water to women with visual challenges. For instance I had to get the average distances they travel to get water and the quantities they use daily which enabled me to deduce the number of trips the women had to make daily for them to have adequate water for the day. An effort was made to record data from the women with visual impairment themselves so as to avoid hearsay evidence and to avoid the risk of societal prejudice that a disabled person cannot speak for herself. Though focusing on women with visual impairment, men with visual disability were not excluded because some of their challenges intersect and overlap. In this regard I also interviewed men and this gave me more insight into the magnitude of the problem. Taking a cue from the principle of Africana womanism, I preferred to join hands with the male counterparts on the basis of disability first before anything else. Family members and neighbours who do not fall into this category were also interviewed since the disabled do not live in isolation. I also sought their opinions and views since they are the ones who through commission and omission exclude the disabled in general and the visually impaired in particular. Their inclusion was necessitated by the essentiality of a balanced view, as postulated by Stewart J. (1997:47-49).

The type of questions I asked my visually impaired respondents included:

*“Are there any problems with the accessing of pit latrines and potable water? If yes, what kinds of problems exist? What are the personal problems? What are the physical or infrastructural barriers? In light of your condition, how do you think the latrines can be improved?”*

These questions are in line with the social model, which correctly assumes that part of the problem lies in the environment. Through these questions I managed to gather information relating to the actual barriers hindering the visually impaired women in Epworth from accessing water. This kind of information can help improve the design of pit latrines and accessibility of water to improve the lives of women managing visual impairment.

In collecting data, I was a participant observer at the research site in group discussions, group interviews, and in-depth individual interviews with key resource persons. My audio recorder and camera also came in handy. The recorder helped me to concentrate on the respondents without having to jot down notes and promoted the natural flow of interviews and this also gave the flexibility to play back the recordings at my own leisure. I used the digital camera to capture structures such as pit latrines and unprotected wells in Epworth. In the field I managed to interview all the respondents I came across who were visually impaired both women and men. I also randomly sampled other groups. The officials I managed to interview were availed to me through higher authorities. However I first sifted through the information they supplied in a bid to assess their relevance and expertise. For each methodology used, I discuss the corresponding findings.

## **1.8 Data Collection Methods**

### **The Sample**

I started with a nucleus of four women and two men whom I interviewed one-on-one, all of whom are visually impaired. They in turn gave me the contact details of other women and men with visual impairment whom I booked for a group discussion. During discussions with this group in Mabvuku a certain man became so hostile that I quickly changed the discussion into one-on-one interviews since the whole discussion had diverged from my research objectives.

I managed to interview all the respondents I secured in Mabvuku and Epworth. The only exception was one man in Mabvuku who was uncooperative on issues relating to access to potable water because he was a landlord and had a well on his premises. I also interviewed the guides of these visually impaired people as well as their family members. I randomly sampled community members but in Mabvuku I targeted the well owners who supply respondents with water. In Epworth, I picked interviews with the committee members involved in the maintenance of boreholes. For duty bearers, who include government officials, officials from local authorities, and NGOS I interviewed those with expertise in the area who would give information relevant to my research.

I conducted in-depth individual (one-on-one) interviews with key informants who were mostly professionals in Government Ministry departments and NGOs. Although I did not use any structured questionnaires, my research questions (see paragraph 1.5, above) guided the interviewees towards the critical areas pertinent to the research. I also gave the respondents enough latitude to add their own suggestions and recommendations for a way forward. Below is a table of the respondents of research sample in this study.



**Table A: Showing Respondents (i.e., the Field Research Sample) and Key Respondents and Data Collection Methods used to obtain Research Data**

## Table of respondents

Area	In Depth Interviews			Focus Group Discussions		
	VI women	VI men	Others	VI women	VI men	Others
Mabvuku	3	2	0	3	2	6
Epworth	20	17	5			
Mabvuku Housing Cooperative	3	2	2	3	2	43
Chitungwiza	1	2	0	0	0	0
DPOs	1	7	0	0	0	0
National Water Authorities	0	0	2	0	0	0
Local Water Authorities	0	0	5	0	0	0
NGOs	0	0	2	0	0	0
<b>TOTAL RESPONDENTS</b>	<b>28</b>	<b>30</b>	<b>16</b>	<b>6</b>	<b>4</b>	<b>49</b>

KEY:  
VI :- visually impaired

For the greater part of my research I conducted individual interviews with visually impaired women and men in both Mabvuku and Epworth. I used a list of questions as a guideline which included first the personal profile of each person, sex, age, occupation and size of family. This helped me in my gender and sex analysis. The second step involved quantifying the amount of water used daily which I categorized into drinking and cooking, dishes and laundry, bathing and toilet as well as water for gardening. This helped me to establish the amount or quantity of water that is prescribed as the minimum amount of potable water that the state is obliged to provide free of charge according to the international human right to water guidelines.

I then structured the next set of questions to establish the type for water source, distance from the said source, who goes to fetch the water and other challenges they had concerning water. I also asked questions relating to the management of water and water sources in the area and representation of the visually impaired in community groups. Other questions concerned the rights of the visually impaired, who their duty bearers are and the channels available for them to lodge their complaints. We then took walks to verify the water sources, relative distances and pit latrines. Finally I asked for their general comments which would help make headway for them to enjoy these rights. I also conducted individual interviews with the guides and their family members and other men and women randomly sampled in the communities.

I attempted to make focus group discussions in Mabvuku because I thought they were necessary since members tend to remind each other about certain issues. But this can have the opposite effect as well and I realized during a group discussion that one uncooperative member was negatively influencing the other members and throwing the whole discussion into disarray. Certain visually impaired people feel over-researched and blame researchers for ‘imposing’ discussion topics on them and this particular disgruntled man alleged that he was fed up with research studies which do not yield anything. At that moment I realized that he had lost his temper and I quickly switched the discussion to individual interviews. I did however give this man an opportunity to air his views and calm down.

As a woman with visual impairment and through my work with organizations for and of people with disabilities such as the National Association of Societies for the Care of the Handicapped (NASCOH), Zimbabwe Association for the Visually Handicapped (ZAVH) and League for the Blind I was able to carry out my research from an informed position. Through sharing and interacting with other people with disabilities prior to the research, their stories of discrimination and societal attitudes tallied with data collected, albeit the magnitude being the differences. Since pictures speak a thousand words, I found it necessary to take pictures showing the water situation and sanitary conditions of my respondents in Epworth. With the assistance of my guide, since I am visually impaired, I managed to obtain pictures of the so-called houses of the visually impaired in Epworth. When I went to Mabvuku I had no camera that is why I do not have any pictures of that place. Due to my visual impairment it was difficult for me to take notes in the

field so I found my audio recorder indispensable. It was very convenient for me to record the interviews and then listen to them when I got back home using the luxury of the playback function.

Besides the primary sources of data listed above, I also made reference to books, the internet, press cuttings, and libraries.

### **1.9 Limitations encountered in the Study**

Epworth is a politically volatile area and for me to gain access to Donoro, I had to affiliate myself to a certain political party. Having secured my 'visa card', I conducted interviews with ease but I could not conduct focus group discussions which I had intended to conduct.

Some interviewees mistook me for a donor and so exaggerated their stories in an attempt to appear pitiful. Therefore, I had to sift and test the data very carefully, a task which was facilitated using experiential data and triangulation.

Although one of the respondents felt over-researched and disrupted my group discussion, his conduct did not prejudice the rest of the research because I had taken contact details of all my respondents and conducted individual interviews with each one at her or his place of residence.

## CHAPTER 2

### 2.0 EPWORTH: “LIVING ON THE MARGINS”

#### 2.1 Introduction

The picture below shows the typical nature of substandard houses where the visually impaired stay in Epworth.



**Figure 4: Photograph of a typical house in EPWORTH built for the visually impaired from substandard materials**

Epworth is a peri-urban settlement located in the north-eastern part of Harare. People with disabilities (most of whom are visually impaired) are clustered into an informal settlement known to locals as Donoro but officially known as Belapezi Farm. The visually impaired live here due to their desire to live independently. They believe that they are discriminated against by landlords and property developers. Access to housing in Zimbabwe is secured through the private market but people with disabilities, who are among the poorest in society, cannot compete with higher income buyers and tenants. Indeed, persons with disabilities are likely to

use more than half their incomes paying rent.<sup>4</sup> In Zimbabwe people with disabilities are entitled to receive a public assistance allowance of US\$20 per month from the Social Services Department. This allowance is supposed to cater for all monthly requirements including food, water, rentals and other basics, yet to rent one room in a house in urban Harare costs a minimum of US\$50 per month. A discriminatory tendency by landlords also worsens the plight of these women and compounds their struggle to find housing. Two visually impaired women had this to say:

“Landlords do not want us because they say we are not able to perform their daily duties of sweeping the yard, cleaning the toilet and cleaning the passages.”

“I came here because at the last place I rented the landlord blamed me each time the toilet was left in a mess.”

These two reflect the sentiments and experiences of women managing visual impairment who would rather live with each other, among their own kind and in poor conditions rather than suffer the prejudices they face among their able-bodied fellow citizens. They would rather endure a home among their own without piped water or proper sanitation, rather than the humiliation and inhumane treatment of strangers.

This chapter presents the main experiences of visually impaired women in Epworth in accessing water and sanitation. Where necessary the methodologies employed will be explained as well as its significance to the findings.

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<sup>4</sup> ‘Poverty Housing’, Habitat World, Oct-Nov, 2001, [www.habitat.org](http://www.habitat.org).

## 2.2 The Water Situation

Epworth-Donoro is an informal settlement so their main sources of water include unprotected wells and boreholes as shown on the pictures below:

**Figure 5** Photograph of an unprotected well (EPWORTH)



**Figure 6:** Photograph of a borehole (EPWORTH)



### **2.2.1 Accessibility of Water**

Individuals privately own their wells but amongst the visually impaired respondents only one person owns a well in this group. As can be seen from the picture above (Figure 5), the well is open, putting at risk any visually impaired person using such a facility as she or he can easily fall into it and drown. Water is drawn from such wells using a container which is tied to a rope which is extremely difficult to use to draw water and from which to fill up conventional water containers. Visually impaired women, being the primary users of water, therefore continue to be at the mercy of well wishers, increasing their dependency contrary to the requirements of Article 9 of the CRPD which seeks to promote independence of the disabled.

There are also boreholes which were drilled by UNICEF in 2008 when there was an outbreak of cholera in the country (Figure 6). The orientation of the handle and the water outlet makes it extremely difficult for visually impaired women to independently perform the task thus they need a guide to help them access the water every time they need to operate the borehole. The design also requires that at least two people operate the borehole, one at the water outlet and another at the handle to pump the water. At times when the water table is low, it becomes very difficult to pump water and more people will be required to take turns to operate the borehole. This can be termed inadvertent discrimination on the part of the engineers as such designs do not factor in all users in pump design. Inadvertent discrimination refers to unintended, unplanned or exclusion which is not deliberate but would result in the impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms. Engineers should consider hand pumps which can be easily manipulated by women with visual impairment as well as children as shown below (Figures 7 and 8).

**Figure 7: Photograph of an indoor hand pump**



**Figure 8: Photograph of an outdoor hand pump which can be installed at unprotected wells like those shown in Figures 1 and 5**



The above photographs show hand pump designs which can be easily manipulated by women managing visual impairment and children. Such pumps can be easily fitted on individual house holds or even indoors.<sup>5</sup> This means more independence, fewer trips on water errands, safer and cleaner water, and many conveniences for visually impaired women.

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<sup>5</sup> [www.thebesttollfree.com](http://www.thebesttollfree.com).



Figure 8 shows an outdoor hand pump which can be easily installed on an existing well such as the unprotected ones shown in Figures 1 and 5. Since there are a number of existing unprotected wells all that is required is to install hand pump units at each well. This will increase the independence of the visually impaired as they will be able to fetch water more easily without the fear of falling into the well. It will also enhance the quality of water because there will be less chance of no contamination. Since it will take less time to fetch water, less storage containers will be required which in turn will give them more time to participate in community meetings and also engage in their own enterprises.

The indoor hand pump (Figure 7) requires connection to a water storage tank. Its advantages are that it is not necessary to raise the tank above ground level (which is usually required so that the water flows into the sink by the force of gravitation) and it is cheaper and easier to repair. In this respect the following positive comments should be noted:

*'Improving disabled people's access to and use of the domestic water cycle could assist in restoring the social integration and dignity of the individual disabled person. It would reduce the burden of personal care placed on family members and release valuable time, enabling disabled people and their families to apply more effort to improving income and reducing poverty. Specialist skills and knowledge are rarely required to accommodate disability. Instead consultations with local disability organisations, including women's sections, would provide insight into needs and possible solutions.'*

(Ministry of Foreign Affairs of Denmark)

The residents of Belapezi Farm also use water from the nearby river for washing clothes, sewerage and other basics. This river bank is muddy and in some instances rocky making the approach surfaces slippery and virtually impossible for a blind woman to fetch water on her own without risking falling into the river and drowning. Sending their children to the river also exposes the young to the same risks. During the time of my research it was reported, albeit unofficially, that there was a woman who had drowned in the river.

The physical terrain is rugged because brick moulders indiscriminately dig pits which they leave open. Hence a mobility cane<sup>6</sup> does not suffice for independent mobility resulting in the need for a guide each time they want to fetch water. More so, the distance they travel to fetch water ranges from 500 meters (half a kilometre) to 2 kilometres. One such instance is Mable's<sup>7</sup>, (not her real name), daily routine whereby she carries her twenty litre bucket being guided by her four-year old daughter. Thus, whereas it may take an able bodied woman 20 to 30 minutes to travel to the water source, it takes Mable one to two hours to cover the same distance. Double the time for her return trip plus an additional hour she needs to draw water from the source and you can see that Mable needs at least 3 hours just to fetch 20 litres of water, which makes up the better part of her productive time.

Mable's experience is reflects the difficulties faced by women managing visual impairment in Epworth who always plead for potable water from neighbours. They pay US\$1 for 20 litres of water. Chipo<sup>8</sup> indicated that she pays an extra dollar for someone to draw water for her from an unprotected well. This was confirmed by her family members and corroborated by her neighbour who is also visually impaired and uses the same water sources. However when interviewing the owner of the well, she denied such allegations or that she sells water arguing that:

‘...since it is generally believed that water is life, if you deny someone access to it you would have killed that person.’

Saying and doing are two different things altogether; although she denied the allegations, information from other respondents revealed that the woman had ill-treated the disabled. It is this kind of negative attitude that forces people managing visual impairment to pay more to obtain water from other sources which are further a field rather than use one that is close by. Forced to make this kind of choice visually impaired victims may expose themselves to unhygienic and inappropriate practices that do not measure up to community standards resulting in their further stigmatization and isolation.

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<sup>6</sup> An assistive device in the form of a white stick employed by the visually impaired to checking the ground for obstacles and hazards.

<sup>7</sup> Visually impaired female respondent.

<sup>8</sup> Visually impaired female respondent.

Women, due to their biological make-up, require more water for their personal hygiene than their male counterparts. In this respect I used the Sex and Gender Analysis which I found appropriate to analyze issues arising from sanitation and hygiene and found that women during their menstrual cycles and those breast feeding need more water for personal hygiene. Most female respondents fall into this category. Hence based on their need for water for laundry and sanitation I was able to conclude that women and men are affected differently when it comes to water problems as these emanate from the need for such a resource. In Assumptions 6 and 7 this approach was a powerful analytical tool given the complex context of visually impaired women as it recognizes the fact that gender roles can have adverse effect upon the lives of this group of women and girl children.

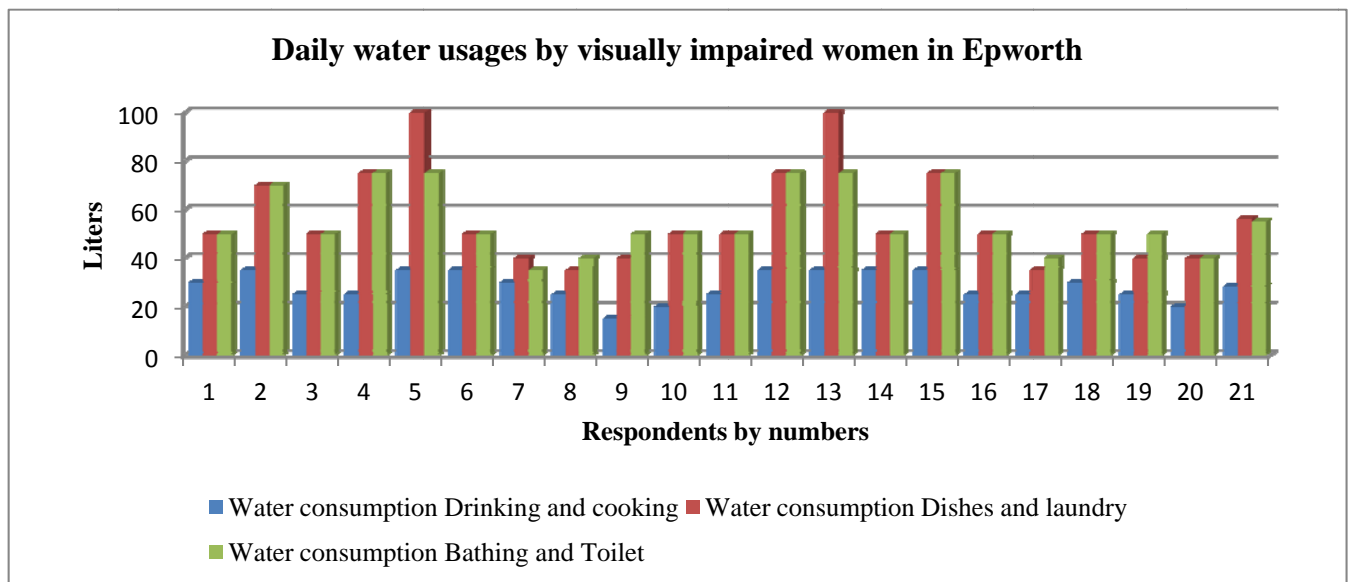
The approach was particularly useful due to its focus on social and cultural processes and interventions as regards their differential effects on women and men and the interrelations thereof. According to this concept, gender does not look at women in isolation, but it enabled me to analyse not only the differences between women and men as we know, but also between different 'identities' and groups of women viz-a-vis disability status, class, race, ethnicity, age, ability and sexuality and the like. (Bentzon A.W. et al 1998: 83): We come to view these in a new perspective as the once obscured and marginalized become visible and more pronounced.

### **2.2.2 Affordability of Water**

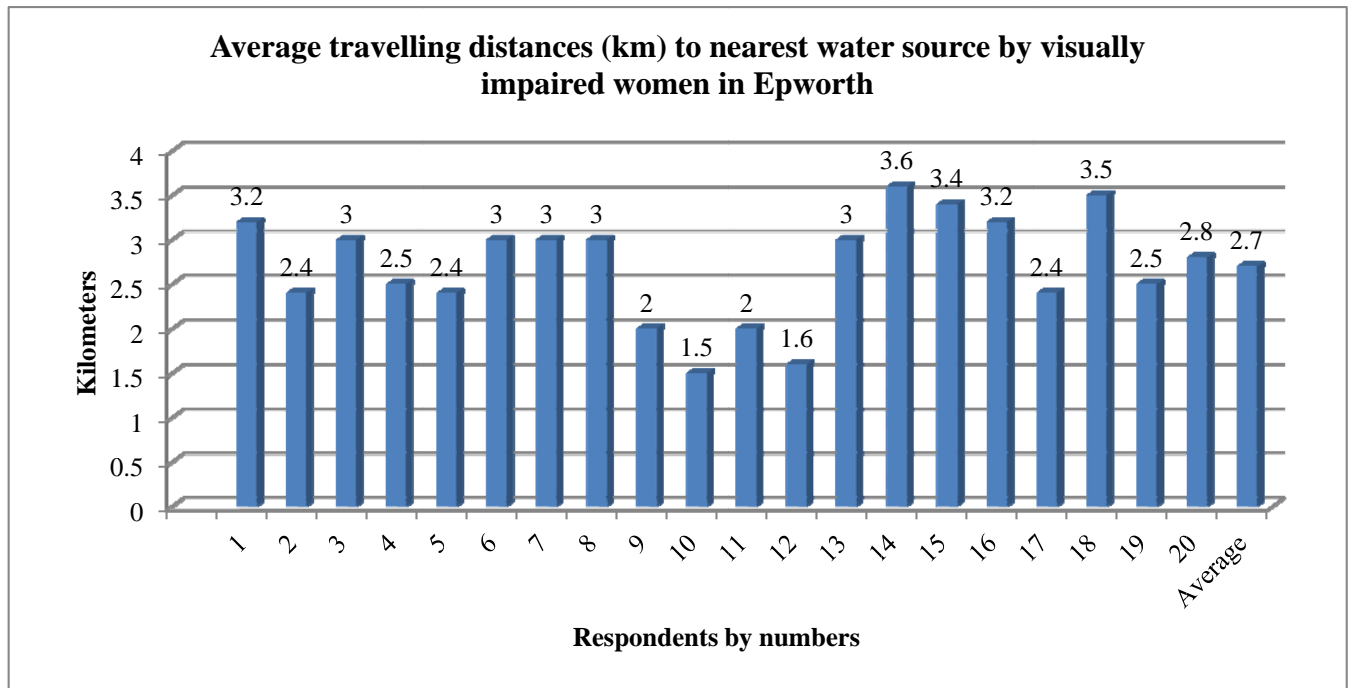
All 17 visually impaired women interviewed in Epworth are street beggars and live on less than US\$1 (one US dollar) per day. In order to survive they are forced to buy water from owners of unprotected wells and pay US\$2 each month for the maintenance of the boreholes to their *de facto* authorities even when they do not breakdown or require repairing. In this regard, although water is not affordable, the women managing visual impairment have to pay through the nose in order eke out a living. One of my male visually impaired respondents, a teacher, indicated that in the month of January 2012 alone he paid US\$70 to buy clean water, a sum which is beyond the reach of most of respondents. Furthermore, upon a close analysis of the graphs below

(Figures 9, 10 and 11) showing a summary of the daily water consumption (Figure 9) of my respondents and the distances travelled (Figure 10) as well as the number of trips per day (Figure 11), if one uses a 20 litre container then they show that 7 trips are needed (Figure 11) and, if this is the case, then it will cost US\$7 per day just to buy water alone. This is extremely expensive.

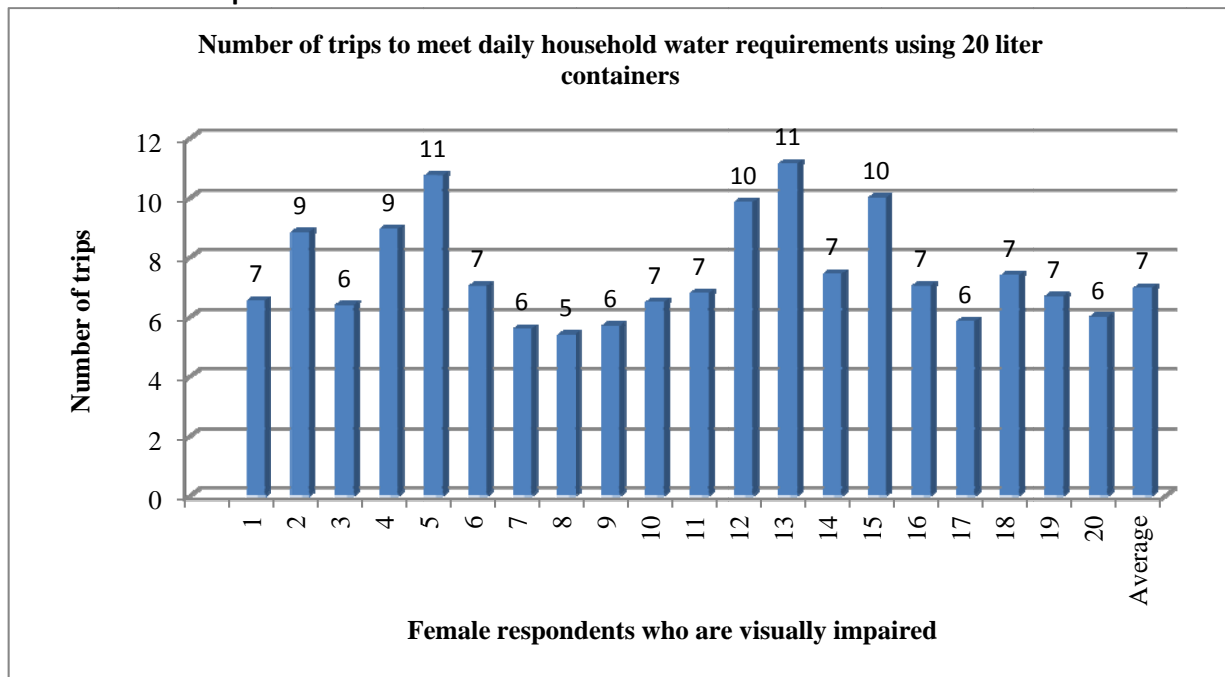
**Figure 9: Graph showing the DAILY WATER CONSUMPTION of visually impaired respondent women in EPWORTH**



**Figure 10:** Graph showing the AVERAGE DISTANCES TRAVELLED to the nearest water source by the visually impaired respondent women in EPWORTH



**Figure 11:** Graph showing the NUMBER OF TRIPS to the nearest water source made by the visually impaired respondent women in EPWORTH to meet their daily household requirements



As compared with other Harare residents the water bought by my visually impaired respondents in Epworth is extremely expensive because if they pay US\$7 per day for water alone that would mean that by the end of the month they would have paid US\$210. Yet Harare residents who can afford to buy water in bulk (that is if they have storage tanks) pay about US\$60 for 5,000 litres; on average a family of 5 may need 9,000 litres and this would amount to only US\$120 per month (i.e., US\$90 less than the visually impaired respondents!). Furthermore, ordinary Harare residents with tanks would only pay this sum (of US\$120 per month) if the City of Harare failed to supply them for the whole month and this is extremely rare. For my respondents to resort to this ultimately cheaper scheme is impossible because they do not have the necessary storage facilities (like their own 5,000 litre storage tanks) and cannot raise US\$60 in one go which they need to pay water suppliers who require cash before they deliver.

### **2.3 The Sanitation Situation**

*“Access to water and sanitation services is a fundamental right of all people whatever their gender, physical ability, economic status or age. Therefore all water and sanitation programs need to address the needs of all sections of society, including those living with impairments.”*

(Water Aid 2008)

Belapezi Farm residents are not connected to an online sewer. So they use shallow pit latrines which either quickly fill up or easily cave in. These facilities are so poor (see Figures 12 & 13 below) that in extreme cases people resort to defecating in the open.

**Figure 12: Photograph of an outside bathroom (left) and pit latrine (right).**



**Figure 13: Photograph of a shallow collapsed pit latrine**



The pit latrines are built using sub-standard bricks and have neither roofs nor doors so they are covered by worn blankets or any make shift opaque material for the ‘privacy’ of their users (see Figure 14, below). What is disturbing (according to one of the respondents) is that the community members take advantage of their impairment and mess up her latrine. At one point in time she touched human excreta which were on the walls as she was trying to find her way into the latrine. I am concerned with their safety which is highly compromised as the toilets do not have doors leaving these women at risk of being raped. Although no cases of rape were recorded there is a real possibility that they may occur especially in the evening under the cover of darkness as there is no security lighting. Unlike those who have their sight, visually impaired women can easily be bitten by snakes and poisonous insects that they cannot see and which sometimes seek refuge in these latrines. Since the latrines have no roofs, when it rains the muddy floors put visually impaired women at risk of slipping and falling. To overcome these sorts of challenges the visually impaired have to ask someone to accompany them to these latrines and this undermines their dignity.

**Figure 14: Photograph of pit latrines which do not have roofs and which are too close to nearby homes and wells whose water they may contaminate**



The pit latrines are sometimes built too close to houses and shallow wells people have resorted to digging (see Figure 14), thereby exposing this constituency to serious water borne diseases (e.g., cholera and typhoid). House flies can easily transmit diseases such as cholera.



The structures in which they live are built from sub-standard bricks and clay instead of cement is used as mortar (see Figure 4). One of the respondents escaped death when her structure caved in on her after a heavy downpour. Respondents alleged that builders deliberately overcharge and use sub-standard material because there are no inspections of the houses are made by authorities as this is an illegal settlement. As these women are visually impaired they cannot visually inspect the quality of these houses. The danger with open wells is that the sewage from the bush and shallow makeshift holes dug by people can easily its way into them posing a serious health risk. The respondents said they always contract diarrhoea because of the contaminated water they drink and it was even worse for one woman who is HIV positive because of her weakened immune system.

#### **2.4 Economic & Education Issues**

*“Unemployed or under-employed disabled people contribute little economically to the family. In addition, families incur costs caring for disabled family members (Metts, 2000, quoted in Jones et al, 2002), both because of health care expenses, and the reduced opportunities for income generation.”*

(Holdsworth, 2001, quoted in Jones et al, 2002)

This observation describes the situation of the majority of the visually impaired women interviewed at Belapezi Farm because they are virtually destitute. In order to augment their monthly allowances from Government, they beg in the streets of Harare. They use their children as full time guides leaving them with no time to go to school. Their children therefore end up being condemned to the same life style as their parents. Consequently:

*“In this way their existence impoverishes the family (Jayasooria et al, 1997, quoted in Jones et al, 2002), pushing ‘borderline households into poverty and poor households deeper into poverty.”*

(Radda Barnen et al, 1998, quoted in Jones et al, 2002).

We have come to know most of these children as ‘street kids’ or ‘street-fathers’ and ‘street-mothers’ for the older ones. Those who try to be enterprising by selling wares in the streets of Harare are either arrested by Municipal Police for illegal vending or they are conned out of their earnings by able bodied but wicked men. One respondent said:

“I used to sell airtime in the CBD but a certain man claimed to have given me US\$20 and he wanted airtime for US\$5; I gave him the airtime and US\$15 change only to realize that he had given me US\$1.”

A week later the same man conned her again putting her out of business. Another respondent had this to say:

“Although we despise begging, we have no alternatives. We want our children to get decent education and accommodation so that they can compete with those of the able bodied. The City council and government can empower visually impaired women by constructing Flea markets that are legally designated so that we operate legally. We are also human beings and we should be treated as such.”

Of what significance does this analysis have to my research? As highlighted earlier in this chapter, simple minor changes or additions to existing facilities (such as the installation of safe and disability friendly outdoor water pumps pictured in Figure 8) can be made to enable the visually impaired to be included in the provision of regular public water and sanitation services. This would make a great difference to a group of people who are often excluded from access to safe water and sanitation facilities and who are particularly vulnerable to the causes and consequences of poverty.

Improving disabled people's access to and use of the domestic water cycle could assist in restoring the social integration and dignity of the individual disabled person. It would reduce the burden of personal care placed on family members and free up valuable time, enabling disabled people and their families to give more of their time and energy to improving their income generating activities and reduce their impoverished circumstances. If the visually impaired in Epworth were economically empowered it would be easier for them to buy water, find

accommodation in formal settlements where water problems are not as bad as those in Belapezi Farm better and there are better educational opportunities for their children.

## **2.5 Different Groups of Women**

I employed the intersectional legal approach which acknowledges that women are not one homogeneous group. There are differences between them. For example, two of my respondents were partially sighted and their problems in accessing water were not as challenging as those who suffer from total impairment and who therefore need guides all the time.

They can also be categorized in terms of their class and marital status. Those who are married are better off than the single mothers and widows. For married women, there seems to be a division of labour between wives who fetch water and their husbands who work, i.e. selling airtime and or begging. So they can afford to pay maintenance fees for using a borehole or sometimes even hire boys within the community to fetch water. A point worth noting is that for the women in Belapezi Farm the issue of class is not apparent as shall be seen in next chapter. The farm residents are basically all in the same class since they decided to reside “on the margins” of society because they could not afford to stay in society’s formal settlements.

## **2.6 The Human Rights-based Approach to Development**

Since the ‘social model of disability’ is in line with human right principles, I employed an empowerment approach to my study as ‘the human rights-based approach to development’. The human rights based approach is primarily premised on the universality and fundamentality of rights. It is a conceptual framework normatively based on international human rights standards and operationally directed towards promoting and protecting human rights. I used this approach to interrogate all my assumptions as it integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. A rights-based approach has been said:

*“... to deliver more sustainable solutions because decisions are focused on what communities and individuals require, understand and can manage, rather than what external agencies deem is needed.”*

(WHO 2003:10)

I used the Human Rights Approach to probe and analyze the human right to water from above (from the legal point of view) as you shall see in Chapter 4 and from below (from the point of view of the user) where I started by investigating the existence of norms and practices that implicitly express the human right to water and disability. I found the Zimbabwean Water Act in sections 32 and sections 2 provide for “... *the right to primary water for primary use*” and the “...*provision to the vulnerable groups...*”, respectively. This can be seen as a negative expression as the duty to respect and protect is provided but not fulfilled. There are also traditional and customary norms which relate to the sharing of water, for example, one owner of a private well stated that “...*water is life and should not be sold*”. People also organise themselves in order to maintain existing water sources, for example, the payment of monthly contributions for the care and maintenance of boreholes and the contributions some people make to buy floor polish for housekeeping and ropes for drawing water.

I endeavoured to gauge the perceptions as regards the right to water, the level of awareness and knowledge of national water laws and policies thereof by visually impaired women. I also used the perspective from below (i.e., from the level of the user) to ascertain the level of rights consciousness and how women use their knowledge of rights and laws to advocate and lobby for improved access to water services or resolve water problems.

The other perspective critical to my field research through the perspective from below (i.e., from the user’s point of view) was the issue of the participation of women. To help me exhaust this view point I desired to find answers to the following questions:

- Do women participate in the formulation of water policies & rules?
- Are women represented in various water bodies?
- What are the different profiles of women representatives and what are their levels of education and position in society?

- Who do they think they represent and who are they accountable to?
- How do women negotiate and influence decisions in the different water bodies?
- What decisions do women influence?
- How do women representatives in water bodies interact and mobilise fellow women to express their right to water and resolve water problems?
- As regards empowerment, what is the nature and outcome of women's participation in water bodies?
- What difference is it making to women's right to water?

However it was sad to note that since women managing visual impairment are not represented on any management board and are not even consulted when decisions are made, I could not answer any of the above questions. However, looking at the community norms in Epworth I cannot rule out the fact that these women are partly to blame. Every week the *de facto* authorities hold meetings in which everyone is asked to attend and participate but the respondents view these as a waste of time because they are too busy begging and or selling airtime and so they are partly responsible for excluding themselves from the whole process of consultation, representation and community activism. Lack of participation by women managing visual impairment therefore left me with people (i.e., those who are in committees that maintain boreholes) that fall outside the scope of my study. Such people are concerned with general issues because they are ignorant of the problems which are specific to visually impaired women.

## **2.7 The Voice of the Marginalized**

When I asked my respondents on how their situation can best be addressed they proposed that they need accommodation in serviced areas as Chitungwiza (a very large high density area about 40km from Harare) had done for its disabled residents. I then had to visit the Chitungwiza Municipality Council to verify their claims. My aim was to compare with mainstreaming disability but what I had heard from my respondents in Epworth was not confirmed and so I restricted my research to my initial assumptions.

I found myself knocking at the doors of Organizations for and of People with Disabilities such as NASCOH, League for the Blind and Zimbabwe Association for the Visually Handicapped [ZAVH] and disability activists who sit on various boards. They were mainly worried about evidence of structural and institutional discrimination in Zimbabwe. They cited the example of the fact that at the All-stakeholders' Conference of the Constitution Making Process (held on 13-14 July 2009) only 80 of the 4,000 delegates were disabled. Furthermore, out of about 10 thematic areas proposed to guide the process, 'disability' was simply relegated to a sub-theme within the thematic area on the Bill of Rights. It was subsequently removed during the course of proceedings. It is worth emphasising that the issue of representation is at the centre of this exclusion. Of the 25 members of the Constitutional Parliamentary Select Committee, not one suffers from any disability. It is no surprise, then, that when this committee selected what it referred to as 'a panel of eminent Zimbabweans from political parties, civil society organisations, business and academia' to present papers on various themes, not one person was selected from a disabled person's organisation to make any presentation on disability at the 'All-stakeholders' Conference'. Disability was only included as a thematic area after extensive lobbying by the disability community during the plenary session. However, it is necessary for me to give credit to this disability lobby because in the leaked draft there was a provision on the social protection of people with disabilities not knowing the outcome of the final draft.

## **CHAPTER 3**

### **3.0 MABVUKI: EVERYTHING IS IN PLACE BUT NOT WORKING**

#### **3.1 Introduction**

Moving from an informal settlement such as Belapezi Farm in Epworth to Mabvuku suburb one is tempted to conclude that all is well. The toilets are well built and secured and water taps can be seen both outside and in the houses. Taking a closer look at these structures reveals that although ‘everything’ is in place, the failure of the perceived duty bearers to supply water through this infrastructure has rendered it redundant and non-functional. This chapter presents the main experiences of women managing visual disability in Mabvuku in relation to their access to potable water and water for sanitation and explores their coping mechanisms. Reference will be made to my assumptions and I will also highlight other crucial themes that emerged from the research.

As with the research in Epworth I also employed a qualitative approach in seeking to find the extent of the challenges affecting women managing visual impairment in Mabvuku. I calculated the average distances they travel to get water and their daily water consumptions in a bid to ascertain the number of trips the women make. In an effort to capture accurate data from the women with visual impairment, I was constantly triangulating my data using the grounded theory approach. I also discovered the difficulties in accessing water faced by women managing visual impairment in Mabvuku are similar to those in Epworth as I discuss below.

#### **3.2 Some Background Information about Mabvuku**

Mabvuku is a high density suburb located in the eastern part of Harare. The City of Harare Municipality, being the duty bearer, has failed to reliably supply it with potable water and

between 2006 and 2009 not a drop of water came out of its taps.<sup>9</sup> As a measure to ameliorate the effects of this water crisis, the residents dug unprotected individual and communal wells. Due to poor sanitation and unclean water supplies, UNICEF came in to avert the looming outbreak of cholera and other water borne diseases by supplying clean water through water bowsers and tanks and also sunk numerous boreholes and provided water purification tablets. However such humanitarian assistance rendered by NGOs was largely under-researched, non-participatory and unplanned, and as in this case ended up being a short-lived and unsustainable quick fix solution. According to most respondents, the lack of consultation with and participation of Mabvuku residents has largely resulted in the vandalism and theft of critical borehole spares chiefly because the boreholes were cited by “experts” in areas outside the vicinity of the residential areas. Besides the long distances which Mabvuku residents had to walk to the nearest water source, the fact that visually impaired women were not considered shows that inadvertent discrimination was suffered by this group.

### **3.3 The Water Issue**

#### ***3.3.1 Same Community: Different Classes and Different Coping Strategies***

Being informed by the intersectional legal approach which acknowledges that women are not a homogenous group, the Mabvuku community, like other Harare high density suburbs is made up of peoples from various backgrounds and class structures.<sup>10</sup> From this premise arise different strategies for handling these perennial water woes.

Unlike in Epworth, where all my female respondents beg in the streets of Harare to make a living and live at Belapezi, Farm, an area classified as an illegal settlement, Mabvuku is an old suburb which has legal status. From my field research I gathered that those who belong to the ‘high class’, use their own financial resources to dig wells, install fixed bulk water tanks, or fetch

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<sup>9</sup> From respondents interviewed.

<sup>10</sup> The economic downturn of the last two decades resulted in the massive brain drain of skilled labour to neighbouring countries and overseas. These people send money which sustains thier families back home which improve the quality of living through purchase of properties, motor vehicles and luxuries giving birth to an elite class.



water using their vehicles and at times hire water bowsers or bulk water tanks. The ‘lower class’ residents resort to using unprotected wells which are either communally or privately owned. Landlords and tenants also have different coping mechanisms. The former, being property owners, may simply dig wells or pass the burden of paying the water bills to the latter and in situations where the tenants rent the whole house some landlords may refuse to dig wells. Amongst women we also have different categories such as the able-bodied, women managing disabilities in general and women with visual impairment in particular. These women in Mabvuku encounter head-on several barriers such as discrimination and social exclusion that impede their enjoyment of the right to water and sanitation as explained in the section below.

The water problem in Zimbabwe started after the year 2000 when water management was put under the control of the newly created Zimbabwe National Water Authority established in terms of Zimbabwe National Water Authority Act. Prior to that water was under the management of Municipal Councils. Zimbabwe National Water Authority failed to efficiently manage water as burst water pipes led to the loss of treated water and supply was erratic. Serious water shortages across major cities and towns in Zimbabwe resulted. In turn, this led to the outbreak of cholera which reached epidemic levels and Mabvuku residents were not spared.

### **3.3.2 Accessibility of Water**

*“The mere abundance of housing, food and water does not automatically mean that persons with disabilities will enjoy these internationally recognized rights.”<sup>11</sup>*

Although such essentials must be physically accessible, women with disabilities experience additional difficulties in accessing them. Grounded theory is an iterative process which facilitates continuous dialogue between legal concepts, theoretical generalizations as well as assumptions and an ever-growing data base of empirical knowledge obtained from women and men’s lived

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<sup>11</sup> See in particular Article 11, International Covenant on Economic, Social and Cultural Rights 1966, General Comment No.15 on the Right to Water of the UN Committee on Economic, Social and Cultural Rights and Article 27, UN Convention on the Rights of the Child 1990.

realities on gender relations, local practices, norms and procedures as explained by Bentzon W. et al (1998:18).

In Mabvuku I used this method following up leads to find out what prevails on the ground rather than relying on desk research. Water must be accessible through taps situated in houses as this is a prerequisite for each building to be deemed habitable by the city council in “theory” but the water is not actually provided. To ascertain why there was lack of piped water I visited officials from the Ministry of Water Resources and Development, Ministry of Local Government and Urban Development and Harare City Council authorities in Mabvuku District. I also visited NGOs like UNICEF which are actively involved in water supply to Mabvuku and I found that visually impaired women are not consulted as regards the supply of water and no alternatives such as water bowsers specifically for this group are in place to mitigate the effects of erratic water supply and no information on the times and places for water distribution is disseminated to this group.

One Engineer was even surprised that I was asking about the council’s water program for the visually impaired to which he responded:

“We cannot even supply water to the able-bodied, how then do you expect us to supply water to blind women?”

From this response I confirmed Assumption 3 states that: *Women and men with visual impairment are not represented in water management bodies and are not consulted when decisions relating to water management are made.* As a result of the data I gathered from group discussions and one-on-one interviews I had with perceived duty bearers (such as this Engineer), I concluded that the duty bearers should consult and involve women with visual impairment to put in place measures and facilities that are relevant and specific to the latter’s needs. However, failure by the duty bearers to supply clean water has meant piped water is a rare spectacle. I further concluded that piped water is mainly inaccessible due to its unavailability. In this respect, the following comments of Amartya Sen should be noted:

*“We live and operate in a world of many institutions. Our opportunities and prospects depend crucially on what institutions exist, how they function, and how inclusionary they are. Not only do institutions contribute to our freedoms, their roles can be sensibly evaluated in the light of their contributions to our freedoms.”*

(2000)

Using the Actors and Structures Approach I was able to analyze the plight of women with visual impairment as to how they fare their in comparison to their able-bodied counterparts in terms of social inclusion, policy formulation and implementation, construction of user friendly and accessible infrastructure and roles in decision making. It enabled me to probe how the Zimbabwe National Water Authority (ZINWA), Municipal Councils’ and local boards’ lack of consideration of these inter-relations affect women with visual impairment and ultimately their right to water and livelihood. Thus when NGOs supply water to Mabvuku residents in bulk water tanks, the failure to inform women managing visual impairment leads to institutional discrimination and exclusion.

In the absence of piped water, Mabvuku residents have resorted to other sources of water like boreholes, communal and private wells and buying from other communities. I shall therefore take a closer look at these alternative water sources in the light of accessibility for visually impaired women in this suburb. UNICEF provided rain collection tanks (these are useful during the rainy season only, obviously, if it rains) to the elderly and vulnerable but no household of, or housing for any visually impaired person/s benefited from this program.

*“Disability impacts the whole family, through increased treatment costs, increased workload of carers (usually women and girls) resulting in reduced income, and general reduction in well-being.”*

(DFID, 2000; Tesfu & Magrath, 2006)

This situation poses major challenges for visually impaired women who are, by default, socially excluded and neglected by duty bearers, family and the community. I found out that the rain water collection tanks were installed only for the elderly and that disabled people including visually impaired women were not considered. Those who benefited from this program jealously guard their water and sometimes claim that they ...

“... filled their tanks with municipality water when supplies were temporarily restored, so this is not free rainwater.”

All in all I came to the conclusion that although this program was meant to benefit vulnerable members of the Mabvuku community through provision of water, women managing visual impairment still have no access to this facility.

The design of the boreholes are the same as those in Epworth as shown in Figure 6. The orientation of the handle and the water outlet makes it extremely difficult for visually impaired women to independently perform the task and they need a guide every time they need water. Muchaneta and Chido who are visually impaired said:

“When the boreholes were drilled we were never consulted, the councillors and other political bigwigs simply chose where they wanted them.”

“We are never informed where and when bulk water is available, there is no information dissemination whatsoever for us to access potable water.”

From the actual designs of boreholes and the information that I got from City Council Engineers I concluded that indeed visually impaired women in Mabvuku are not consulted when it comes to implementation of programs meant to benefit vulnerable members of the community. However, failure by the legislature in the Water Act of 1998 to define the term ‘vulnerable’ leaves the visually impaired in limbo. The design of the borehole requires that at least two people have to operate it, one at the water outlet and the other at the handle to pump the water. At times when the water table is low, it becomes very difficult to pump water and more people will be required to take turns to operate the borehole and such designs do not factor in all users in pump design. Engineers should consider hand pumps which can be easily manipulated by women with visual impairment and even children as shown above in Figures 7 and 8.

One of my visually impaired women, Grace, said:

“If I accompany my guide to the borehole, I end up being a burden to him or her as I will reduce the person’s speed and ability to carry water...”

Grace cannot fetch water as it is very difficult for her to balance a container on her head therefore she only goes to the borehole in the hope the people will be sympathetic to her condition and allow her to skip the long queues. In the event that people are not sympathetic, she is forced to await her turn in the long queue with the guide but when it comes to carrying the water container the latter will bear the burden whilst guiding Grace. The 5 women with visual impairment I interviewed in Mabvuku travel distances of one and a half kilometres on average, none less than a kilometre. I averaged these women’s travelling distances and divided the result by their average daily water consumptions for domestic use.

The town planners and engineers did not consider those with mobility challenges in locating the boreholes. The table below shows that they travel an average of 2,7km per trip and using a 20 litre container it takes 14 trips per day to collect water. Also due to the terrain, the Council is digging up roads and leaving the holes without filling them, these become barriers to the visually impaired in their access to water. Each visually impaired woman needs a care giver or guide for such distances but for both persons 20 litre containers will be too heavy thereby reducing their capacity to carry water by half which in turn doubles the number of trips. This is summarized in the graphs shown in Figures 15, 16 and 17 below.

Figure 15: Graph showing the DAILY WATER CONSUMPTION of visually impaired respondent women in MABVUKU.

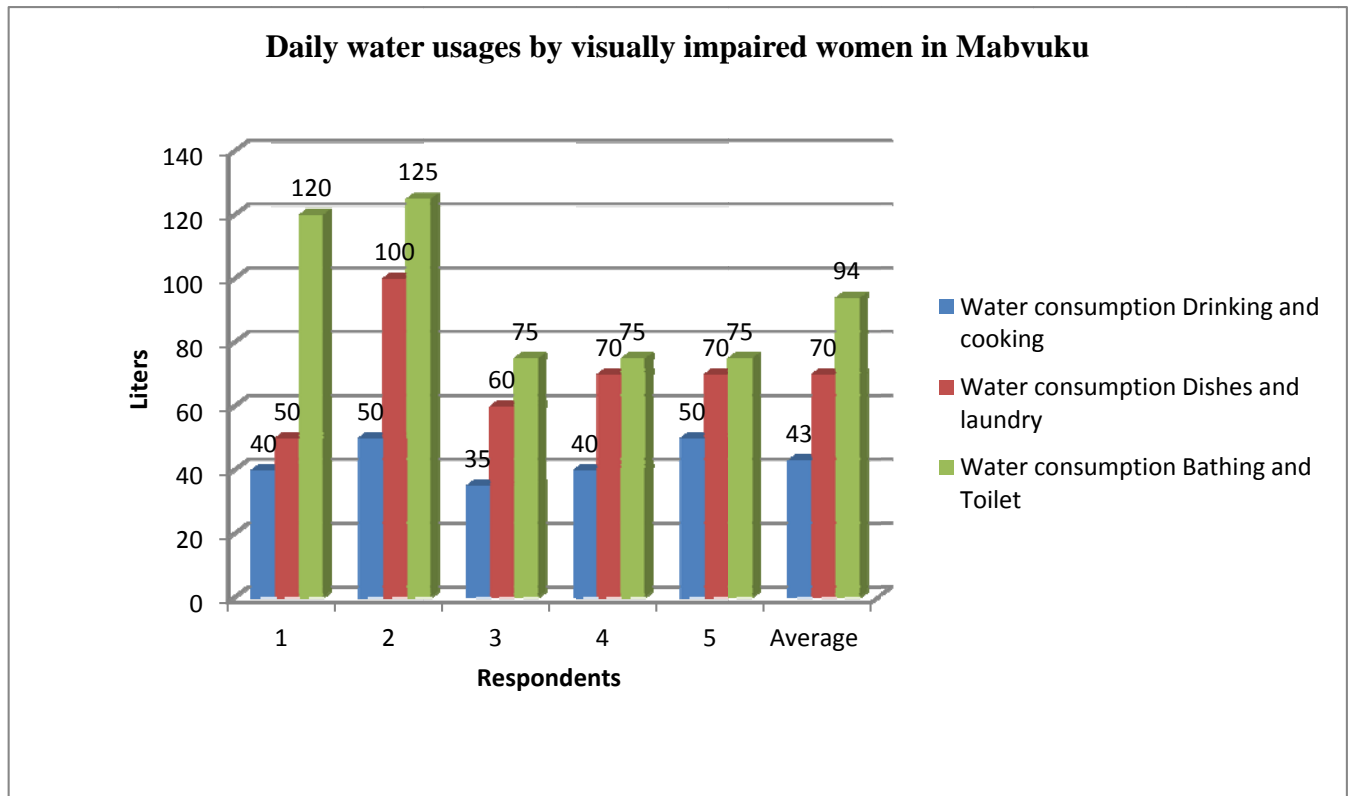


Figure 16: Graph showing the AVERAGE DISTANCES TRAVELLED to the nearest water source by the visually impaired respondent women in MABVUKU.

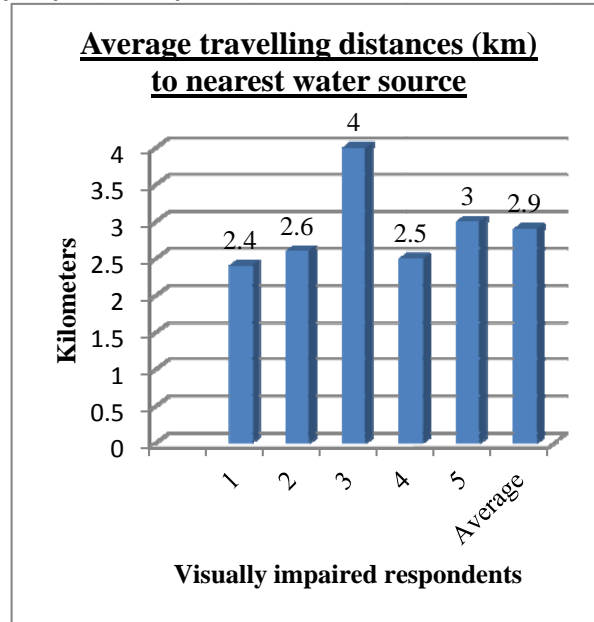
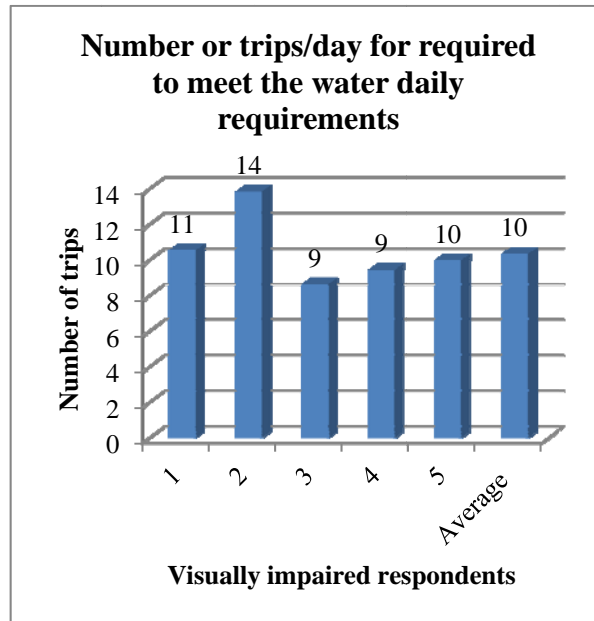


Figure 17: Graph showing the NUMBER OF TRIPS to the nearest water source made by the visually impaired respondent women in MABVUKU to meet their daily household requirements.



One of my respondents commented on this issue:

“We would appreciate it if we could have a social network group in which we could share our experiences and difficulties as visually impaired women and men speak with one voice.”

The fact that James echoed most of my respondents’ sentiments drew me to conclude that both women and men managing visual impairment lack representation from and knowledge of their Disabled Person’s Organizations (DPOs). The visually impaired are also excluded from social groups such as the Residents Association which means their peculiar needs are left out when it comes to planning and implementation.

Unlike the case in Epworth, I found that in Mabvuku water from wells (protected or unprotected, privately or communally owned) is a resource that is shared without payment of any fees. The only exception is during the dry season when wells dry up or yield little water in which case the owners limit or refuse to supply other community members. However, from interviews with landlords who dug up wells and women managing visual impairment, I came to conclude that in most cases the latter are given first preference to fetch water.

There is legal pluralism in the water sector. There are multiple sources of water all regulated by different laws, including, state laws, international humanitarian law through UNICEF, the family and semi autonomous social fields. There are also traditional norms related to the sharing of water which are at play therefore different norms govern the accessibility, availability and affordability of water in the area. From a legal pluralist viewpoint, local norms overrule state laws because even though it is illegal to dig wells, people do so because the duty bearers do not supply the water. Criminalization of the digging of wells has no impact because local norms are overruling state laws and it appears that the semi autonomous social fields are being tolerated because of lack of compliance by the responsible authorities.

I also used this approach to investigate the conflict within the laws and policies of implementing the same. The Constitution does not provide for the right to water yet some pieces of legislation such as the Water Act purportedly create the said right in section 32 by entitling everyone to

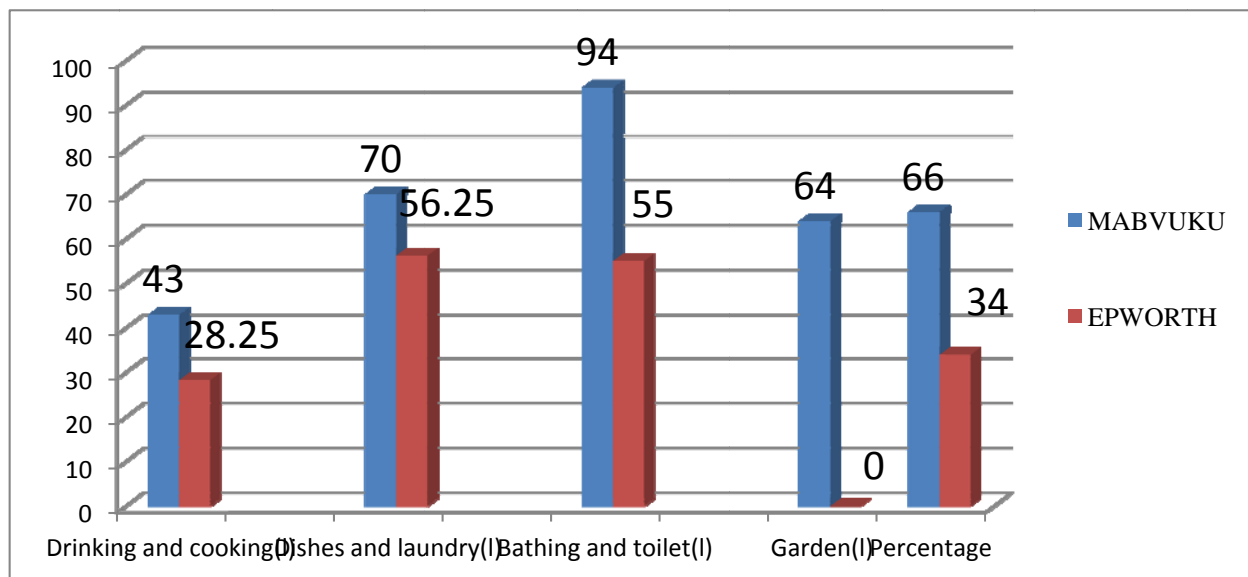


water for primary use free of charge. In actual practice *free water is not available in urban areas, no matter how vulnerable you may be*. The Environmental Act also provides for the right to a clean environment. Although water is included, this piece of law is not justiciable when breached because it is not Constitutionally guaranteed.

### **3.3.3 Affordability of Water**

The City Council charges Mabvuku residents ‘fixed charges’ for the care and maintenance of infrastructure in the sum of US\$20 per month whether or not it supplies water. This charge alone consumes the entire monthly public assistance allowance of US\$20 given to the disabled which allowance is meant to cater for all their basic requirements. How then are they meant to pay for their other basic necessities? Since my respondents are not able to see, they pay local boys US\$1 for 20 litres of water. It therefore means water is a major expense for the visually impaired unlike their able bodied counterparts who can routinely fetch water for themselves. The graph below (Figure 18) shows the average daily total water consumption of a respondent in Epworth and Mabvuku. The average total usage for Mabvuku is about 280 litres per day which means those respondents who hire someone needs US\$14 per day for water only which is extremely expensive.

**Figure 18: Graph showing the TOTAL AVERAGE DAILY WATER CONSUMPTION (in litres) of visually impaired respondent women in EPWORTH AND MABVUKU**



The time spent while women with visual impairment search for water is so great that they spend little or not time engaged in productive work of any kind. One of my respondents complained that she no longer has time to make her brand of toilet cleaner or dish washing liquid which she sells to earn a living. She believes the Government should:

“...do something about the visually impaired women’s economic emancipation through promotion of their entrepreneurial enterprises. Provision of accessible and reliably available water will be the starting point.”

As Holdsworth, (2001) said as quoted in Jones et al (2002), much time spent centred around accommodating the needs of disabled persons results in the “*reduced opportunities for income generation*” thereby further plunging the family into poverty as mentioned by Chipso.

The unprotected wells are a risk to both the visually impaired and their children as evidenced by one of my respondents’ 3 year old daughter who fell into a well. Fortunately the shallow well had dried up and she was miraculously cushioned by the mud resulting in her sustaining minor

bruises. If such wells take in water, a potential death trap is always looming for the visually impaired, children and animals in the area; children have been known to drown in such wells.

### **3.4 The Sanitation Issue**

In Mabvuku houses are connected to online sewer systems. People use flush toilets which are inside their houses and they need a lot of water to flush if the house is to be habitable. However, due to the water problems it is difficult to manage, to flush and clean up the toilets as this requires lots of water. My respondents indicated that they have to limit themselves to the number of times they visit the toilet and as far as their children are concerned they just tell them to go to the nearby bushes which is a health hazard since they use water from unprotected wells and therefore during the rain season human waste finds its way into the water supply. Water borne diseases such as cholera and typhoid can easily be transmitted in such conditions which creates a life threatening situation. What is disturbing is the fact that whenever the toilet is left in a poor state, the blame is put on my visually impaired respondents when in truth it is sometimes the fault of the landlord's children. As a result they carry the extra burden of storing extra water to cater for those incidences.

One of my respondents, Mary, was worried about the possibility of continuous health problems if the issue of water is not addressed in Mabvuku. This is because her room in the rented house where she lives is next to their shared toilet which is used by five other tenants at the property. At times people use the toilet and leave it unflushed. The toilet does not have a door hence and the flies which are attracted find their way into Mary's room and contaminate her food. She is also affected by the odour. To mitigate the problem Mary takes it upon herself to find water to flush the toilet after every user. To Mary sanitation is really a nightmare because she no longer has time to pursue her income generating projects.

## **Score Card on Gender**

I also had to analyze who exactly was affected by the discrimination and exclusion of concerns of visual disability in designing sewer and water reticulation infrastructure. I then proved that women, due to their gender roles, are the most affected as they are the household managers. Women are the ones who are involved in the fetching of water and encounter the physical, institutional and the social barriers since their male, as the 'breadwinners' will be in town most of the time 'working'.

For Assumption 5 sanitary wise I was looking at the biological make-up of both women and men and tried to establish who needs more water. Biologically, women during their menstrual cycles need more water than males and also those breast feeding need more water most of my respondents were in this category hence needed more water for themselves and their children's laundry and sanitation. Hence I safely concluded that women and men are affected differently when it comes to water problems as these emanate from the need for such a resource.

In Assumptions 6 and 7 this approach was a powerful analytical tool given the complex context of visually impaired women as it recognizes the fact that gender roles can have adverse effect upon this group of women and the girl children in their lives.

## CHAPTER 4

### 4.0 DO THE VISUALLY IMPAIRED WOMEN OF MABVUKU AND EPWORTH ENJOY THEIR HUMAN RIGHT TO WATER?

#### 4.0 Introduction: Interrogating the Human Right to Water and Sanitation

From the evolution of human rights, the right to water was not expressly provided for and it was drawn from other rights such as the right to life, the right to food, the right to health and so forth. However it was expressly provided for by General Comment 15 (GC 15) of the Economic, Social and Cultural Council (ESCC) where it was defined to include availability, affordability and accessibility.

This chapter will look at whether individuals or a group have a legal right to potable water and basic sanitation and the parameters thereof as well as an identification of the duty bearers and their obligations.

Since women are not a homogenous group and suffer different struggles in their daily lives in this section I will answer the above question by breaking it down into (1) availability, (2) affordability and (3) accessibility of water.

Following up on General Comment 15, the Sub Commission on the Promotion and Protection of Human Rights the Economic of the Social and Cultural Council adopted Guidelines for the realization of the right to drinking water and sanitation. Article 1 of the guidelines defines the human right to water as,

*“Everyone has the right to a sufficient quantity of clean water for personal and domestic uses.”*

#### 4.1 The Availability of Water

This includes clean drinking water, for personal hygiene and sanitation, washing of clothes, food preparation and household hygiene. The major point to take into cognizance is that the available water should be safe and acceptable, according to WHO guidelines for drinking water quality 2002, as should be available in sufficient quantities, a minimum of 25 litres per day or 100 to 150 litres is needed; yet in Mabvuku I calculated an average of 200 litres per day. In Mabvuku the City Council has failed to supply piped water to its residents. Although out-lawed by the City Council, the residents of Mabvuku have resorted to digging unprotected wells to mitigate this water crisis.

In Epworth the situation is worse as the settlement in Donoro (Belapezi Farm) is termed 'illegal' thereby absolving the local authority of its obligation to provide water but it does not absolve the Government from doing so. The wells are too close to their latrines and are unprotected to the extent that during the rainy season runoff will just find its way into the well hence the water is highly contaminated rendering it unsafe. On defining the concept of availability the committee on the Economic Social and Cultural Rights stated that:

*"...priority in the allocation of water must be given to the right to water for personal and domestic uses. Priority should also be given to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights..."*

These rights include the right to life, right to health and the right to an adequate standard of living. From the findings, the concept of availability is neither here nor there for the visually impaired women of Epworth and Mabvuku because all the requirements set up above are not being met.

## 4.2 The Affordability of Water

Water and sanitation should be made available at an affordable price as GC 15 specifies that water, its facilities and services ‘must be affordable for all’ and the sub commission guidelines

*“...should be supplied at a price that everyone can afford without compromising their ability to acquire other basic goods and services.”*

The United Nations High Commissioner for Human Rights also defined affordability of safe drinking water as:

*“The quantity of safe drinking water a person can access may be reduced but full disconnection may only be permissible if there is access to an alternative source which can provide a minimum amount of safe drinking water to prevent disease.”*

In Mabvuku the monthly charge for water is US\$20 which is not affordable to the visually impaired who receive a monthly public assistance allowance of exactly US\$20 and are not employed. The cost of getting water is even higher than US\$20 because council water is rarely found and the visually impaired hire people who charge US\$1 per 20 litre container. With a daily average water usage, as shown in chart above, of 289 (two hundred and eighty-nine) litres (including water for gardening) which means they fork out around US\$14 (14 dollars) per day for water alone this would impact negatively on other rights like food, education for children, health and so on. What is ironic and cynical is that on failure to pay water bills, council ‘disconnects’ water which it does not supply to its residents.

In Epworth one of my respondents, a teacher, told me that in the month of January 2012 alone he used US\$70 to get clean water. My other respondents in Epworth buy unclean water from unprotected wells even though they do not have stable incomes. Having to beg in the streets of Harare to earn a living if they prioritize water, other basic necessities such as food become unaffordable. Thus they resort to using water from a nearby river which is approximately 3 km (three kilometres) away for other domestic uses such as washing, bathing, but compromise their safety and that of their children as they risk drowning into the river or catching water borne diseases.

#### **4.2.1 *Is the Disconnection of Water Services in Mabvuku permissible?***

Disconnection can be defined as the interruption of the delivery of water services. Disconnections from water services can happen for a variety of reasons, including non-payment, pollution of water resources or emergencies. Disconnections are also sometimes used as a way to evict tenants or to stop illegal connections to the water network.

While the right to water does not prohibit disconnections from water services, it puts limits and conditions on these actions. Overall, disconnections must be performed in a manner warranted by law and must be compatible with the Covenant. Those affected must be provided with effective procedural guarantees, including amongst other things, an opportunity for genuine consultation, timely and full disclosure of information on the proposed measures, reasonable notice of proposed actions, legal recourse and remedies and legal assistance for obtaining legal remedies. General Comment No. 15 of the ESCR further underlines that an individual shall under no circumstances be deprived of the minimum essential level of water. Accordingly, the quantity of safe drinking water a person can access may be reduced, but full disconnection may be permissible only if there is access to an alternative source which can provide a minimum quantity of safe drinking water needed to prevent disease.

If the disconnection relates to non-payment, general comment No. 15 states that a person's capacity to pay must be taken into account before the actual disconnection takes place. Read in conjunction with the affordability criteria this requirement implies that, in certain instances, when individuals are unable to pay for water, the authorities might have to provide it for free. In this respect, a number of national laws restrict disconnections of water services, in particular those that occur as a result of the user's inability, rather than unwillingness, to pay.

For the visually impaired women in Mabvuku and residents in general, there are disconnections which are ineffective since council water is always unavailable due to their own shortcomings and challenges which include aged infrastructure including conveyance systems, pumps and



corroded water pipes resulting in erratic water supplies. Hence in as much as international instruments disallow water disconnections, failure by the local authorities to reliably supply water to Mabvuku residents may mean that there are “not connected”, however when the water is available maybe once a month the residence who can not afford are still entitled to it and should not be disconnected.

### **4.3 The Accessibility of Water**

On accessibility, General Comment 15 and Sub Commission Guidelines prescribes that water and sanitation should be accessible to everyone and distribution thereof should be equitable. This gives priority to those without access and takes into account the needs of women and children and people with disabilities. Accessible is defined as within physical and safe reach for all groups of women whether urban, rural, old or disabled. The World Health Organisation (WHO) guidelines prescribed a radius of 1,000 metres for water and sanitation in proximity to a home. The guidelines further outlined that not all women are the same, there being different groups namely the disabled and elderly, women breastfeeding, women living with HIV/Aids, girl children.

The visually impaired women in Epworth and Mabvuku on average travel not less than 1,000 metres to get water. Pump designs are not user-friendly and in Epworth and the terrain is punctuated by pits and difficult paths and these in themselves are barriers that threaten the safety of these women.

### **4.4 Non-Discrimination**

*“There is more than enough water in the world for domestic purposes, for agriculture and for industry. The problem is that some people—notably the poor—are systematically excluded from access by their poverty, by their limited legal rights or by public policies that limit access to the infrastructures that provide water for life and for livelihoods.”*

(UNDP, Human Development Report, 2006).

The concepts of non-discrimination are also embedded in CEDAW and CESCR GC15 and the Subcommission prohibits discrimination on the grounds of sex, age and disability.

GC 20 issued by the Committee on Social, Economic and Cultural Rights also defines and classifies forms of discrimination as:

*'Any distinction, exclusion or restriction made on the basis of specific characteristics of an individual such as race, religion, age, or sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms.'*

It is linked to the marginalization of specific population groups and is generally at the root of structural inequalities within societies. Non-discrimination and equality are fundamental human rights principles and critical components of the right to water. Discrimination in relation to access to safe drinking water and sanitation for the visually impaired women in Epworth and Mabvuku are rooted in a constitutional omission that starts from Section 23 of the Constitution which does not provide for social protection of the disabled. The supreme law provides for non-discrimination on the basis of physical disability but discrimination on the basis of blindness or albinism seems somehow permissible. The Water Act in Chapter 20:24 and the 2004 Draft Water Policy expressly mention the vulnerable. Stretching the 'vulnerable' to include the visually impaired however, does not make up for their omission in the development and implementation of the policies. Community groups such as the Mabvuku Resident's Association do not consult the visually impaired in their advocacy which may be attributed to the absence of laws which protect the disabled in general and visually impaired in particular against discrimination.

The impact of discrimination is compounded as visually impaired women suffer discrimination on the basis of sex, gender disability and class. The ESCR Committee stressed the importance of addressing this intersectional discrimination on the equal rights of women and men to the enjoyment of all economic, social and cultural rights. For example, when water is physically difficult to access for communities experiencing poverty and economic marginalization, women usually carry the burden of procuring water for their families, exposing themselves to additional risks to their personal security. One visually impaired respondent in Epworth travels 1.5

kilometers to fetch water from an unprotected well with the aid of her four year old daughter. One shudders at the thought of anything happening to them at the well.

#### **4.5 Duty Bearers**

Having established that visually impaired women in both Epworth and Mabvuku are rights holders and should enjoy their right to water without any hindrances, who then are the duty bearers? Under international law, the state is principal duty bearer and according to the World Health Organisation, Governments hold the primary responsibility for ensuring the realization of human rights (WHO,2003). In Zimbabwe the right to water is not Constitutionally guaranteed which means it is not justiciable. However, Section 12 of this Constitution provides for the right to life. It can therefore be argued that how can one live a minimum or basic standard of life without water, food, sanitation, shelter?

The Zimbabwean Water Act, Chapter 20:24 Section 32 stipulates that everyone is entitled to water for primary purposes. The Act defines primary purposes as any reasonable use of water for basic domestic human needs in or about the areas of residential premises. The Public Health Act Chapter 15:09, Section 64(1) puts the responsibility on the local authority to provide sufficient water for drinking and domestic purposes to residents within its locality. Section 66 of the same Act further requires the local authority to maintain existing water supplies in good order for effective distribution of a supply of pure water for drinking and domestic purposes. The above legislation thus places the responsibility on local authorities to provide water to residents within their locality. The Urban Councils Act Chapter 29.15, in section 183(1) goes further to provide that a council may provide and maintain a supply of water within or outside the council area and for this purpose the council may in accordance with the Water Act Chapter 20.24 take such measures and construct water works whether inside or outside the council area it considers necessary for the provision and maintenance of water supply.

Based on the above the Harare City Council has the duty to provide water to Mabvuku residents and visually impaired persons are obviously included. It also follows that this water should be

free of charge since it is water for primary use. As far as Epworth is concerned, the local authority is trying to evade its water responsibility by maintaining that Belapezi Farm/Donoro is an illegal settlement area which means that local by-laws are inapplicable. However for all intents and purposes the Donoro residents use Epworth facilities that is, hospitals, police stations, cemeteries. This means that this community falls within the jurisdiction of Epworth Local Board.

The State through the Harare City Council failed to supply water to Mabvuku residents due to financial constraints to replace the redundant, obsolete and depleted infrastructure and challenges in the treatment of the said water. People then resort to digging wells which are both communally and or privately owned and they share their water with few exceptions of people who sell water. Others collect monetary contributions towards the maintenance of the wells i.e. to buy floor polish to keep the well area clean and to buy the rope used to draw water from the well. NGOs have also sunk boreholes and installed rain water collection tanks on the properties of the elderly. This shift in dynamics has resulted in the *de facto* ceding of the role of the state to supply water to its citizens to NGOs and local communities on the basis of *ubuntu* or social responsibility. Disabled women are just like any other person in the community; hence, their exclusion on the basis of disability is unacceptable. Therefore communities should endeavour to offer and facilitate social networks rather than take advantage of the situation by charging persons managing visual impairment exorbitant fees to draw water from their wells.

#### ***4.5.1 The exclusion of the Visually Impaired from Consultations and Decision-making Processes***

I based this discussion on Assumption 3 which states that: *Women and men with visual impairment are not represented in water management bodies and are not consulted when decisions relating to water management are made.* My research findings show that visually impaired women are neither represented nor consulted on issues related to water management. This is despite numerous provisions in international instruments such as CEDAW in Article 14 which provides for the right to participate at all levels of planning, elaboration and planning and Article 9(1)(c) of the African Protocol on the Rights of Women which accords women equal

partnership with men 'at all levels of development and implementation of state policies and development program.' The African Protocol (Article 9.2) requires member states to ensure at all levels increased and effective representation and participation of women. The participation of women at all levels in the conceptualization, decision-making, implementation and evaluation of policies and programs is also addressed in Article 19(b) of the African Protocol on the Right to Sustainable Development. Hence the underlying theme is the representation and participation of women at all levels of decision making which needs to be addressed for women managing visual impairment in Mabvuku and Epworth.

The quota system is a relatively new form of affirmative action meant to reduce the gender disparity in positions of authority across all sectors. SADC in its Development Community and Gender Development Declaration prescribes member states to ensure that women representation be 30% in political decision-making structures. CEDAW [Article 4(1)] empowers states to use temporary special measures – for example quotas to ensure equal participation. CEDAW General Recommendation No. 25 states that States, under the circumstances, may be obliged to use quotas so as to ensure substantive equality. It is therefore rather disturbing that the disabled are totally forgotten.

Although the Sub-Commission guidelines specify the right to participation they do not have rules or regulations concerning representation. I observed that more often than not our failure to participate in discussion making processes means we have to live with other people's choices and discussions. Sub-Commission guidelines also specify that everyone has the right to participate in decision-making processes that affect their right to water and sanitation. It gives special attention to vulnerable groups such as the marginalized and in the case of Mabvuku and Epworth, women managing visual challenges. Communities are empowered through the right to determine the sort of water and sanitation services they require, how to manage the same services and where possible, *'to choose and manage their own services with assistance from the State'*. Equal access to information held by public authorities or third parties concerning water, sanitation and the environment should also be given to everyone.

The problem for visually impaired women in both Epworth and Mabvuku is that they are left out in all levels of decision making be it national, local council level or even in their communities. One official from the Ministry of Water professed ignorance of the concerns of the visually impaired in relation to water and sanitation because they are not represented and they do not find it necessary to consult with this constituency when decisions are made. At community level there are residents associations like the Mabvuku Residents Association which is active and is led and composed of vocal women but the visually impaired are left out because of the general stereotyping that a disabled person cannot speak for herself. Moreover, Disabled persons Organisations which should facilitate participation and representation of the disabled are unnecessarily exerting energy on trivial issues at the expense of their genuine needy constituencies. Elderly leaders of Disabled Persons' Organizations regard the younger generation with contempt, they do not appreciate the social model of disability and the human rights concepts and do not consider or invite or welcome any contributions from the younger generation who appreciate those concepts for fear of their job opportunities and end up rejecting useful ideas that could benefit disabled persons. In Epworth there are political structures which administer the day-to-day activities of the community one of the committee members was saying the visually impaired are left out because they do not attend meetings where elections are held and issues discussed. The visually impaired confirmed this saying that they are busy fending for their families by begging and selling airtime in the streets of Harare. Hence lack of participation of these women in meetings at community level will perpetuate their marginalisation and they will have to live not with their choices but with the consequences of the decisions of the able bodied.

## **4.6 The inter-related Nature of Human Rights**

### **4.6.1 *The Human Rights to Health, Food and Housing***

It is difficult to separate the right to water from the right to housing and food, and the mere abundance of housing, food and water does not automatically mean that persons with disabilities will enjoy these internationally recognized rights.<sup>12</sup> Such essentials must be affordable and physically accessible, and persons with disabilities suffer a double disadvantage on both fronts as a result of inadvertent discrimination and social exclusion. The Universal Declaration of Human Rights in 1948 guaranteed all people a right to a standard of living adequate for their health and well being. Article 12 of the International Covenant on Economic, Social and Cultural Rights also recognizes the right to health. Article 24 of the Convention on the Rights of the Child further guarantees that children are entitled to the highest attainable standard of health.

The lack of accessible, available and affordable drinking water for the both Epworth and Mabvuku and sanitation for those in Epworth who are visually impaired shows that there is a clear breach of this right by the perceived duty bearers. People are using contaminated water and this has led to many of my respondents suffering from water borne diseases like diarrhoea and dysentery. What is worrisome is the current typhoid outbreak ravaging Harare. Action is urgently required to avert a potential outbreak of catastrophic consequences. Without the proper supply of potable water and sanitation for the visually challenged women in Mabvuku and Epworth, their right to health is seriously undermined.

### **4.6.2 *The Human Right to Development***

Development has been integrated with rights as provided for by the Universal Declaration of Human Rights. CEDAW in its preamble links equality and development. The Declaration on the right to development (1986), the Protocol to the African Charter on Human's and Peoples'

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<sup>12</sup> See in particular Article 11, International Covenant on Economic, Social and Cultural Rights 1966, General Comment No.15 on the Right to Water of the UN Committee on Economic, Social and Cultural Rights and Article 27, UN Convention on the Rights of the Child 1990.

Rights, the African Protocol on the Rights of Women, the Beijing Declaration and Platform of Action (1995) and the UNDP all adopted a rights based approach to development.

The right to development is described as an integral part of fundamental human right. Article 8(1) of the Declaration on the Right to Development provides that state parties should undertake at national level all necessary measures for the realization of the right to development and shall ensure among other things equality of opportunity for all in their access to basic resources. This study has shown that there is no equality of opportunity in as far as visually impaired women are concerned. They spend most of their time searching for water and have no time to do other projects. The remainder of the time left in a working day after spending the greater part searching for water is too little to do meaningful projects and they end up begging. Their situation is even exacerbated by the fact that even the labour market is discriminatory. Some respondents who are visually impaired in Epworth, despite having academic and professional qualifications face discrimination by employers. Those who want to engage in entrepreneurial projects are hindered by the attitudes of actors in those structures which result in further exclusion and discrimination.

#### **4.6.3 *The Human Right to Education***

Education is a fundamental Human Right established, protected and protected in terms of the following Human Right Instruments:

- Articles 13-14 of the International Covenant on Economic, Social and Cultural Rights;
- Article 10 of the Convention on the Elimination of all forms of Discrimination Against Women;
- Article 12 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- Articles 28-29 of the Convention on the Rights of the Child;
- Article 26 of the Universal Declaration of Human Rights;
- Article 11 of the African Charter on the Rights and Welfare of the Child;



- Article 24 of the Convention on the Rights of Persons with Disabilities;
- Article 14 of the SADC Protocol on Gender and Development;
- Rule No. 6 for the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities;
- Article 17 of African Charter on Human and Peoples’ Rights.

In short, we have more than enough international and regional instruments that establish, promote and protect the right to education.

The right to education for children of the visually impaired especially those living in Epworth is greatly affected by lack of potable water because it leads to absenteeism while children are assisting their mothers to search for water and to begging in the city of Harare. Staring at a bleak future, these children have very slim chances succeeding in life and their parents simply live from birth to death lives of utter destitution.

**4.6.4 In particular, the Human Right to Water is inseparable from the Human Rights to Food and Housing**

Two visually impaired women in both Mabvuku and Epworth had no physical access to water, raised similar issues of availability, affordability and accessibility with regard to the enjoyment of the right to water.<sup>13</sup> Beside these particular elements, discrimination, notably in the realm of housing, often remains a major problem for disabled persons. A clear example is one visually impaired woman in Epworth, who had this to say,

“Landlords do not want us because they say we are not able to perform their daily duties of sweeping the yard, cleaning the toilet, and cleaning the passages.”

*(Chenai)*

Another woman narrated the following experience:

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<sup>13</sup> General Comment No.15 on the Right to Water of the UN Committee on Economic, Social and Cultural Rights.

“At the property where I was renting whenever the toilet was messed up I was to blame yet it was the [landlord’s] children who had done it.”

*(Chipo)*

In this respect, the UN Committee overseeing the International Covenant on Economic, Social and Cultural Rights recognised that the effects of disability-based discrimination have been particularly severe in the field of housing. In that respect, disabled persons are often facing multiple layers of discrimination based on grounds such as disability, sex, gender, race ethnicity and/or age.

Additionally, when denied housing, disabled persons face greater risk of further violations of their basic rights, in particular women and aged disabled persons. For instance, while women who are homeless face increased risks of violence, disabled homeless women run even greater risks.

From the discussion of the inter-linkages between rights we can safely conclude that securing other basic necessities of life such as food and water is intricately linked and cannot be separated from access to and availability of housing and income. Home is where water is accessed and food is prepared hence in as much as food and water are necessities, shelter is of the essence. In as much as shelter is essential, money is required to pay for bills and rates hence the need for a decent source of income. In as much as a source of income is important, a form of decent education is required for one to be able partake in any form of enterprise or employment. Therefore the breach or injury to any one of these rights is but breach of all the other rights.

For the women managing visual impairment in Mabvuku and Epworth to transcend these challenges a multi-faceted human rights based approach is required. General Comment No. 5 of the ESCR prescribes that in addition to the above States must ensure that, *"support services, including assistive devices"* are available *"for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights"*.

## **CHAPTER 5**

### **5.0 RECOMMENDATIONS**

#### **5.1 Introduction**

For the visually impaired women of both Mabvuku and Epworth a multi-pronged approach is needed for their water problems to be addressed. Therefore there is need for both immediate solutions and long term solutions. Documentation to bring to light the gender disparity and expose inadvertent discrimination in water policies is the first step towards mapping the way forward which I did. I intend to make presentations of my research to DPOs, local and national authorities especially the Ministry of Water Resources and Development who are currently facilitating the drafting of a Water Policy so that the plight of women managing visual impairment comes to light and their concerns are addressed. A point worth noting is that I have made a presentation to Zimbabwe Lawyers for Human Rights who promised to take up the matter for strategic litigation.

#### **5.2 Short Term Solutions**

The situation is so desperate that both the government and civic society should join hands and mobilize resources for the drilling of boreholes and installation of user friendly pumps such as hand pumps in Epworth for the visually impaired women to benefit. These women should also be involved the consultation process so that they may not be affected by the issue of distance and appropriateness and suitability of the infrastructure. A quick mobilization of resources is also needed for secure Blair toilets<sup>14</sup> to be built. The current design of pit latrines exposes human excreta to house flies that can easily transmit diseases such as cholera and dysentery. Water purification tablets can be used as long term solutions are being worked out; therefore there is

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<sup>14</sup> A type of pit toilet which does not allow flies to exit the pit.

need for awareness programs for the beneficiaries to be fully conversant with correct usage of the same.

### **5.3 Medium Term Solutions**

Alternatively, all visually impaired persons in Epworth should be resettled to a developed area where there is sewerage and water. Such infrastructure should be designed factoring in the needs of group so as to increase their independence and improve their health and social standing. In the interim, the residents should be protected against forced evictions this would avoid another “Operation Murambatsvina”<sup>15</sup>.

Disabled Persons Organizations can take advantage of the political situation and lobby for the formalization of the Epworth-Donoro area. As we are approaching elections politicians are known to make promises and honour pledges made at previous polls to the electorate in order to retain or get into office. This is a community with approximately 5,000 eligible voters, stands to benefit if this group capitalizes on this ‘once in blue moon opportunity’.

### **5.4 Long Term Interventions**

#### **5.4.1 Law Reform**

Law reform can be in form of legislative reform or judicial precedents and when undertaken in the spirit and letter of international instruments, law reform is a principled and imaginative method of introducing new law. It is also a vital catalyst of change that is responsive to the needs of the vulnerable members of the community and to the public under its jurisdiction. For it to work there is a need for lobbying and advocacy to get the Parliamentarians to pass the reforms the targets being the women’s caucus, cabinet ministers and political parties.

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<sup>15</sup> In 2005 the Zimbabwean carried out an exercise meant to ‘clean-up slums’ by destroying all informal structures in urban and peri-urban areas. Donoro structures were also reduced to rubble but the Government did not facilitate formalizing these settlements or provide any alternative accommodation to those affected.

## Legislative Reform

*“National Constitutions represent a powerful value framework which is used to link international human rights standards to national law is today well accepted, even in Africa with its historical legacy of one party state constitutions which were described as ‘constitutions without constitutionalism’ and which at that time often bore a pale resemblance to the reality of political practice.”*

Ncube W. (1997:3)

Since the Constitution of Zimbabwe does not have a clear provision on the right to water and sanitation and social protection for people with disabilities there is need for domestication of international conventions like ICESCR, CRC, CEDAW, CRPD, ACRWC, the African Protocol on Women’s Rights and the SADC Gender protocol which contain provisions guaranteeing the right to water.

Zimbabwe has to ratify first the CRPD then domesticate it for the social protection provision to have weight it has to be constitutionally guaranteed. In the leaked draft the said provision is available, not knowing the outcome of the final product.

Taking a cue from what other countries in the region have done: South Africa has the right to water in section 27 of their Constitution and has policies to support this. Malawi, Zambia and recently in Kenyan Constitution of 2010 guarantees its citizens the right to water and is now supposedly implementing this. In employing Law Reform as a strategy it is of essence to start off by devising the content which may include the following.

As proposed by disability activists myself included, the constitutional provision relating to persons with disabilities shall read as follows:

*‘The state shall ensure the recognition of the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing... ensure equal access by persons with disabilities to clean water services...’*

- (a) *... to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, ... and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:*
- (b) *Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;*
- (c) *Ensure that development programs, is inclusive of and accessible to persons with disabilities.'*

### **Strategic Public Interest Litigation**

Public interest litigation includes strategic litigation and provision of legal aid to indigent individuals to facilitate access to justice. Strategic litigation uses the court system to attempt to create broad social change through law or public policy reform. Using the derivative approach which has been used by the African Commission, visually impaired women in Epworth can sue the Government for breaching its Constitutional guarantee of right to life. The argument being we cannot separate life, water, food, and health. The water being used for domestic use by the applicants is contaminated and they also have poor sanitation which has a direct impact on their health and there is a real risk that those waterborne diseases will claim their lives. An example is the outbreak of cholera, attributed to the lack of potable water and poor sanitation.

Emilia Muchawa, a women activist clearly explained that strategic litigation aids in the establishment of effective and enforceable law or usable precedents in common law jurisdictions. It also includes the interpretation of existing laws, constitutions and treaties to substantiate or redefine rights. It also enforces or applies favourable rules or law that are underutilized or ignored and helps to challenge existing laws detrimental to social justice or individual rights for instance if Section 12 of the Zimbabwean Constitution is used to challenge the non supply of potable water and provision of sanitation infrastructure to women with visual impairment in Epworth. In this case we would have used a Constitutional provision which has been under utilized in Zimbabwe.

Using strategic litigation even where it is unlikely to succeed will help in supporting and strengthening the rule of law. It stabilizes and clarifies the legal system or its laws and helps in legal education, targeting the judiciary and legal profession and at the same time documenting the injustices thereof. Government will also be held accountable thereby changing public attitudes and empowering vulnerable groups such as the visually impaired in Mabvuku and Epworth.

Public interest litigation can also be used by the visually impaired women in Mabvuku to compel the Minister of Local Government and Harare City Council to supply clean water for domestic use based on the provisions of The Zimbabwean Water Act, Chapter 20:24 (Section 32) which stipulates that everyone is entitled to water for primary purposes. The Act defines primary purposes as any reasonable use of water for basic domestic human needs in or about the areas of residential premises. The Public Health Act Chapter 15:09 [section 64(1)] further puts the responsibility on the local authority to provide sufficient water for drinking and domestic purposes to residents within its locality. Section 66 of the same Act further requires the local authority to maintain existing water supplies in good order for effective distribution of a supply of pure water for drinking and domestic purposes.

The above legislation thus places the responsibility on local authority to provide water to residents within their locality. The Urban Councils Act Chapter 29.15, in Section 183 (1) goes further to provide that a council may provide and maintain a supply of water within or outside the council area and for this purpose the council may in accordance with the Water Act Chapter 20:24 take such measures and construct water works whether inside or outside the council area, as in the case of Epworth-Donoro, that it considers necessary for the provision and maintenance of water supply.

#### **5.4.2 Administrative Reform**

As noted in the previous chapters, non access to potable water and basic sanitation by the visually impaired woman of Mabvuku is by and large due to poor governance and inadvertent discrimination on the part of the local authorities and policy formulators. There is thus need for administrative reform. The duty bearers being local authorities and NGOs responsible for the provision of water should realize that access to potable water and basic sanitation is a human right and as such they should adopt a human rights centred approach in water provision. This means they should pay particular attention to the needs of different vulnerable groups for instance the visually impaired in their planning and designs. In doing this there is need for collaboration with disabled people. Whilst engineers have design knowledge and skills, they are not always aware of the needs of disabled people. Disabled people, on the other hand, understand what their access needs are, but because they are not usually engineers, they are largely unaware of what solutions may be possible. So, when planners and engineers start the process of designing a sanitation project, they should consult local disabled people's organizations, including women's sections, for their input.

There is a difference between disabled people's organizations (DPOs) e.g. League for the Blind and National Federations of Disabled People, which are representative organizations of disabled people themselves, and disability service providers, DPOs tend to work on advocacy and rights issues and are ideally the first choice of partner. However they may need support to build capacity, ensure gender equity and develop representation in rural areas, and among more stigmatized disability groups so that they may be adequately resourced to meet the needs of disabled persons at grass-roots level.

It is generally the norm that people with disabilities are treated as dependants and minors. The visually impaired women in Epworth take it upon themselves that they are dependents because they beg for survival hence there is need to work on individual community members so that they are able to perform, function, solve problems and set to achieve goals in order to reduce poverty and promote self reliance. This will in the long term improve the situation of the women of with visual impairment in Epworth and Mabvuku.



### **5.4.3 Empowerment**

Improving the capacity of visually impaired women in Mabvuku and Epworth to some extent will eventually lead to their empowerment. In my opinion, the most important issue is how to empower these women by giving them the means to change their situation for the better. Economic empowerment becomes the focal point. Whilst people have the right to safe water supplies, this does not mean that they have a right to free water. For a sustainable provision of potable water supplies and basic sanitation, they should cease to rely on aid and be able to pay for services.

Some visually impaired people in Epworth have got educational and professional qualifications the only problem is discrimination in the labour market there is therefore a need for the introduction of tax incentives to the employers of the disabled. More so, those without educational qualifications proposed that they can engage in entrepreneurial projects their organizations should facilitate that they get licenses to operate flea markets in designated areas by that the dependency syndrome will be a thing of the past.

### **5.4.4 Political Will**

Awareness raising for visually impaired women's to realize and manipulate to their advantage rights such as the rights to representation; participation; and development so that they can be empowered. There is also need to lobby local authorizes for them to improve and prioritize the needs of vulnerable groups on their water distribution policies. DPOs should be actively involved in lobbying and advocacy work to pressurize the Government to meet its obligations to deliver services to the marginalized in society. This can be achieved also through utilizing the media to expose Government's lack of initiative to remedy the problems in the area Epworth and Mabvuku. Additionally, DPOs can also lobby for the domestication of these international instruments.



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