

**ZIMBABWE'S FOREST LAWS, POLICIES AND PRACTICES AND  
IMPLICATIONS FOR ACCESS, CONTROL AND OWNERSHIP OF  
FOREST RESOURCES BY RURAL WOMEN**

**Abstract**

**This dissertation exposes the legal and other obstacles which prevent rural women, Zimbabwe's traditional environmental stewards, from fully realizing their human right (HR) both to sustain their families from forest produce and help to preserve the country's forests. The researcher's deft use of several gender-focused methodologies and complementary data collection methods combine to present clear evidence of the urgent issues at stake. The study's overall guiding methodology of the Grounded/Women's Law Approach maintains its focus on the affected women, whose experiences are revealed as 'lived realities' within a rich multilayered private and public context, the legal implications of which help to highlight their problems and suggest possible solutions. The latter are finally presented as valuable legislative and other reforms and recommendations which are laudably motivated by the desire to ensure that Zimbabwe complies with its local, regional and international HR obligations.**

**BY**

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## **Dedication**

**To my two mothers; Betty Takaidza and Felistas Dzidzai Nhengu.**

**To know you is to know love.**

**Ruva, Mufaro and Stan, you complete the circle.**

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## **List of Acronyms**

CAMPFIRE- Communal Areas Management Programme for Indigenous Resources

CBD- Convention on Biological Diversity

CEDAW- Convention on the Elimination of all forms of Discrimination Against Women

EMA- Environmental Management Act or Environmental Management Agency

NMMZ- National Museums and Monuments of Zimbabwe

NGO- Non Governmental Organization

RDCs- Rural District Councils

SADC – Southern African Development Commission

SEARCWL- Southern and East African Regional Centre for Women’s Law

SAFIRE- Southern Alliance for Indigenous Resources

UNDP- United Nations Development Programme

USD- United States Dollar

ZRP- Zimbabwe Republic Police

## **Statutes**

Communal Land Act: Chapter 20:04

Communal Land Forest Produce Act: Chapter 19:04

Constitution of Zimbabwe

Environmental Management Act: Chapter 20:27

Forest Act: Chapter 19:05

National Museums and Monuments Act: Chapter 25:11

Rural District Councils Act: Chapter 29:13

Traditional Leaders Act: Chapter 29:17

Botswana Forest Act: Chapter 38:04

Botswana Agricultural Resources (Conservation) Act: Chapter 35:06

South African National Environmental Management Act No. 107/1998

## **Policies**

Draft National Environmental Policy 2003

National Gender Policy, 2004

## **International Human Rights Instruments**

Beijing Platform for Action

Convention on Biological Diversity (CBD)

Convention on the Elimination of all Forms of Discrimination Against Women  
(CEDAW)

Protocol to the African Charter on Human and People's Rights on the Rights of Women  
in Africa (Women's Protocol)

Rio Declaration on Environment and Development

Southern African Development Commission (SADC) Protocol on Forestry

United Nations Covenant on Economic, Social and Cultural Rights

Universal Declaration of Human Rights

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# CHAPTER 1

## INTRODUCTION

### *1.1 Introduction*

As I grew up in the rural areas of Chivi in Masvingo Province, I always found the forest to be a rich source of food and other necessities like firewood, grass and bark string. I would go into the forest with my mother to pick up forest produce such as mushrooms, fruits and caterpillars. Accessing these produce always had rules and regulations. My mother, together with other women in the village, would teach me and other girls a lot of things about the forests and forest produce. They would teach us how to identify poisonous from non poisonous mushrooms, when to pick fruits and what to do with the various produce after picking it. And they told us that if we failed to abide by the rules of the forest in the process of accessing the forest produce, we would get lost in the forest forever. They also taught us to identify different medicinal plants and the ailments that they treated. After the initial orientation with our mothers, young girls in the village would go into the forest and bring the various produce whilst our mothers attended to other chores in the home like tending the fields. We also depended on wild fruits as we herded cattle because more often than not, we were not allowed to come back home with the cattle until sunset. We therefore had to depend on these fruits during the day and we would only eat homemade meals at dinner after putting the cattle away in the kraals.

This was in the early 1980s. This interaction with the environment did not last long for girls of my generation. There was an unprecedented wave of destruction of trees and the environment as people sought forest timber for various uses. Our village is located along the Harare-Masvingo–Beitbridge highway, the busiest highway in the country, which also leads to South Africa. Soon after Independence in 1980, there was an influx of tourists into the country from South Africa and they came mainly by road. The road side therefore became an important market place for traditional artifacts. Some of the artifacts were made from wood. People in the village sought the best trees in the nearby forests to

use in making the artifacts. These were made solely by men, whilst women concentrated on making clay pots and other clay-based artifacts. But they also required firewood in order to burn the clay products to make them strong. They also resorted to the forests for firewood. The artifact market grew to be one of the biggest in the country. People from urban areas and from South Africa would come to buy in bulk from our market for resale in their respective areas. But as the market thrived, we also watched the nearby forests disappear before our eyes. Men began to travel further and further to get timber for their artifacts. Women however were dealt a double blow. They had to travel further to get firewood for both their clay products as well as for household use. Today, firewood is a major problem in my village. The fruit bearing trees are non-existent and mushrooms have become a rare species. The artifact market was disturbed by the slump in tourist arrivals caused by the political and economic difficulties that the country is experiencing and was eventually closed down when Operation Murambatsvina<sup>1</sup> was launched by Government.

Now people have to buy almost all the forest produce that used to be so abundant in the village from people from other parts of the country as a result of the destruction of the environment. The women have to hire men in the village who own scotch carts to go and fetch firewood for household use from far away places. Of course this comes at a cost to the women. For the mushrooms and fruits, they have to depend on the nearby Masvingo Town where people from other areas bring forest produce for sale. Sometimes mushrooms have to be grown artificially inside houses because their habitat was destroyed, whilst medicines can only be bought for a small fortune from pharmacies in town. Such a scenario has become common place in many parts of Zimbabwe and I experienced it in one of my research areas, Domboshava, where there is also a lack of firewood. Except for the protected forest, some of the areas in Domboshava are virtually bare and the women are affected the most by this environmental degradation as I will illustrate later. It is however important to recognize that 43% of all woodland and forest in Zimbabwe is located in communal areas (Draft National Environmental Policy, 2003).

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<sup>1</sup> This operation was launched by Government in May 2005 to destroy all “illegal” residential buildings and clean up all businesses operating “illegally”. This particular market had been in existence for close to 25 years and the market stall holders were paying fees to the local rural district council but it was not spared.

This means that some communal areas still have forests and inhabitants of these communal areas still depend on these forests for their sustenance.

## ***1.2 Background to the study***

This study was carried out in partial fulfillment of the requirements for the Masters Degree in Women's Law at the University of Zimbabwe. I chose the topic dealing with access to environmental resources by women because of my experience as a child and my work in an environmental law organization. Through my interaction with environmentalists in the course of my work and my own personal experiences, my perception of environmental management before I enrolled for the Masters Degree in Women's Law Programme at the University of Zimbabwe, was that of preservation of the environment as opposed to sustainable use. The Programme however gave me an opportunity to consider sustainable use as a better option, especially in view of the difficulties that preservation of natural resources as opposed to sustainable use would present to women who depend on natural resources for their sustenance. There is also a perception amongst environmentalists that women cause the most environmental degradation because of their dependence on the environment for everyday sustenance. This dependence on the environment is therefore seen as the reason for the over-exploitation of the environment and the resultant degradation. I sought to dispel this myth and in fact show that women are natural environmental managers because of their close relationship with the environment. I use the example of forest produce to explain the implications of the various natural resource management laws, policies and practices on rural women who depend on these natural resources with a view to coming up with recommendations that encourage sustainable use of forest resources by rural women.

## ***1.3 Statement of the problem***

The issue of natural resources, environmental management and access to environmental resources is a critical one for many African women. They are the primary users of environmental resources both for subsistence and income-generating purposes, yet, in many cases, have no say in how the resources are accessed, controlled or shared. In Zimbabwe, women need environmental resources and in particular forest produce like fruits, roots, leaves and insects for food and medicine, firewood for heating and lighting, grass for thatching their huts and many other uses. Their main concern when they harvest the forest produce is for the sustenance of their families either through provision of food and other primary uses or through income generation. They are therefore concerned with the regeneration of the environment and they harvest in such a way that that preserves the environment's annual cycle of regeneration and this explains their vital role as natural environmental stewards or managers. Also, women, through their constant interaction with the environment and its natural resources, have developed critical knowledge that is important for the sustainable use of the environment. These attributes of women are however not captured in environmental management structures in the communities and at national levels because of the inadequate representation of women. As a result women's knowledge and their ways of managing the environment and its natural resources are either trivialized or not recognized at either the local or national level. The consequence is that women's concerns are not considered or factored into local and national laws and policies that deal with environmental management and access to environmental resources. This, in turn, leads to a reckless over-exploitation of the environment and consequent impoverishment and subjugation of women, especially rural women whose lives are critically dependant on their ability to access environmental resources, including forest produce. The problem can therefore be addressed by recognizing the critical role of women as environmental managers at local and national level, as well as putting in place laws, policies, practices and structures that actively encourage women to access responsibly environmental resources for their sustenance.

#### ***1.4 Objectives of the Research***

In carrying out the research, I intended to fulfill the following objectives:

- I. To identify the country's natural resource management laws, policies and practices that deal with access to and management of forest produce.
- II. To analyze the impact of the laws, policies and practices on women in rural areas who depend on forest produce for their livelihoods.
- III. To compare the conventional laws, policies and practices with the traditional and cultural natural resource access and management regimes in relation to women's access and participation.
- IV. To give recommendations on the legal, policy and practice regimes that allow women access to forest produce without compromising environmental sustainability.

## **1.5 Research Assumptions**

The following assumptions guided the research and related activities:

- I. That there are laws that deal with access to and management of forest produce in the country.
- II. That the available laws marginalize women and their knowledge in using and managing forest produce.
- III. That traditional and cultural natural resource management and use regimes are better placed than conventional regimes to manage forest produce without stopping women from accessing the produce.
- IV. That there is a need for a paradigm shift to integrate conventional natural resource management with traditional management regimes, including women's indigenous knowledge and management regimes.

## **1.6 Research Questions**

The following research questions guided me in the research process.

1. Are there laws that deal with access to, control and management of forest produce in Zimbabwe?
2. Do the available laws marginalize women in using and managing forest produce?
3. Are the traditional and cultural natural resource management and use regimes better placed than the conventional regimes to manage forest produce without stopping women from accessing the produce?
4. Is there a need for an integration of conventional natural resource management regimes with traditional management regimes as well as women's traditional knowledge and management regimes?

## ***1.7 Structure of the Report***

This dissertation is divided into six (6) chapters. The first chapter covers introductory issues. The second chapter deals with the methodological framework and the research methods that I used in carrying out this research. Chapters three and four assess the laws, policies and practices governing access to management of forest produce in the country and the institutional framework for forestry management, respectively. In the fifth chapter I look at the constraints that women encounter in their struggle to access forest produce in the country and in chapter six, I cover the conclusions and recommendations from the research.

## ***1.8 Definition of Terms used in the study***

Below are the definitions of the key terms that are used in this dissertation.

1. Laws: are a mechanism for regulating conduct within society; in this case as a mechanism for regulating access, control and ownership of forest resources
2. Policies: are frameworks for defining how certain things are done but without necessarily having the force of the law, although they usually underpin legislation
3. Practices: are generally accepted customs and conduct of a particular people or section of society which may not have the force of law but are widely observed
4. Access: is the right to benefit, obtain or use something, in this case, the right to harvest forest produce and use it to women's best advantage.
5. Control: is to have power over something and be able to make decisions about it.
6. Ownership: is a real right that potentially confers or gives the most complete or comprehensive control over a thing. It empowers the owner to do with his/her thing as he/she deems fit, subject to limitations imposed by the law
7. *Mazhanje*: is a round, brownish, sweet Zimbabwean indigenous fruit that is found in many parts of the country



## **CHAPTER 2**

# **METHODOLOGICAL FRAMEWORK AND RESEARCH METHODS**

### ***2.1 Introduction***

This chapter gives an outline and analysis of the research methods and methodological frameworks that I used in this research. The methodological frameworks that I used include the women's law approach, the grounded theory approach, the human rights based approach, the influence of actors and structures, the eco-feminist approach and the women, environment and development approach. The research methods that I used include in-depth individual interviews, key informant interviews, focus group discussions, observations and literature review. I give an explanation of what the research methods and methodologies entail in theory and how I used them on the ground as research approaches. The chapter also contains the research design which includes the delineation and overview of the research area, the research sample, identification of the forest produce that form the basis of this study as well as my field experience.

### ***2.2 Methodological Framework***

#### **2.2.1 The Women's Law Approach**

In carrying out the research, I used the Women's Law approach which, according to Stang Dahl (1987), takes women as the starting point, exploring the realities of women's experiences in relation to the law and their rights with a view to explaining, understanding and critically analyzing women's legal rights in order to improve their legal position in life. This approach was necessary in this research as I focus specifically on women in rural areas and their right to gain a livelihood from natural resources and in particular forest produce. The approach helped me in understanding the laws that deal

with natural resource management in the country and how they impact on women as users and managers of forest produce in the rural areas. The approach also helped me in analyzing the law and its implementation on the ground and how effective the implementation has been in improving the lives of women in the rural areas of the country as they strive to access natural resources for their families' sustenance. It also helped me to identify areas of reform in forest management laws in relation to access, control and ownership of these resources by women especially in relation to the gender neutrality of the law which assumes formal equality between men and women in accessing forest resources, when, in fact, there is substantive discrimination in the process because of women's socio-economic, cultural and legal position.

### **2.2.2 The Grounded Theory Approach**

The women's law approach was closely interlinked with the grounded theory approach in gathering empirical evidence or data on the ground which was important in coming up with evidence based recommendations.

*The approach involves an iterative process in which data and theory; lived realities and perceptions about norms are constantly engaged together with others and help the researcher to decide what data to collect and how to interpret it. (Bentzon, et al 1998)*

The approach focused on the lived realities of men and women so that the resultant findings can be channeled back into law in terms of dynamic interpretation and reform initiatives. The approach was therefore necessary in order to get firsthand experiences of women in the rural areas and how they interact with the environment as users and managers of forest produce. I started using this approach at the research design stage as I came up with theories and assumptions that I was going to use in carrying out the research. The development of the various assumptions helped me to go into the field with a view to establishing whether there are laws that deal with forest management in the country and whether the laws assist women or hinder them in their attempt to access forest resources. The next-question technique helped me in following up on informational

leads and clarifying issues and situations. I used this mainly in relation to institutional arrangements that I found obtaining on the ground which were not in line with the legal provisions for the management of forest resources. In trying to understand this anomaly, I visited the relevant national level institutions for clarifications. One of the institutions that I visited was the National Museums and Monuments of Zimbabwe with a view to establishing why they are in charge of Domboshava Forest, when, in fact, the law gives the responsibility for forestry management to the Forestry Commission. I also sought to establish how this arrangement would affect women on the ground seeking to access forest produce in the said forest in terms of the national forest management laws which are administered by the Forestry Commission, since no such similar provisions are contained in the National Museums and Monuments Act.

### **2.2.3 The Human Rights Based Approach**

I used this approach in relation to women's rights to access and manage environmental resources generally and forest produce in rural areas in particular. The human rights based approach to development was first used by the United Nations Development Programme (UNDP) in its programming in 1998 through the issuance of a policy paper entitled "Integrating human rights with sustainable development" (UNDP 1998). This occurred after it was realized that since the 1945 United Nations Charter, although the United Nations had drafted many human rights instruments, few had been implemented through a human rights framework at the development work and discourse level. The human rights approach in relation to access to and management of forest produce was used in respect of the human rights principles of non discrimination of women, women's rights to participate in accessing forest resources, environmental management and decision making as well as ensuring that the duty bearers take their responsibilities seriously and implement them for the benefit of all. I focused particularly on the role of the state in complying with internationally accepted human rights norms in relation to women and environmental management and their right to access forest resources. I analyzed the various international human rights instruments on women's rights and environmental rights and identified those that the government has signed and ratified. I

then analyzed the level of domestication of these instruments by the Government of Zimbabwe and then looked at the level of implementation on the ground based on women's lived realities. In Zimbabwe women form the majority of the poor and also the majority of rural residents and therefore are the most natural-resource-dependant constituency in the country. The human rights based approach was therefore necessary to ensure that the lived realities of women are taken into consideration in policy and legal formulation and implementation, especially in relation to compliance by these policy and legal instruments with the international human rights discourse. In addition, the human rights based approach was critical in this research as it overlaps and supplements other development theories and policies seeking to balance liberalist and welfarist values and concerns in striving towards pro-poor and gender-equal sustainable development (Ik Dahl D (et al) 2005).

#### **2.2.4 Influence of Actors and Structures**

According to Bentzon (et al),

*“The actor perspective is particularly useful in obtaining a dynamic and processual understanding of gender and legal change in the context of societies where state-law interplays with other normative orders. It assumes that social and legal change takes place through interaction between human beings as individuals or groups and not through some seemingly abstract medium such as the law”* (Bentzon et al, 1998)

I used this approach to examine the relationship that exists between women and other individuals, institutions and groups in the process of their accessing and controlling forest resources. I looked at actors and structures in environmental management and how they interface with women as they seek to access, own and control environmental resources in the rural areas of the country. I also assessed the role of actors and structures responsible for ensuring that women enjoy their human rights and interrogated the influence that they have in environmental management and in particular with regards to access by women to forest produce. I had to look at all these actors and structures because women's rights and environmental rights have more often than not assumed an apparently parallel but separate development and recognition line, when, in fact, they are closely interlinked.

Recognition and nurturing of such interconnectedness will lead to sustainable development, protection of the environment and protection of women's environmental rights. The idea was to highlight the fact that women cannot enjoy other rights when their environmental rights are not recognized and therefore emphasise the need for coordination amongst the various environmental management actors and structures and women's rights actors and structures. In using this approach I focused on traditional leaders and traditional institutions and the role they play in the management of environmental resources and implications for access to forest produce by rural women. I also looked at government institutions tasked with the management of the environment and how they hinder or aid women's access to environmental resources. Government environmental management institutions with a presence in the research areas were the main focus. These included the Forestry Commission, the National Museums and Monuments of Zimbabwe as well as the Rural District Councils (RDCs). The Zimbabwe Republic Police and the Municipal Police of Harare, Masvingo and Gweru also featured in the study as they interacted with women at various stages of accessing and using forest produce. The approach helped in analyzing how women interact with the various offices and institutions as they seek permission, permits and licenses to access, use and sell forest produce and how these institutions may be reformed in order to ensure greater access and participation by women in environmental management and access to forest resources.

### **2.2.5 The Eco-feminist Approach**

Eco-feminism is a social and political movement which unites environmentalism and feminism (McGuire C and McGuire C, 2003). Eco-feminists argue that a relationship exists between the subjugation of women and the exploitation and degradation of nature. This philosophy argues that the social mentality that leads to the domination and oppression of women is linked directly to the social mentality that leads to the abuse of the environment (<http://en.wikipedia.org>). A central tenet in Eco-feminism is that male ownership of land and other natural resources has led to the dominator culture, otherwise known as patriarchy. This philosophical approach was used in this research to determine how the use of forest produce in rural areas of Zimbabwe by men, some of them coming

from far away places, has led to the degradation of the environment and the subjugation and marginalization of rural women, as they fail to access the forest produce even for basic household consumptive needs. The men regard the forest produce only as economic resources that have to be exploited to the maximum, without concern for the needs of women or the need for the regeneration of the environment. As a result, the environment fails to produce enough and women are made to depend on men for their survival, even in situations where they could otherwise be self-sustaining through the use of environmental resources. The eco-feminist approach was also used to explore the consequences of environmental degradation on women's everyday lives as they seek substitutes or alternative coping mechanisms for environmental resources that should otherwise be abundantly available within their communities, were it not for the degradation of the environment. I used this approach in analyzing the environmental degradation that has occurred in one of the research areas, Domboshava and how the resultant lack of environmental resources, like firewood, has led to the oppression and suffering of women in the area. I focused on establishing from women and other elders in the community how their circumstances have changed from the time when firewood was abundant to the current situation in which women literally have to scrounge far and wide in order to get firewood.

### **2.2.6 The Women, Environment and Development Approach**

This approach perceives the woman/nature relationship as one of reciprocity, symbiosis, harmony, mutuality and inter-relatedness due to women's close dependence on nature for subsistence needs (Braidotti R. (et al). As a result women are naturally privileged environmental managers because their close interaction with the environment over centuries has given them an intimate knowledge that they have acquired through observation and practical experience. This knowledge has led women to appreciate the environment because they realize that human beings depend on the environment for their sustenance and therefore that the environment should be protected if its life-giving capabilities are to be sustained. They appreciate that:

*“We need to discover our actual reality as latecomers to the planet. The world of nature, plants and animals existed billions of years before we came to the scene. Nature does not need us to rule over it but runs itself very well, even better without human beings. Human beings are the parasites on the food chain of life, consuming more and more and putting too little back to restore and maintain the life system that supports us” (Ruether R.R).*

This approach, combined with women’s lived realities was therefore critical in understanding the connectedness between women and nature and how critical they view the environment and natural resources for their survival. At the same time it was critical in determining how failure to include women in the environmental management structures at various levels impacts negatively on women and the sustainability of the resource base. I also used the same approach to highlight the importance of women’s indigenous knowledge in environmental management. As Turner said:

*“Indigenous women particularly draw on a complex knowledge base as they are familiar with ecosystems, geographic features, climate, weather and tides. They understand the ecological succession, habitats and life cycles of resource species. They have detailed knowledge of all kinds of plants and animals, their habitat requirements, means of reproduction, nutritive values as well as knowledge of various types of timber and fuel, foods and medicinal herbs”(Turner N, 2003, Quoted in Kameri- Mbote P, 2007).*

The approach therefore helped to show that leaving out women in environmental management stalls sustainable development in that all this knowledge that the women have will not be tapped. I used the approach on the ground to determine the number of women in various institutions that are tasked with environmental management both at national and local level. These included the traditional leadership structures, the police, the Environmental Management and the Forestry Commission amongst others and how the gender composition of these institutions impacts on women and their access to forest resources on the ground as well as in gender sensitive forest law and policy formulation and implementation.

## 2.3 Research Design

### 2.3.1 Delineation of the study areas

In order to get a conclusive result of the study, I had to locate my study within specific geographical areas for data gathering purposes. I focused on the Domboshava area, 30 kilometres north of the capital Harare as well as the Mtao Forest, 210 Kilometers south of the capital Harare along the main Harare-Masvingo-Beitbridge Highway. The Domboshava area has an indigenous protected forest consisting mainly of *mazhanje* trees while Mtao Forest is an exotic forest growing mainly eucalyptus and pine trees but is also laced with some indigenous msasa trees. It was necessary to pick on the two areas for comparative purposes in determining whether management, access, control and ownership regimes would differ between forest produce in an indigenous forest and produce in an exotic forest. I also assessed, compared and contrasted cultural and customary practices on environmental management and access to forest produce between the two study areas.

Below are photographs showing sections of the two study areas, Domboshava and Mtao Forests respectively



Domboshava Forest





Mtao Forest

### **2.3.2 Research Sample**

My study concentrated on women living in villages surrounding the two forest areas. I also interviewed, however, men in the same villages with a focus on traditional leaders. In addition, I also interviewed Government and Non Governmental Organizations (NGO) officials working in the area of environmental and forest management. I also talked to two children that I came across selling forest produce along a highway in Domboshava.

- Total number of respondents- 58
- Number of women interviewed- 49
- Number of men interviewed- 7
- Number of traditional leaders interviewed- 4
- Number of Government officials interviewed- 4
- Number of Non Governmental Organizations (NGO) officials interviewed- 2
- Number of children interviewed- 2

### **2.3.3 Field Experience**

My research was situated in two areas. I was able to conduct my research in Domboshava during visits which I made to it while I stayed, not very far away, at my home in Harare. For my research at Mtao, however, which lies 210 kilometres from Harare, I had stay in

the research area. The people that I met for the interviews in both research areas were very cooperative. The traditional leaders would give interviews and would in turn call people from nearby homes for me so that they could come and contribute to the research. This was very helpful because the respondents were obliged to come after being summoned by their headman or village head. Women at the rural markets were of particular interest. They would always answer questions enthusiastically and would sometimes burst into song as they narrated their experiences. But they also wanted to know what I would give them in return for the information. They said they wanted capital to recapitalize their businesses which had been affected by inflation and the unfriendly economic environment. I however told them that I could not offer them such assistance since I was a mere student. In Domboshava, one of the traditional leaders asked me if I could take the National Museums and Monuments of Zimbabwe (NMMZ) to court on their behalf since I was a lawyer because the authority was denying them access to the forest and not sharing benefits from the tourist visits with the locals. I promised him that the organization that I worked for would look into the matter and see what could be done. My organization together with two other environmental organizations, Environment Africa and the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE), have made initial visits to the area and initiated talks with the NMMZ to help the community in accessing the forest and benefiting from tourist activities in the area. My field experience showed me that rural men and women are easy to mobilize and that they search for knowledge about many things, from women's right issues to economic and political information. I had a lengthy political discussion with an 89 year old woman who wanted me to explain the differences in ideology between Mugabe (the president) and Tsvangirai (the opposition leader). Although the topic was far removed from my research interests, I had to take the time to explain to the grandmother to the best of my ability.

Government employees were, however, difficult to get hold of. I would phone to make appointments but more often than not, the phones were never answered. I would then visit the offices in person in order to make appointments but the relevant people thought that I could talk to their juniors since research was not something that they would spend

their time on. I would oblige and interview the people that I was referred to although they were not my first choice interviewees.

### 2.3.4 Identifying the forest produce

The Communal Land Forest Produce Act: Chapter 19:04 defines forest produce as:

*“all vegetation, whether alive or dead, in a plantation, forest or woodland and any part, whether alive or dead of any such vegetation, including wood, bark, seeds, fruit, gum, resin or sap”* (Section 2)

In this research, however, I concentrated on forest produce of significance to the research areas, since the definition given by the Act is very wide. In Domboshava, the forest produce of significance included firewood and mazhanje, whilst in Mtao I concentrated more on firewood, mushrooms and, to a lesser extent, honey. The significance of the produce on which I concentrated was determined not only by its presence in the area, but also by its glaring absence from an area where it should otherwise have been abundantly available and the consequent detrimental effects of its unavailability to the women in the area concerned.



Firewood in Mtao Forest



Mushrooms in Mtao Forest



A muzhanje tree in fruit in Domboshava

## **2.4 Research Methods**

### **2.4.1 In-depth Individual Interviews**

I held in-depth individual interviews with women in the rural areas. I targeted women living close to the forests who, I believed, had a close interaction with the forest and would, therefore, be more likely to depend on forest produce for their daily sustenance. I found some of the women in their homes, but the majority were in their fields, since it was the height of the farming season. In-depth individual interviews were ideal in the circumstances because they did not disrupt the work that the women were involved in by, for example, asking them to join other respondents at a different place. They would continue with their work as we talked and, where possible, I would also sometimes join in the work, like weeding the fields for a few moments. It is a traditional cultural practice amongst the Shona people in Zimbabwe that if you find people working in the field you have to “feel the hoe”, that is, ask to share their work for a while to show appreciation for what they are doing.

### **2.4.2 Key Informant Interviews**

Key informant interviews in this research were carried out with officers in the relevant government departments, traditional leaders as well as NGO workers. The government officials that were interviewed included those from the Forestry Commission, the National Museums and Monuments of Zimbabwe and the Environmental Management Agency whilst NGO officials from Phytotrade Africa and Southern Alliance for Indigenous Resources (SAFIRE) were also interviewed. From government officials I sought to establish the role that women play in environmental management in the country and in particular what policies are in place that may aid or hinder women in accessing forest produce. The NGOs that were part of the research specialize in working with women in the beneficiation and value addition of forest produce in the country. I therefore sought to establish how their programmes have helped women in the rural areas, first in accessing forest produce and then in using the produce to uplift their lives.

From the traditional leaders, I sought to ascertain the role that they play in the management of the environment and forest produce and what role they play in the process of assisting women to access, control or own forest produce. I also sought their opinions on the role of modern law vis-a-vis traditional practices and the relevance of both in modern day society with regards to women and their uses of forest produce.

### **2.4.3 Focus Group Discussions**

I held focus group discussions with women at the two main rural markets in the research areas, one at Fair-fields (commonly known as Fio Fio – a corruption of the word Fair-fields by the locals) in Mtao and the other at Mvarechena Business Centre in Domboshava. The reason for holding these focus group discussions was that I usually found the women in groups at the market and therefore I could talk to all of them at the same time which saved time because it prevented an unnecessary repetition of the same material. They also gave me an opportunity to obtain divergent views on the same issues, as the women would debate amongst themselves until they agreed on one position or, at times, not at all. In Mtao the women argued about whether it was fair for the Forestry Commission to deny them entry into the forest to collect firewood when the firewood was abundantly available and even rotting in the forest. Some argued that it was fair because people ended up destroying the forest when allowed entry, while others insisted that entry should be unrestricted. The women did not agree on a common position on this issue. The women would also correct each other immediately if they believed one of them gave an inaccurate statement during the interviews. The debates that women held amongst themselves also raised issues for discussion that may never have come up had individual ones been held. In Domboshava, for example, whilst discussing the level of environmental degradation in the area, one of the women at the market asked her colleagues what they thought had caused this degradation in the first place. She argued that if the cause could be identified, then similar problems could be avoided in future or that measures could be taken to rectify the situation. The focus group discussions also made the research process very lively and, at times, enigmatic, as the women would

suddenly and spontaneously burst into beautiful song and act out the points they desired to emphasize.

#### **2.4.4 Observations**

I usually made observations in the research areas to assess the situation before approaching the target interviewees for a discussion. This was the case mainly at the local rural markets where I would watch the women from a distance as they carried out their business. I would observe the kind of commodities that they were selling and how they were conducting their sales. Some would run with their commodities when buses stopped at the business centers whilst others would stay put at their market stalls and sell only to people who approached them. The women were also engaged in animated debates most of the time. Although I could not work out exactly what they were talking about, this helped me to identify those who would dominate the discussions and therefore had the potential to mobilize the others into a group discussion when I eventually approached them. I also watched the forest guards in both research areas as they carried out their duties, sometimes doing foot patrols (in both Domboshava and Mtao) and at times on horse back (in Mtao) and how they would stop people they found walking in the forests. Although I never got to hear the kind of conversations they were involved in with the “trespassers”, I could observe that indeed they had the power to stop people and quiz them if they found them walking without authority in the forest areas.

#### **2.4.5 Literature Review/Secondary data**

Research does not have a beginning or an end; researchers build on work that has already been done in order to add to it, thus providing more resources for other researchers to build on (Wesleyan University Library, 2008). It was therefore important for me to go back to secondary sources of data as my focus for literature review so as to find out in detail what has been or is being done in the field and therefore make it possible for me to identify how my work/research can contribute to the field. Thus I had to look at the work that has been carried out by other scholars and researchers in the field of women and

environmental management as well as women and access to environmental resources. I also reviewed national legislation and policies dealing with environmental management in general and forest management in particular. In addition I also looked at the international human rights framework in relation to women's rights in environmental management and their right to access forest produce for different purposes. Relevant newspaper articles also formed part of the literature that contributed to this research. The internet was a rich source of information and it provided me with various articles for review.



## **CHAPTER 3**

# **AN ANALYSIS OF THE PRACTICE, POLICY, LEGISLATIVE AND CONSTITUTIONAL FRAMEWORK GOVERNING ACCESS TO FOREST PRODUCE AND AN ASSESSMENT OF COMPLIANCE WITH THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK**

### ***3.1 Introduction***

This chapter is premised on the assumption that there are laws, policies and practices that deal with access to, control and ownership of forest produce in the country. In the chapter I take a closer look at the practices relating to access, control and ownership of forest resources in Zimbabwe and link the practices with the relevant policy and legislative framework in the country. I also compare the practices, policies and laws with the international human rights provisions to measure the level of compliance or non-compliance with the human rights framework. This assessment helps to formulate recommendations for policy, legislative and practice reforms that take into consideration the provisions of the international human rights instruments so that there is compliance in the forestry resources sector with women's rights to manage, access and use the forest resources. The legal, policy and practice framework will also be linked with the institutional frameworks in the next chapter in order to determine the extent to which the various institutions comply with the relevant legal and policy provisions.

### **3.2 Traditional practices and knowledge and their importance**

According to the United Nations Convention on Biological Diversity (CBD):

*“State parties shall encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation and sustainable use requirements”* (Article 10 (c))

The same convention also recognizes:

*“The vital role that women play in the conservation and sustainable use of biological diversity and [affirms] the need for the full participation of women at all levels of policy making and implementation for biological diversity conservation.”*(Preamble)

These provisions demonstrate that indigenous knowledge is critical in the management of environmental resources and this importance has been recognized by the world community; hence, the inclusion of these provisions in important international environmental conventions, such as, the CBD. Of particular importance is the recognition of the role of women in the management of these resources and also the knowledge that they have developed over time because of their close interaction with the environment.

My interaction with women and traditional leaders in the field revealed that customary laws and practices still play a vital role in the management of forest resources in the research areas, although it is mostly the older generation that is keeping alive these practices. The younger generation is of the view that the customary laws, just like the statutory laws, are restrictive and are a way of denying them an opportunity to access, control and own forest produce as they wish<sup>2</sup>. According to one of the women (60 years old) that I interviewed in Domboshava, when she was growing up, people were only allowed to pick *mazhanje* using the left hand. It was taboo to pick the fruit using the right hand or to pick using both hands. The rationale was that since most people are right-handed, the practice would ensure that they would pick more slowly in order to give ample opportunity to others who were also entitled to enjoy the fruit. In addition, in accessing the *mazhanje* fruit, one was only allowed to pick enough to enjoy for one day and if they picked any excess, they were obliged to give the remainder to the elderly

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<sup>2</sup> This was revealed during interviews with young girls aged 17-21 in Domboshava. The young girls did not see the importance of following traditional practices and were of the view that traditional leaders and in particular the chief in the area wanted to put too many rules around the use of and access to *mazhanje* because it ensured access for him and those close to him, whilst similar access was not possible for ordinary residents.

people in the village who could not walk to the forests to pick the fruit for themselves. Again this ensured that people were not greedy but would only pick what they required and give the rest to other people in need. This practice is a wonderful example of how an indigenous community's just stewardship of nature is reflective of the ideal society in which there is equality and justice for all.

The local headman in Domboshava also highlighted an important traditional conservation mechanism. He said that in the past only *mazhanje* fruit that had fallen to the ground could be picked. It was taboo to shake the tree or to throw objects at the tree in order to bring the fruit to the ground. This was a way of ensuring that only completely ripe fruit could be harvested. It also ensured protection of the fruit trees from damage because shaking the trees and throwing objects at the trees could result in damage to the trees and fruit.

These were important traditional practices that ensured that everyone in the community could access the fruits and also ensured that the fruit trees were conserved so that they could produce during coming seasons. Whilst the younger generation and other people may see these traditional practices as insignificant and out of sync with modern day ways of living, the reality on the ground shows that failure to abide by some of these traditional practices has seen greed creeping into the communities and the environment being destroyed with devastating effects on women. The over-consumption of forest produce and degradation of the environment have been some of the reasons why successive Zimbabwean governments have put in place legislation that criminalizes the use of forest resources, amongst other resources, when in fact women depend on these resources for their daily sustenance. Recent legislative developments have, however, shown an effort by government to try and comply with international human rights instruments in relation to indigenous knowledge in the management of the environment, although these are general provisions that do not regard women as a special constituency that requires special recognition with regards to access to forest resources.

Sections 116 (1) (i) and (j) of the Environmental Management Act Chapter 20: 27 recognizes the need by government to protect the indigenous property rights of indigenous communities in respect of biological diversity and to support the integration of traditional knowledge on conservation of biological diversity with scientific knowledge. These are progressive provisions which show that government is making legislative efforts to comply with the international human rights framework in order to help women to access biological diversity such as forest produce and also to use their indigenous knowledge to obtain the maximum benefit from these resources. An attempt should be made, however, to ensure that these provisions are implemented on the ground. During my field research, it came to light that the people who are put in charge of the forest areas have little regard for traditional practices and women's indigenous knowledge. Instead, in so far as management of forest produce is concerned, they rely more on the command and control system that is contained in old forest management legislation such as the Forest Act and the Communal Land Forest Produce Act. As a result, their approach denies women access to and control of the forest resources. This is understandable because when government passed the new legislation in which it attempted to integrate human rights issues with environmental management and access to environmental resources, it did not revisit and amend all the relevant pieces of legislation to ensure uniformity between them reflective of the new legislative intention. Faced with the enforcement of contradictory laws, officers on the ground are forced to choose which of a range of laws to enforce; they usually enforce those which will achieve whatever they want them to achieve at any given time. For example, whilst the Environmental Management Act encourages sustainable use of natural resources, the Communal Lands Forest Produce Act still has restrictive provisions in relation to access to forest produce which makes it difficult for sustainable use to be realized. It is therefore important for the government to ensure that all the relevant laws are harmonized so that women can realize their rights to access and use environmental resources as contained in the international human rights framework.

### **3.3 Policy framework**

A policy is a framework for defining how certain things are done, although it does not have the force of law. It is persuasive and usually underpins legislative reform. The relevant policies in this study are the National Gender Policy and the Draft National Environmental Policy. The Draft National Environmental Policy was submitted to Cabinet for approval in 2005 after a formulation process that involved wide public consultations and several drafts. However to date the policy has not been approved by government.<sup>3</sup>

#### **3.3.1 The National Gender Policy**

This policy recognizes that the participation of women in the environment sector is hampered by the lack of necessary resources and, as a strategy to uplift women's participation in the sector, proposes the formulation, development and adoption of gender sensitive policies that enhance equitable and equal participation of women in the environment sector (Section 6.1.5).

#### **3.3.2 The Draft National Environmental Policy**

The Draft National Environmental Policy recognizes the link between forest degradation in communal areas and the suffering visited on women. It states that:

*“Many of the woodlands and forests in communal areas are fragmented and degraded as increasing population pressures result in ongoing clearance for agriculture and harvesting for firewood, poles and other products. An estimated 75000 hectares are converted annually to arable land, with much of the fuel wood coming from felled trees. Some communal lands no longer have much natural woodland left, so that women often have to walk many kilometers to gather wood.”* (Section 4.7)

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<sup>3</sup> As of February 2008

In addition, the Draft Policy also recognizes that:

*“In Zimbabwe’s rural areas, women are at the forefront of environmental use and management, both through their involvement in agricultural production and through harvesting natural resources.....Experiences from other developing countries show that women are better environmental managers than men. As such they need to be more actively involved in local and national level initiatives to draw up and implement environmental policies, strategies and action plans.”*  
(Section 5.4)

The provisions in this section of the Draft Policy are clearly in line with the provisions of the SADC Protocol on Forestry which specifically recognizes that women should play a role in forestry management. Article 13 of the Protocol encourages state parties to adopt national policies and mechanisms to enable the effective participation of women in sustainable forest management, including affirmative action to seek and encourage such participation.

As strategic directions, the Draft National Environmental Policy encourages the following:

- mainstreaming of gender in environmental policy, planning and management initiatives;
  - the development of integrated environmental management systems that serve the needs of both men and women;
  - the mobilization of both men and women in programmes aimed at achieving the sustainable use of resources;
  - addressing the gender dimensions of poverty-environment issues;
  - involvement of more women in environmental management through targeting them in training and awareness campaigns carried out by government agencies.
- (Section 5.4)

These are positive provisions and it is hoped that government will seriously look into endorsing the policy so that it can be used on the ground to assist women in realizing their rights in environmental management and in accessing environmental resources, such as forest produce. The formulation process of the Draft Policy was started after the

enactment of the Environmental Management Act and it is hoped that once the Draft Policy is approved by government, the Act can be amended so as to put into effect the provisions of the Draft Policy relating to women and the environment since these are not contained in the Act.

### **3.4 *The Legal Framework***

#### **3.4.1 The Forest Act: Chapter 19:05**

The Forest Act establishes the Forestry Commission which is responsible for the management of forest land and forest estates in the country. The Commission has of late established a commercial entity under its portfolio known as Allied Timbers which is responsible for processing wood into timber for various purposes. As a result, the Commission is more concerned about timber-based forest produce because that is where most of their revenue comes from.<sup>4</sup> The Act also deals with the appointment of forest officers by the Minister whose duties are to enforce the provisions of the Act, including those relating to access to forest areas and possession of forest produce. Section 85 of the Act deals with wrongful possession of forest produce and authorizes the Police and Forest Officers to confiscate any forest produce which they reasonably suspect to have been wrongfully acquired and to arrest the person found in possession of such produce.

#### **3.4.2 The Communal Land Forest Produce Act; Chapter 19:04**

The Act deals with the management of forest produce that is found within communal lands and is critical for rural women because of their location in the communal areas of the country. It is the Act that is widely used to determine access to and control of forest produce by rural women. The Act defines forest produce as:

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<sup>4</sup> Interviews with two Forestry Commission Acting Operations Managers on 15/10/2007

*“all vegetation whether dead or alive in a plantation, woodland and forest and any part whether alive or dead of any such vegetation including wood, bark, seed, fruit, gum, resin or sap”.*

It goes on, however, to distinguish between major forest produce and minor forest produce with major forest produce being defined as trees, palms and bamboos or any part thereof other than flowers, leaves, fruit or seed. Access to major forest produce is subject to more stringent conditions compared to minor forest produce although both are subject to a strict access and control regime. In terms of Section 4 of the Act:

*“the inhabitants of any communal land shall have the right within that communal land to exploit for their own use any forest produce”*

except major forest produce which requires a permit, even if its being exploited for personal use. Forest produce that is exploited by the inhabitants of communal areas by virtue of their being inhabitants of the producer locality cannot be sold and cannot be given to any other person who is not an inhabitant of that communal area. In addition, once a permit has been granted to another person to exploit certain forest produce, then no other person is entitled to exploit such produce. In terms of Section 5, the Minister responsible for the environment may issue a license to any person to exploit any forest produce within a communal area. Section 7 allows the Minister to issue permits for the exploitation of forest produce in protected forests, while Section 8 allows the Minister to issue permits for the exploitation of reserved trees. Forest produce acquired in terms of a permit or license may be sold or given to a non inhabitant of the producer community.

### **3.4.3 The Environmental Management Act: Chapter 20:27**

The Environmental Management Act is the key piece of legislation dealing with environmental management in Zimbabwe. The Act’s formulation process started in 1994 and ended in October 2002 with the enactment of the Act in an attempt by government to



comply with the provisions of the Rio Declaration on Environment and Development<sup>5</sup>. Key environmental management principles that are contained in the Rio Declaration form the basis of the Act. Of relevance to this study is the recognition by the Act of the need to:

*“Secure ecologically sustainable management and use of natural resources while promoting justifiable economic and social development”* (Section 4 (1) (c) (ii))

and that

*“Environmental management must place people and their needs at the forefront of its concern”* (Section (4) (2) (b))

This shows a clear and laudable move away from previous environmental legislation (that focused on the protection of the environment to the detriment of people who were denied access to its resources) towards the recognition that environmental resources should be used by people for their economic and social development. If properly and adequately implemented, this provision can be of critical importance to women who depend on forest produce and other environmental resources for their sustenance because it encourages sustainable, responsible and ecologically friendly use of these resources, as opposed to total preservation and non-use.

Of concern, however, is the failure by government to recognize, in this important piece of legislation, the rights of women to access and use environmental resources, such as forest produce, and the rights of women to participate in the formulation and implementation of environmental laws and policies. The Act is gender neutral and assumes that its application will be equal for men and women. Experience, unfortunately, has shown that gender neutral legislation does not necessarily mean that the law will be equally applied for men and women. Instead, because of women’s unequal standing in society, while there will be apparent equality in terms of the written law, i.e., a “*de jure (i.e., legal or formal) equality*”, there will, in fact, be “*de facto (i.e., substantive or actual)*”

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<sup>5</sup> The Rio Declaration was the culmination of the Rio Earth Summit which was held in Rio De Janeiro, Brazil in June 1992. It was a follow up to the 1972 Stockholm Conference on the Human Environment and sought to take stock of progress made by States in protecting the environment since Stockholm. The Rio Declaration is a non-binding instrument which gives guidelines to state parties on best practices in the management of the environment.

*discrimination*". The failure by the government to include women's rights in the Environmental Management Act is even more worrying if one considers that this is one of the modern environmental management pieces of legislation and that the Rio Declaration, with which it seeks to comply, clearly stipulates the rights of women in environmental management. Principle 20 of the Rio declaration states that:

*"Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development."*

Failure by government to include this important principle is therefore a gap in compliance with the international human rights regime and it needs to be addressed to ensure women's rights to environmental management and to access environmental resources like forest produce.

#### **3.4.4 The Communal Land Act: Chapter 20:04**

The Communal Land Act vests all communal land in the President who shall permit it to be occupied and be used in terms of the Act (Section 4). This means that rural people do not have any title over the land that they occupy and therefore have to abide by the many regulations that are put in place in the use of and access to communal land. Because the resources on the land are inextricably bound up with the land itself, communal people cannot freely access forest produce which is deemed to belong to the landowner, in this case, the presidents/state (Mcnamara and Bradley, 1993). Women are in an even more precarious position because communal land in Zimbabwe is regarded by the indigenous people as traditional/ancestral land. Women cannot own this land in terms of customary law because ancestral land can only be passed on to male members of the lineage. Women are also regarded as being in transit, either as daughters who are going to be married or as wives who belong to a different lineage, and, therefore, have no share in ancestral land. This makes tenure of and access to communal land and environmental resources in communal areas precarious for women.

### **3.4.5 The Traditional Leaders Act: Chapter 29:17**

The Traditional Leaders Act gives traditional leaders powers to manage the environmental and natural resources within their areas of jurisdiction. Section 5 deals with the duties of chiefs and some of these duties include the following:

- Ensuring that land and its natural resources are used and exploited in terms of the law (section 5 (1) (i)).
- Controlling the indiscriminate destruction of flora (plants) and fauna (animals) (section 5 (1) (i) (iii)).
- Preventing the degradation, abuse or misuse of land and natural resources in their area (section 5 (1) (i) (iv)).

The Chiefs can delegate some or all of these duties to the Headmen or Village Heads under their jurisdiction. This explains the active involvement of traditional leaders in environmental management in the rural areas. In my research areas, the role of the traditional leaders was also evident in the management of forest produce and in particular in allowing access to and defining permissible uses of forest resources.

### **3.4.6 The National Museums and Monuments of Act: Chapter 25:11**

The Act establishes a Board of trustees known as the Trustees of National Museums and Monuments (Section 3). The Board is tasked with the functions of administering museums and national monuments vested in the Board and providing for the preservation of monuments, relics and other objects of historical or scientific value or interest (Section 4 (2) (a and b)). While the National Museums and Monuments Board is not specifically tasked with the management of forests or forest produce, they can manage forests if they are strategically located in relation to a national museum, monument or relic. This is the case in Domboshava. The interest of the National Museums and Monuments of Zimbabwe (NMMZ) in the area is the Domboshava Caves which have been declared a national monument. The forest in question was actually preserved by a villager in the area, Mr. Charles Tsvanhu Goredema, at a time when the people in the area were indiscriminately cutting down trees. The forest is located at the foot of Domboshava

Mountain in which the Domboshava Caves are located. According to residents in the village and the Goredema family, when the NMMZ came in to declare Domboshava Cave a national monument, they also took charge of the forest, arguing that it was necessary for them to be in charge of the forest if they were to have effective control of the caves. They then declared the forest a protected area and positioned their guards in the area. The NMMZ is, therefore, the national institution effectively in control of this particular forest.

### ***3.5 The Constitutional Framework***

The Constitution of Zimbabwe prohibits discrimination on the grounds of sex, amongst other grounds. This provision can be used by women to claim their rights to environmental resources, such as forest produce, if such access is denied on the basis that they are women. Although no such cases have ever been reported, it is good that women may fall back on this provision in the event of a violation. The Constitution of Zimbabwe contains no environmental rights. Whilst it is accepted that the Constitution, as the supreme law of the country, does not embrace all human rights issues, environmental rights are key in as far as they determine the future of the country which is based squarely upon the rights of both current and future generations who have equal rights to live off and co-exist with the environment and its natural resources which they all, at some point in time, are required to share. In addition, rights to a clean and healthy environment and rights to access environmental resources can hinge on the most important right of all; the right to life. Failure by rural women to access environmental resources, for example, may mean failure to obtain food which may lead to death and therefore an infringement of their right to life. In some progressive jurisdictions, like India, the courts have equated environmental rights with the right to life, hence, the compulsion that environmental rights must be enshrined in the constitution.

### ***3.6 A comparative analysis of regional laws (Botswana and South Africa)***

The Botswana environmental management laws are similar in a number of ways to the Zimbabwean laws. Though enacted by an independent Botswana and not by a colonial system like in Zimbabwe, the laws governing forest management and access to forest resources in the country are also old. The Forest Act Chapter: 38:04 is a 1976 Act. The Act gazettes forest reserves, protected trees and the control of forest products. Like the Zimbabwean Forest Act, this piece of legislation is concerned more with restricting access to forest resources by communities and ensuring their preservation, as opposed to the human use of those resources. It also does not take into account most of the international human rights provisions dealing with access to forest and environmental resources and the rights of women in relation to environmental management. This may be explained by the fact that the first major breakthrough on women's rights at the international level was in 1979 when the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) was created. The Botswana Forest Act of 1976 was already in place. Other pieces of legislation dealing with access to forest resources, such as the State Land Act (1966) and the Agricultural Resources (Conservation) Act (1973), are even older and, therefore, do not address women's issues in accessing forest resources. Botswana does not have a framework environmental management Act but only has sectoral pieces of legislation dealing with specific environmental resources.

South Africa, on the other hand, as a new democracy which came into being in 1994, has new laws that significantly capture emerging issues and international trends in both environmental management and women's rights because the laws are also relatively new. Like Zimbabwe, South Africa has a framework environmental management law, called the National Environmental Management Act, Number 107/1998. The Act recognises the role of communities in environmental management and accessing environmental resources as well as public participation in environmental decision making. Whilst the Act does not mention women specifically as requiring special dispensation in environmental management and accessing environmental resources, it states that:

*“Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.”* (Section 4 (d))

Whilst the intention might have been to target people unfairly disadvantaged by apartheid discrimination as the country had just gained independence in 1994, the provision is equally applicable to women because of the discrimination that they face as a result of sex or gender. It can, therefore, be used to assist women in accessing forest and other environmental resources, as well as participating in environmental management.

In the next chapter, I look at the various institutions responsible for forest management in the country and how their work is linked with the provisions of the above laws and policies. I also assess the level of compliance by the institutions with legislative and policy provisions as well as the international human rights framework.

## CHAPTER 4

# THE INSTITUTIONAL FRAMEWORK GOVERNING MANAGEMENT OF FOREST PRODUCE

### 4.1 Introduction

The underlying assumption in this chapter is that traditional and cultural natural resources management and use regimes are better placed than conventional natural resource management regimes to manage forest produce without stopping women from accessing the produce. This assumption has, however, been slightly challenged in the field, as it emerged that both traditional and conventional natural resource management regimes have negative and positive aspects about them. The chapter seeks to discuss both the traditional and modern institutional frameworks that impact upon women's access to and control and ownership of forest resources. These are important to grasp because the attitudes, composition and legal provisions relating to these institutions determine how difficult or easy it is for women to access forest resources. According to Nemarundwe,

*“in relation to issues of representation, power and its related dynamics becomes a key variable in determining whose interests are or are not catered for by the institutions given the diversity of actors involved in community based natural resources management.”* (Nemarundwe N, 2003)

The institutions can be both formal and informal. The informal institutions can be just as strong and may even be stronger than the formal institutions when it comes to management of natural resources at community level. In this chapter I will, however, deal only with formally recognized national institutions with a felt presence in the research areas. These include the Zimbabwe Republic Police (ZRP), the Municipal Police of Harare, Gweru and Masvingo Cities, the National Museums and Monuments of Zimbabwe, the Traditional Leadership Structure, the Forestry Commission, the Environmental Management Agency and the Environmental Management Board and whether or not they comply with the statutory provisions that establish and govern them.

I will then examine the position of women in these institutions both at local and national levels.

## ***4.2 The Zimbabwe Republic Police (ZRP)***

The Zimbabwe Republic Police (ZRP) are tasked with the enforcement of all laws in terms of the Police Act: Chapter 11:10. In addition different pieces of legislation also list offences that may be committed in terms of their application and the police are entitled to arrest people found violating any of the laws. For forest produce, police are concerned with its harvesting and how it is subsequently used. Illegal harvesting and illegal use can lead to arrests and confiscation of the forest produce by the ZRP. For example, in terms of Section 17 of the Communal Land Forest Produce Act a police officer may:

1. At any reasonable time, require the holder of a licence, permit, special licence or special permit to produce for inspection, his licence, permit, special licence or special permit, as the case may be;
2. Require any person found inside any communal land transporting or selling forest produce or supplying forest produce to anyone who is not an inhabitant of that communal land; or
3. Found outside communal land in possession of forest produce that is reasonably suspected to have come from a communal land,

to prove to the police officer that they are not committing or have not committed an offence in relation to the forest produce concerned and, if they cannot do so, they are liable to arrest, prosecution and payment of a fine. These powers given to police officers in terms of the Act are in addition to any powers that the police may have in terms of any other enactment.



### ***4.3 The Municipal Police***

The municipal police of the various urban areas are concerned with the enforcement of by-laws that relate to their particular areas of jurisdiction. In terms of forest produce, they are concerned with whether or not it is sold legally in terms of the by-laws of the respective local authorities. In all urban local authorities in Zimbabwe one requires a hawker's license to move about selling any wares or produce in the urban areas or a vendor's license which stipulates a selling (vending) site if they are to sell within a specified location. In both cases, the vendor or hawker has to pay fees to the local authority. The municipal police would therefore arrest anyone that they find selling wares/produce in the urban areas without the requisite authority. They may also arrest traders of forest produce if they reasonably believe that their activities are creating litter within the municipal area.

### ***4.4 The National Museums and Monuments of Zimbabwe***

The National Museums and Monuments of Zimbabwe is not specifically tasked with the management of forests or forest resources, although they can do so in special circumstances in pursuance of their mandate as explained above under the National Museums and Monuments Act section.

### ***4.5 The Traditional Leadership Structure***

Traditional Leaders include chiefs, headmen and village heads with the chief being the highest in hierarchy in a community and the village head the lowest. They are the custodians of traditional culture and customs within their areas of jurisdiction. In terms of forest produce, they are required to enforce cultural practices that deal with when the produce can be harvested, who can harvest it, to what use the produce can be put and the cultural rules that have to be followed in the process of picking the produce. This role is reinforced by statute law (the Traditional Leaders Act) which recognizes the role of

traditional leaders in the rural areas generally and their role in environmental and natural resources management in particular. These roles have already been explained above under the statutory provisions of the Act.

#### **4.6 *The Forestry Commission***

The Forestry Commission is established in terms of the Forest Act. Their duties include all management of forest resources as well as policy formulation in relation to the same resources. They may also engage in forest-related commercial enterprises, such as the processing of wood into timber and the making of timber-based products. In Mtao they have a large commercial timber processing depot which is managed by Allied Timbers, a company of the Commission. They are also involved in the commercial production of honey in the forest. The Commission manages Mtao forest and determines the rules of access to the forest by members of the public for any reason. The manager of Mtao Forest indicated that the main reason why they do not allow people into the forest is because they cause fires which destroy their timber and also because they steal honey from the Forest Commission apiaries. Were it not for these problems, they would allow people into the forest freely to access non-timber forest produce, such as firewood and mushrooms. They sometimes, however, turn a blind eye to public breaches, even if they find women in the forest gathering mushrooms and firewood, provided they are convinced that they are not causing any harm to the trees, apiaries and other property under to control of the Commission.

#### **4.7 *The Environmental Management Agency (EMA)***

The Environmental Management Agency is established in terms of the Environmental Management Act: Chapter 20:27 (Section 9). It is the coordinating institution tasked with environmental management in the country and all other institutions dealing with environmental issues are required to work hand in hand with this agency. The Agency's work is managed and controlled by a board called the Environmental Management

Board. The two institutions have overall responsibility over the management of forest resources and environmental implications of accessing and using the resources.

#### **4.8 *The position of women in the institutional establishment***

Generally speaking, there are fewer women than men in all the various institutions tasked with<sup>6</sup> environmental management and enforcement of environmental laws. The ZRP is however one force that stands out as having women in its various ranks. On the ground however during the research, I did not find a single woman in the two teams that I came across enforcing forest produce access and use laws in the Domboshava area. The two (2) roadblocks that I came across as I exited the community during my research were set up by male ZRP officers. These were set up to search cars that were coming out of the community for *mazhanje* and, if they were carrying *mazhanje*, to determine whether they were legally acquired and whether the amounts were reasonable for personal consumption only. On both occasions that the roadblocks were set up, I was stopped and my motor vehicle was searched. Also on both occasions I was carrying *mazhanje* that I had bought from vendors in the community (about 20 kilograms) and I was allowed to pass without any problems because the police were convinced that these were for my personal consumption because the quantities were limited.

The Environmental Management Agency (EMA) is headed by a woman as the Director-General but most of the senior officers below her are men. The Forestry Commission is headed by a man, whilst both the Acting Operations Managers that I interviewed during the research were also men. The Manager of Mtao Forest is however a young woman in her mid twenties. During an interview, she revealed that generally there are fewer women in management positions in the Commission although the management of the Commission is promoting the increased involvement of women in the forestry sector. She said the principal of the only School of Forestry in the country in Mutare is a woman. Because this trend of promoting women in the forestry sector has only recently come

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<sup>6</sup> As of March 2008

about, it is reasonable to expect that their impact upon the sector will only become apparent some time into the future.

The traditional leadership structure in the country is dominated by men with less than 5 female chiefs in the whole country. All the forest guards that I came across in both Mtao and Domboshava were men although there were indications that there were also a few female forest guards. Rural District Councils in the country are also dominated by men who are their councillors and Chief Executive Officers.

This overview shows that women are under-represented in the national and local level institutions that deal with environmental management and access to forest produce in the country. The result is therefore that women's concerns are unlikely to be considered during law and policy formulation and implementation as their participation in the process is limited. This is an area that the government and other institutions need to address in order to comply with the international human rights framework and in particular international environmental and women's rights conventions that emphasize the need for women's participation in environmental management, access to environmental resources, participation in decision making and in sustainable development.

In the next chapter I link the legal, policy, practice and institutional issues with the reality that is prevailing on the ground as women try to access forest resources for various uses. The link is important because the laws that are in place and the institutions that enforce those laws determine whether women are constrained or not in their quest to access forest resources.

## **CHAPTER 5**

# **CONSTRAINTS FACED BY WOMEN IN ACCESSING, OWNING AND CONTROLLING FOREST PRODUCE AND THEIR COPING STRATEGIES**

### ***5.1 Introduction***

This chapter analyzes the findings from the field and links the findings with the problems that women encounter as they try to access, control and own the forest resources for various uses. The issues that I explore include the permit/licence system that is applied in terms of the law in order for people to access forest produce. I also examine the non-recognition of women's indigenous knowledge, non-access to and non-ownership of other key resources that enable one to access environmental resources by women and the firewood problem in Domboshava and how it has contributed to women's exploitation and suffering. There is also an examination of the competing interests that are found in uses of forest produce and who the competitors for the forest produce are. The issue of access on the ground and who determines that access is also covered. Lastly I examine the issue of whether or not it really makes any economic difference for women when they sell forest produce.

### ***5.2 The permit/licence system***

The permit/license system is explained above under the provisions of the Communal Land Forest Produce Act. During an interview with officers of the Forestry Commission, they expressed the view that they are not strictly enforcing the permit system for non-timber forest produce because they regard it as minor forest produce and therefore of no economic value to the Commission. They are however strict when it comes to accessing timber from the various forests in the country because of its economic value to the Commission and to the country as a whole. They are therefore of the view that the permit system should not be strictly adhered to and are also of the view that the laws that deal

with forest management in the country are old and therefore need to be revised so that they reflect general thinking and practice on the ground.

The laws are however still in place and the implications on the ground for women are many. One of the major implications is that despite the thinking by the Forestry Commission that the permits/licenses are not strictly necessary in order for people to access and trade in minor forest produce, the police still require the production of the permits or licenses if they find people in possession of or trading in forest produce. All the women that I interviewed who go to urban areas to sell the forest produce like *mazhanje* and mushrooms confirmed that they are always harassed by the police at roadblocks as they transport their produce to the urban areas for sale or when they are selling the produce in the streets of the urban areas. The police always ask for the relevant permits and if they cannot produce the permits, they are arrested, fined and their goods confiscated. At the time of the research, the fine for being in possession of or selling forest produce without the necessary permits was Z \$40 000 (about 0.027 USD). The women were not worried about the fine which they perceived as low but were concerned about the harassment they went through in the hands of the police as well as the economic loss caused by the confiscation of their forest produce. They would have transported the goods from the rural areas, paying bus fares for themselves and the forest produce and therefore loss of the forest produce would be a double blow. They are also sometimes made to sleep in police cells before they pay the requisite fines. In most cases, they would have left children behind in schools with the hope that they will get home in time to meet the children as they come back from school and therefore attend to them. This therefore means that if they spend the night in police cells, their children and other property back in the rural areas will be unattended and subject to abuse and theft.

The other problem that the women face is that it is not easy to acquire the requisite permits/ licenses even if they want to. A woman in Domboshava indicated that she together with five (5) other women from the area with whom she usually goes to Harare to sell *mazhanje* approached the Forestry Commission on one occasion after they had been advised by some employees of the Commission whom they met in the streets of

Harare whilst selling their produce that they needed a permit. The Commission officers however were friendly and did not arrest them or confiscate their produce but just advised them to approach the Commission for the relevant permits. However several attempts to get the permits were not successful. On their first visit, they were advised to go and bring their national identity cards which they did. They were then asked to go and get a reference letter from the Chief but she said the Chief refused to give them the necessary reference letters arguing that it was against tradition and culture for people to sell wild fruits. He therefore said that by giving them the reference letters, he would be giving them authority to sell wild fruit which is against culture and tradition. They went back to the Commission to explain their situation but were advised that they could not process the permits for them unless they brought the letter from the Chief. They eventually gave up but still continue to go to Harare to sell *mazhanje*. They face the problems explained above but they just take each day as it comes. Sometimes they lose their produce but manage to run away from the municipal police and the ZRP, sometimes they are arrested and the produce is confiscated. On lucky days they manage to evade the police and sell their produce without incident. But it is an uncertain enterprise and they can never be sure what each day will bring for them.

Selling the forest produce within their localities however does not present any problems. During my field visits, I noticed women and children selling various forest produce including *mazhanje* and firewood at the local markets and also along the highways. All of them confirmed that they faced few problems in their trade as long as they did not attempt to take the produce outside the producer communities. The pictures below show the forest produce being sold at various localities within the communities.



A young girl and her brother sell mazhanje along the highway in Domboshava



A woman sells mazhanje at the local market at Mvarechena Business Centre in Domboshava

From a theoretical perspective, the permit system can lead to women being muscled out of the forests by men especially those from the urban areas who have the resources and knowledge required in order for one to apply for a permit. The relevant administrative offices are located in the major urban areas meaning that rural women have to travel to



the urban areas in order for them to access the offices. This requires money for transport. This also takes them away from their homes for long periods of time leaving their families and homes unattended. Their other chores that they have to perform in the home are also disrupted. The average rural woman might also not have the requisite information that is required in order for one to process the permits. As a result they might never apply for the permits or might give up before they accomplish the task. Men from the urban areas, on the other hand, have the advantage of staying near the administrative offices as well as the knowledge and resources required to apply for the permits. The result is that men from urban areas may obtain the permits and use them to harvest the forest produce in the rural areas and then return to their urban centres to sell it. The net outcome is that the rural women are prejudiced.

The solution will therefore lie in prioritising people from the producer communities, especially their women, when processing applications for permits for harvesting forest produce. In addition decentralisation of the processing offices may also help women in the rural areas. The permits may not necessarily be processed by the Forestry Commission but the responsibilities can be given to local rural traditional leaders. Devolution to the district levels might not be adequate for women because these may also be located far away from the areas where the women stay.

Total removal of the permit system is not a solution because this might lead to unsustainable harvesting of forest produce. Also, an uncontrolled free-for-all situation will only increase competition for the produce in which urban men who are better resourced will most likely enter and dominate the trade to the further detriment of the already disadvantaged rural women.

### **5.3 The non recognition of women's indigenous knowledge**

According to Hunter D et al., women play a critical role in environmental and development issues.

*“This is particularly true with respect to biodiversity conservation in developing countries where women are often primarily responsible for obtaining food and medicines, gathering water and firewood or making clothes or shelter. These activities take women into the fields and forests, making them often more knowledgeable about the potential value of plants and animals”* (Hunter D, et al, 1998).

The research findings showed ample proof that, as a result of years of responsible intimate interaction with its forests and their produce, Zimbabwe rural women have acquired an invaluable store of knowledge of their qualities which is crucial to environmental as well as human protection. Unfortunately, this precious knowledge is not factored into policy formulation or practice. From the findings in the field, it was clear that women have specialized knowledge in identifying edible from poisonous mushrooms. They are the ones who, together with young girls, are involved in the picking of mushrooms for sale and for household consumption. Failure to identify edible from poisonous mushrooms can lead to death. In Zimbabwe, between December and February, which is the peak of the mushroom picking season, there are always reports of people and, at times, entire families dying after consuming poisonous mushrooms. It has turned out that in almost all reported cases of mushroom poisoning, it was the men who had picked the mushrooms either because they live alone or because their wives had been unavailable to pick the mushrooms.<sup>7</sup> As boys grow up, they regard mushroom picking as a girl's job and never bother to learn this skill from their mothers. Once they become adults and responsible for supporting their families, they suddenly realize their need for the skill but unfortunately have not acquired it, leading to the picking and consumption of poisonous mushrooms and subsequent loss of lives. As boys grow up, they are therefore

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<sup>7</sup> The Herald of 17 January 2007 and 16 January 2008. The two newspaper cuttings are attached as appendices.

better off respecting and acquiring the indigenous environmental knowledge that their mothers have since this may become handy in future.

Respect for this knowledge should therefore be reflected in legislation and policies that encourage women to participate in environmental management so that in the process, they can pass on the knowledge to all those who require it, especially young boys and girls. Confining women's spaces in environmental management also means that they confine such important knowledge to themselves and girls with whom they have a closer social interaction.

#### **5.4 Non access to and non ownership of other key resources**

Access to resources is a key aspect in the emancipation and empowerment of women. Failure to access, control and own resources leads to the subordination and exploitation of women. In the research areas, it was evident that as women struggle to access forest resources, their non-ownership of other resources is a major hindrance in their quest to access these forest resources and emancipate themselves socially and economically.

More men are involved in the sell of forest produce like *mazhanje* and firewood in the urban areas because they have the resources like cars and scotch carts that are required to transport the produce from the rural areas to the urban areas and also from the forests to the homes. Women on the other hand have to use mostly their heads to carry the produce to the selling points. One woman in Domboshava had this to say:

*“The men in the village make more money from the sell of mazhanje and firewood because they have the transport. They have scotch carts and bicycles. Women on the other hand have to use their heads. At the best of times they use wheelbarrows. My husband for example would not allow me to span the cattle on the scotch cart to go and look for firewood in Alfida”<sup>8</sup>*

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<sup>8</sup> Alfida is a farm located in a different district of Mazoe where people from Domboshava go to look for firewood because there is no more firewood in their locality. Women have to travel for up to 15 kilometres carrying firewood on their heads.

## **5.5 The firewood problem in Domboshava**

Domboshava, especially around the Mungate area has been virtually left bare as people in the area have over the years cut all the trees for firewood. Except for the protected forest areas, there are no other indigenous trees in the area. Many villagers have resorted to the planting of gum trees and other exotic trees in order for them to get firewood. Sometimes the women use the firewood from the exotic trees soon after cutting the trees when the wood is still wet, thereby producing a lot of smoke. An elderly woman in the village said:

*“We were given the seedlings for the trees by a donor agency that came through the local school. They had realized the firewood problem in the area and targeted the elderly women so that they can get firewood since we can no longer travel the long distances to fetch firewood. But the trees take long to grow and meanwhile we will be suffering. That is why we use some of the wood as soon as we cut it because we will be in dire straits”*

Using wet firewood that produces smoke, however, has health implications for the women ranging from respiratory problems to eye infections.

Lack of firewood in the area caused by the degradation of the environment has also meant more hard labor and longer working hours for women as they travel longer distances (5-15 kilometers) to look for firewood. Research in other parts of Africa has also shown that

*“time-use statistics indicate that throughout the developing world women spend more hours working than men. This gender-based imbalance in labour mainly reflects the obligations of traditional customs, changing social and economic realities and increasing natural resource degradation”* (Green J and Thrupp A, in Veit P (ed) 1998)

In Domboshava, the women fetch firewood from nearby privately owned farms. But before they can get the firewood, they are required to work on the farms weeding, cultivating or harvesting crops depending on the season. This means that by the time the women eventually get the firewood, they are tired from working in the fields and still have to travel long distances to get home. In addition there were reports that some of the

men in charge of the farms ask for sexual favours from the women before they can access the firewood. If the women refuse the sexual favours and opt to work for firewood, they are denied that opportunity. The men therefore insist on sex from the targeted women in exchange for firewood and only allow those women that they would not have targeted for sex to work for the firewood. After getting these reports from the women that I interviewed, I asked the local headman's wife if she had ever heard of such reports and she confirmed that women in the area had come to her and reported cases of sexual harassment by men at the farms. The headman's wife also indicated that there was one reported case of a woman who was raped as she returned home from fetching firewood. She had been left behind working on the farm by other women because she had not finished weeding the portion that had been allocated to her. She was attacked as she made her way home on her own. Some of the women reported that sometimes they were waylaid by men who forced them to abandon their firewood as they ran away, which they, the men, would then steal and sell in the same community or in nearby Harare. This is a precarious situation for women. The degradation of nearby forest resources has contributed significantly to this precarious position that women find themselves in as they are then forced to travel long distances to look for the resources.

The lack of firewood in Domboshava has also eaten into the household incomes as some of the women are forced to buy firewood. At the time of the research<sup>9</sup> firewood cost between Z\$ 500 000 (about US 33 cents) for a small bundle to over Z\$ 12 Million (about USD 8) for a scotch cart in Domboshava, which is a lot of money for a rural family. The women said that a bundle was not enough to last them for a day since they could only cook two meals using it. As a result, they sometimes resort to using cow dung which is also dangerous for their health as it produces a pungent smell and a lot of smoke. Working in such an environment is also generally uncomfortable for the women.

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<sup>9</sup> November and December 2007

## **5.6 Competing interests: preservation of forest produce versus use and sustainable development**

Using environmental resources does not necessarily lead to the decimation and extinction of those resources. If used equitably and fairly, the resources can economically empower communities whilst they are allowed to re-grow and regenerate. There are however many amongst environmentalists, conservationists, traditionalists and ordinary community members who are either totally against use of environmental resources or against commercial use of these resources. During my field work, some of the traditional leaders that I interviewed argued that whilst they have no problems with women and other people accessing forest produce for their own and household consumption, they were against the sale of forest produce like firewood or *mazhanje* especially in Harare. One of the traditional leaders had this to say:

*“Mazhanje were given to us by God so that everyone can access them and have food. Even baboons are supposed to survive from the same fruit. Now if people start harvesting the fruit in bulk for resale in Harare, what happens to the rest of the residents and the baboons? I will never allow that to happen in my area. It’s unfortunate that I can’t apprehend the men who come here to harvest the mazhanje in motor vehicles because they do that at night. If I get any one of them, I will confiscate the fruit and give it to members of the community to eat and then report the culprits to the police”<sup>10</sup>*

A headman in the area however was of a different view. He said that he appreciated that wild fruits are not supposed to be sold since God has given them to everyone for free. He said, however, that because of the prevailing harsh economic and social conditions, it was necessary for women to sell the fruit in order for them to survive. He has given a special dispensation for widows and grandmothers looking after their grandchildren in the area to sell *mazhanje* in order for them to make ends meet. He said, however, that because of lack of coordination with other enforcement agents like the police, even the women whom he has permitted to sell the fruit are being harassed by the police when they find them selling the fruit because they say the permits to sell should come not from the local traditional leader but from the Forestry Commission. The headman was however also

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<sup>10</sup> Interview with a local village head in Domboshava

against the selling of *mazhanje* by men who come in trucks from Harare and transport the fruit to the city for resale. He was of the view that they are greedy and are only concerned about themselves since they take a lot of *mazhanje* and leave the local people with nothing. He also said that these men are causing environmental degradation because they harvest as much as they can (including even unripe *mazhanje*) and carry the fruit away in their trucks. They also do not have any respect for local traditional customs with regards to harvesting of *mazhanje* because they do not come from the area.

It also emerged that the issue of whether or not forest produce should be sold is a generation issue. Older people are totally against the sale of the fruit whilst the younger people think it's a good and honest way of raising incomes. Of the traditional leaders that I interviewed, the older ones were against the idea. The headman who has allowed widows and grandmothers to sell *mazhanje* in order for them to raise incomes is in his early thirties. An older woman that I interviewed had this to say:

*“These fruits are given to us all by God for free. No one should be allowed to make money out of them. Those young women who insist on selling God's fruit are lazy. They don't want to work for themselves. If you look around, you will realize that those women who sell mazhanje in Harare are not involved in other income generating projects that other community members are involved in like vegetable gardening. I am sixty years old but I go as far as Muzarabani<sup>11</sup> and Mozambique buying and selling different items. I have even bought cattle and goats that way.”*

Environmentalists and conservationists also think that giving communities permission to access environmental resources will lead to unsustainable harvesting because communities are “irresponsible”. Evidence on the ground, however, shows that communities are in fact responsible and worry more about the environment than people from outside their areas because they are the ones who live with the consequences of environmental degradation, as women in Domboshava have learnt. It is therefore possible to play a balancing act between environmental conservation and allowing women to

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<sup>11</sup> Muzarabani is a district located about 210 kilometers from the capital Harare and therefore about 240 kilometers from the research area if one travels via the Harare route which is the most common route used to access the area.

access forest produce for different purposes including selling the produce as long as this is done in a sustainable manner.

### ***5.7 Who determines access and control on the ground?***



A warning sign in Mtao Forest prohibiting unauthorised entry into the forest

Whilst there are national level institutions involved in the management, access and control of forest resources, there are different local level dynamics at play. Some of the institutions like the Police, Forestry Commission and the National Museums and Monuments have local level representation in the research areas but the rules at play sometimes do not have any link with national level laws and policies. The local traditional leaders also have a presence in local level control, access and decision making. Of interest however was the finding that it is the simple people like forest guards and other men in charge of places like farms where the resources are found who have the final say in whether or not the women can access the forest produce. And in many instances the decisions that are made bear no relationship to national laws and policies dealing with access and control of forest resources.



In Domboshava, the National Museums and Monuments of Zimbabwe guards are the ones who decide who can access the protected forest. Even the traditional leaders complained that these guards had so much power that they do not even consult or listen to their traditional leaders. While the Tour Guide in charge of the area said that they never deny women access into the forest as long as they notify them, traditional leaders and women said that, in fact, they are more often denied than granted permission to access the forest. While young girls complained of sexual harassment as a prerequisite to entry in the *mazhanje* forest, older women and the traditional leaders complained that the forest guards were denying people entry because they wanted their wives and girlfriends to access the fruit for resale. There were also reports that sometimes the forest guards themselves are the ones who pick the fruit which they then give to their wives and girlfriends for sale, hence their refusal to let other women into the forest because that would increase competition for the fruit.

In Mtao, a relationship with the local Forestry Commission either as an employee or a spouse will determine how easy it is for one to access the forest for firewood and mushrooms. In this area I witnessed forest guards on horse back stopping and questioning people. However, as I talked to the women in the forest compound, they said that they do not face any problems even if they are found in the forest by the guards as long as they can be identified by the guards as employees or spouses of employees of Mtao Forest. One of the women said:

*“They know that we are responsible when we are in the forest because our livelihoods depend on the forest. People from the surrounding villages steal the Forestry Commission honey or burn the forest thereby damaging the trees and killing the bees that are kept in the forest. That is why the guards do not allow them entry onto the forest.”*

The fact that people steal honey and burn the forest was confirmed by the Forestry Commission manager at Mtao forest as well as many community members. The women that I talked to at a local market said that the young men who were selling honey along the main road in the area were actually stealing the honey from the Forestry Commission. They also confirmed that people also burn the forest as they try to incapacitate animals in

the forest and then poach them. But they said that the community members know the culprits and if the Forestry Commission worked closely with the community and did not ostracize all of them as they often do, the community would be able to assist them in identifying these people.

### ***5.8 Does selling of forest produce make any real economic difference for rural women?***

All the women who sell forest produce that I interviewed indicated that selling forest produce whether in urban areas or in the rural areas makes a significant economic difference for them and their families. Even some who do not sell the forest produce confirmed that from their observations, the women who are involved in the selling of forest produce are making a reasonable living out of it. One woman who sells *mazhanje* in Harare from Domboshava said that during the *mazhanje* season, she is able to buy food and clothes for her children as well as use the money to pay school fees for her son who is in Form 3 at nearby Parirewa Secondary School. She said that on average she takes 3 20-liter buckets of *mazhanje* to Harare per day and she realizes between Z \$ 5 million and Z \$ 6 million (between USD 3.30 and USD 4) per bucket<sup>12</sup>. This would make an average of between USD 9.9 and 12 for the three buckets per day. Those who were selling in the community along highways and at local markets were selling a twenty-liter bucket for prices ranging from USD 1 and USD 3. A traditional leader's wife in Domboshava who is not involved in selling forest produce said:

*“These women should be allowed to sell mazhanje because they do it out of need and they use the money responsibly. We have seen many of them buying maize seed and fertilizer for the farming season using the money that they get from selling mazhanje. The men however spend all the money that they get on beer at the local shops.”*

In Mtao one of the women who go to sell mushrooms in nearby Masvingo and Gweru towns indicated that she realized between Z\$ 20 Million and 30 Million for a twenty-liter

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<sup>12</sup> The exchange rate for the US \$ and the Zimbabwean dollar on the unofficial parallel market at the time (November and December 2007) was 1:1500000

bucket of mushrooms (between USD 8 and 12)<sup>13</sup>. She said that she was employed by the Forestry Commission at Mtao Forest as a general hand but the money she made on a single day if she went to sell forest produce in town was more than her monthly salary at the Commission. She actually said that she admired unemployed women who, because of no commitments to regular jobs, had time to go and sell mushrooms in Masvingo and Gweru. She also said that were it not for the fact that mushrooms are a seasonal produce, she would leave her job to go and sell mushrooms on a full time basis. She was however worried that if she were to leave her job, she would not have any income when the mushrooms are out of season.

The stories of these women indicate that selling forest produce makes significant contribution towards household incomes for these women. Sometimes selling forest produce is the only source of income for their families. The amounts they realize are reasonable, considering that 80% of the population of Zimbabwe is believed to be living below the poverty datum line (on less than 1 USD/day).

In the next chapter I assess the findings from chapters 3, 4 and 5 and come up with conclusions and recommendations from the research. The findings that I came up with in the above chapters were based on policy, legal and human rights research as well as the experiences of women on the ground. The recommendations are therefore also in line with these thematic issues.

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<sup>13</sup> By January 2008 (time of the field research in Mtao) the US \$ and the Zimbabwean dollar exchange rate on the parallel market had shifted to 1:2500000

## **CHAPTER 6**

### **CONCLUSION AND RECOMMENDATIONS**

#### ***6.1 Introduction***

This chapter covers the conclusions that I reached as a result of this study. It also covers recommendations stemming from the study. The recommendations are grouped into recommendations for policy and legal reform, recommendations for domestication of human rights instruments, recommendations for institutional reform and socio-economic recommendations. I reached these conclusions and recommendations after a thorough analysis of the findings, stemming from both the field work and the literature review. The recommendations are particularly critical in ensuring that women in Zimbabwe get a fair deal in accessing the country's forest resources both for social and food requirements as well as for their economic wellbeing.

#### ***6.2 Conclusion***

Environmental resources such as forest produce play an important role in the socio-economic lives of rural women. Access to and control of forest resources also gives them autonomy and independence that they would not otherwise have if these resources were not available for them to use and benefit from. Access to and control of these resources also gives women an opportunity to interact as a group and pass on the knowledge that they have about the forests, forests produce and how to use the produce to their children, especially girl children.

Evidence on the ground however shows that access to forest resources is very tenuous for women who have to negotiate various spaces and sometimes never succeed in accessing the resources despite these negotiations. The actors and structures, the policy and legislative framework, traditional and cultural practices all play a part in determining

whether women access the forest resources or not or if they do manage to access them, the terms and conditions of such access. Some of the impediments that the women face in accessing the forest resources are actually a violation of their human rights as enshrined in various international human rights instruments dealing with both women's rights and environmental rights. The interventions to assist women in rural areas in controlling, owning and accessing forest resources therefore have to address some of these issues.

### ***6.3 Recommendations for legal and policy reform***

Most of the laws dealing with forest resources and access to the resources are very old, especially the Forest Act and the Communal Land Forest Produce Act. Despite several amendments, key informants who were interviewed, including the Forestry Commission officers, were of the view that there is a need to revisit the laws so that they reflect what is happening on the ground. The two pieces of legislation lean more towards a command and control system of managing forest resources which permits use and access under very restrictive conditions and criminalizes unauthorised access and use. The Acts also do not address the issue of women as environmental managers and the need for them to be recognized in environmental resource access, control and management as well as in policy formulation and implementation. Inclusion of women in such structures and in policy formulation and implementation will mean greater amplification of women's voices and issues that affect them in accessing, controlling and owning environmental resources. Environmental laws like the Environmental Management Act which were passed after the Rio Conference address some of the issues that affect women in accessing and controlling environmental resources, although they are not specific to women. This gap needs to be addressed by ensuring that the relevant legislation recognizes the role of women as environmental managers and, where necessary, gives them special dispensation to access and control environmental resources as provided for in the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)<sup>14</sup>.

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<sup>14</sup> Article 4 of CEDAW states that "adoption by State Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in

The policy framework on the other hand addresses issues of women and environmental management. Both the National Gender Policy and the Draft National Environmental Policy address the issue. They both however need to be supported through the enactment of relevant laws to give them force and effect.

#### **6.4 Recommendations for domestication of human rights instruments**

By not fully recognizing women's rights in accessing and managing environmental resources, the Government is violating women's rights in a significant way. For example, by denying women access to forest produce the Government is denying them their right to food and to feed their families because most rural women and their families depend on the forest for their food requirements. This right is enshrined in many international human rights instruments.<sup>15</sup> Denying women this right of access to food can also lead to an infringement of other rights, such as the right to health and life, both of which can be directly affected by a denial of access to food. International human rights instruments also clearly link environmental degradation with increased poverty and suffering of women. The Beijing Platform for Action states that:

*“The continuing environmental degradation that affects all human lives has often a more direct impact on women. Women's health and their livelihoods are threatened by large-scale deforestation, desertification ....Poverty and environmental degradation are closely interrelated. ... (Articles 34 and 35)*

In addition many environmental rights instruments specifically recognize the role of women in environmental management and their right to access environmental resources, whilst many women's rights instruments also recognize their right to participate in

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the present convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

<sup>15</sup> These include Article 25 of the Universal Declaration of Human Rights, Article 11 of the United Nations Covenant on Economic, Social and Cultural Rights and Article 15 of the Women's Protocol

environmental management and to benefit from environmental resources as explained in many sections above.

While it is appreciated that both in law and practice, women are not totally denied access to forest and other environmental resources, there is a need for government to fully recognize the international human rights provisions as the minimum international standards that have to be followed if women's environmental rights and rights to access environmental resources are to be realized. Domestication of relevant international human rights instruments is one way of ensuring that women's rights to forest resources are recognized and implemented. This can be done through promulgation of relevant national level legislation and policy formulation. Specific reference to women in environmental management laws and access by women to environmental resources in women's and gender policies will ensure that women do not suffer discrimination (subtle or otherwise) that they currently experience as a result of the gender neutral nature of environmental management and access laws.

### ***6.5 Recommendations for institutional reform***

This research revealed that men dominate most of the institutions tasked with environmental management in the country and the consequences of such a situation on women have been explained above. It is therefore necessary for these institutions to be reformed so that they reflect the fact that women constitute 52% of the population (2005 National Census and the National Gender Policy, 2004) and that they are more dependant than men on forest resources for their daily sustenance, hence, the need for their representation in such institutions. Women also form the majority of rural residents and that is where most of the country's environmental resources are located. They are therefore the custodians or stewards of those resources on the ground and that responsibility has to be reflected in the formal national and local level institutions that deal with the management of these resources. It is unfair, if not perverse, to give women the responsibility of looking after the country's natural resources in one breath and then,

in the next, to deny them the opportunity to manage, access, control and benefit effectively from those same resources.

## **6.6 *Socio-economic recommendations***

Access to forest resources by rural women will most likely lead to their social and economic transformation. Control and access to forest resources means that women will be able to feed themselves and their families and therefore will not remain dependant on men for their daily requirements, thereby giving them more autonomy, power and freedom. The economic benefits that are derived from selling forest produce also give women the same level of emancipation. It is therefore important to allow women access to the forest and to sell forest produce that they harvest as long as the harvesting and subsequent use is done in a sustainable manner. In the case of perishable forest produce, like *mazhanje* (fruit) and mushrooms, it is better to allow women to sell them whenever they are in abundance, rather than restricting access to them and letting them rot in the forests.



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