
Women's access to potable water and sanitation as a human right

A case study of Alaska and Shackleton settlements in Chinhoyi, Zimbabwe

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Dedication

To Kuziwakwashe Blessing (4 years) and Rudawiro Cameron (3 years)

For not being there when you needed me most.

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Human rights instruments

African Charter on the Rights and Welfare of the Child

Covenant on Civil and Political Rights (1966)

Convention of the Rights of the Child

Convention on the Elimination of all forms of Discrimination Against Woman (CEDAW)

Covenant on Economic, Social and Cultural Rights (1966)

Declaration on the Right to Development

General Comment 15 on Economic, Social and Cultural Rights

Millennium Development Goals

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Universal Declaration on Human Rights (1948)

Local legislation

Constitution of Zimbabwe

Public Health Act Chapter 15:09

Urban Councils Act Chapter 29:15

Water Act Chapter 20:24

Cases cited

EHP v Canada 67/198 UN Doc CCPR/C/OP/1@ 20 1984. cited in J. Scanlon *et al.* (2003)

Gabcikovo – Nagymaros case B. Icj/692 9210707575 (Slovakia- Hungary) cited in Scanlon J, et al (2003)

Mansions v Southern Metropolitan Local Council Witwatersrand local Division. Case number 01/123/2 Cited by WaterAid (2003)

Paynemil Community Case, Argentina. Cited by WaterAid (2003)

Thangal v Union of India. Cited by WaterAid (2003)

CHAPTER ONE

Introduction

‘We get up in the morning, we flush, we brush, we shower and even before we put our clothes on for the day, we have consumed more water than a family in the developing world is able to use for all their needs for the day, cleaning, cooking and drinking’ (Calaguas and Roaf, 2001).

My first visit to Shackleton community was quite revealing. It was on a Thursday around 1100 hours. The purpose of the visit was to identify key respondents for my study on women’s access to potable water and basic sanitation, as well as to introduce myself to the community through the community leaders, that is, the local councillor and the chairperson of the ruling party (ZANU PF) in the ward. On my way out of the community, I saw a crowd surrounding a house. From a distance I could tell something was going on. As I got closer I heard a woman’s screams. She was screaming on top of her voice pleading for forgiveness, vowing that the mistake was never to be repeated. Being a stranger to the community, I kept my distance but I could clearly see her being humiliated in public. I could see the strong arms of the man descending on her, I could see the crowd just standing and watching, no one making an effort to intervene. I saw young children running around, excited by what was going on. Judging by their excitement, I am sure they believed that it is normal for a man to beat a woman. The beatings only stopped when the councillor heard the noise and came to investigate. He cautioned the man to stop assaulting the woman. I took a mental note of the house and left.

It was only after a couple of days that I managed to talk to the woman. I learnt that the man who was beating her was her husband. The husband had gone fishing the previous night and when he came back in the morning no meals had been prepared for him nor was there water for him to use for his fish business. The woman said she had failed to go to the well to collect water as she was not feeling well; her fragile body could no longer stand the strain of carrying a twenty litre bucket. She said she was getting used to the assaults and that her husband never believed her when she said she was not feeling well. In a weak voice, she narrated how easily accessible water used to be and how gradually it disappeared from their taps. She explained how for the past three years they had been struggling to get water. She couldn’t believe that things could change so fast. In her opinion, she was not the only one in this predicament. She believed many other women were suffering the same abuse. Accessing water was a real challenge, moreso if one’s health was compromised.

Background of the study

The residential areas of Alaska and Shackleton are located 14 and 26 kilometres respectively from Chinhoyi. Chinhoyi falls within Mashonaland West province of Zimbabwe. The two are former copper mine settlements to the north west of Chinhoyi town. Following the closure of the mine in 1998, Shackleton residents moved to their rural areas or relocated to other areas and Shackleton was abandoned as there was nothing to attract people to stay. Later people were moved from Bere and Thompson farms to Shackleton because of a cholera outbreak. Shackleton is made up of 587 housing units, a primary school and a recreational area. Shackleton settlement also had a clinic which was closed because of non-availability of water. Since the closure of the Zimbabwe Mineral Development Corporation owned mine, no economic activity has been taking place and there has been very little formal employment hence services have been on the decline. A major challenge has been the provision of potable water and basic, sustainable sanitation services to the community. Shackleton has no access to treated water sources and the community gets water from unprotected wells they sink within their yards during the rainy season¹ and from nearby privately-owned boreholes. The community use communal toilets and with

¹ late October to April

no water the toilets are virtually unusable leaving residents to rely on the bush system.² During the dry season³ when the wells dry up, residents buy water from well owners who have deeper wells. They also buy borehole water from nearby farms. Water is purchased in 20 to 25 litre containers and each family is allowed a maximum of two containers. The daily water allocations are controlled by the well and borehole owners. They have designed a system that indicates the households that have collected water and those that have not. The system also indicates who has paid for the month and who has not paid. Payments are made in advance and those who have not paid are not supplied with water.

Alaska, which is a sister community to Shackleton, gets water from a disused mine shaft known as Chidzuwi mine shaft. Chidzuwi shaft was abandoned in 1978. The shaft started providing water to Alaska and Shackleton in 1984, six years after its abandonment. The water is pumped into a reservoir using submerged pumps. The shaft has a depth of 450 metres. From the reservoir, the water is taken into a sedimentation tank and then allowed to pass through a filter pump after which it is sterilized using chloride of lime. This shaft can supply up to 25,000 people with water. Alaskan residents get water twice a day. The water is not rationed by quantity but by the pumping capacity.

Statement of the problem

Millennium Development Goal number seven is to halve the number of people without safe and reliable potable water and basic sanitation by 2015. This means we have less than ten years to act. Water is essential for life and crucial for development. On a global scale, 25,000 people die each day as a result of a combination of poor water quality and insufficient quantity (IIED, 2000). The lack of access to safe water has been seen as the centre of the poverty trap, especially for women and children who usually suffer the burden of sourcing water for the rest of the family. This I found true in as far as the community of Shackleton is concerned and, to some extent, in the Alaska settlement.

The non-availability of reliable sources of water in these communities generated conflicts, poverty and change in people's quality of life, particularly at Shackleton. There has been political interference by central government in the running of the municipality leading to the municipality failing to pursue the policies of transparent and accountable local government. This has complicated the whole service delivery system leaving the residents stranded. All this is happening despite the provisions of the 1998 Water Act (section 32 of chapter 20:24) that stipulates that everyone is entitled to water for primary uses.

Objectives of the study

In carrying out the research my main objective was to make a case for Alaska and Shackleton communities by establishing the extent to which the settlements' human right to potable water and basic sanitation was being infringed upon and make recommendations for interventions.

To achieve the stated objectives, I was guided by the following assumptions and research questions:

Assumptions

- 1 That potable water and basic sanitation form the essence of life and human dignity, thus access to clean water and sanitation is or should be a human right;
- 2 That the communities of Alaska and Shackleton are being denied these basic human rights and women are the most affected as generally they are the household managers;
- 3 That the water available to these two communities is unsafe for domestic use and human consumption as there is a likelihood of it being contaminated by chemicals and bacteria posing significant health risks;

² 'Bush system' refers defecating in the open usually in the bush and fields.

³ May to early October.

- 4 That children are more affected as they are vulnerable to diseases because their immune systems and detoxification mechanisms are not fully developed;
- 5 That the municipality of Chinhoyi has an obligation to provide safe water and sanitation to Alaska and Shackleton communities and this obligation is not being fulfilled;
- 6 That the failure to meet the obligation is as a result of bad governance and that good governance at local levels would ensure provision of potable water and sanitation to Alaska and Shackleton communities, thus improving the situation of women in these communities.

Research questions

- 1 Should access to potable water and basic sanitation is or be a human right?
- 2 Are the communities of Alaska and Shackleton being denied these basic human rights, especially the women as they are generally the household managers?
- 3 Is the water available to these two communities unsafe for domestic use and human consumption as there is a likelihood of it being contaminated by chemicals and bacteria, posing significant health risks?
- 4 Are children more affected as they are vulnerable to diseases because their immune systems and detoxification mechanisms are not fully developed?
- 5 Does the municipality of Chinhoyi have an obligation to provide safe water and sanitation to Alaska and Shackleton communities and is this obligation being fulfilled?
- 6 Is the failure to meet the obligation a result of bad governance and will good governance at local level ensure provision of potable water and sanitation to Alaska and Shackleton communities, thus improving the situation of women in these communities?

CHAPTER 2

The methodological framework

The women's law approach

In an effort to assess women's access to potable water and basic sanitation in the communities of Alaska and Shackleton, I needed to develop an appropriate research framework so I used the women's law approach. This is a methodology that takes women as the starting point. The methodology was instrumental in examining and understanding the lived realities of the women of Alaska and Shackleton in as far as access to potable water and sanitation is concerned. This methodology relies on empirical data collected on the ground focusing on women's lived realities and experiences as a starting point for the analysis of the position of women in law and society (Bentzon *et al.*, 1998). I interviewed women, men and children in the two communities. I listened to them as they related their experiences in accessing potable water and basic sanitation.

I chose this methodology mainly because I took advantage of its interactive process in which data, theory and lived realities about the perceptions and norms are constantly engaged with each other (Bentzon, *et al.*, 1998). This helped me to decide what data to collect and how to interpret it. For example, having realized the problems women of Alaska and Shackleton were experiencing as regards access to potable water and basic sanitation, I carried out this study to establish the possible causes of the problem and the corresponding interventions. Initially I thought that neither Alaska nor Shackleton had access to piped water. After a few weeks in the field, I realized that it was only Shackleton that had no access to piped water; Alaska was receiving piped water, although on a limited scale. My assumption that neither Alaska nor Shackleton had access to potable water and basic sanitation had been challenged. My first reaction was to drop Alaska from the study. This was the first thing I communicated to my supervisor when I went for a consultation. My supervisor, being more experienced than I, saw what I had not seen – that Alaska still had a place in the study. She advised me that I could compare the lived realities of the Alaskan and Shackleton women to see how and why the communities were responding differently to a similar problem. This was possible because in the light of the women's law approach, a researcher is not a prisoner of her hypothesis. In conformity with this, data was collected on the basis of the situation on the ground. As will be noted when I discuss the findings of this research, the comparison of Alaska and Shackleton became the cornerstone of my study. Thus I became mindful of being blinkered by my initial assumptions and what I already knew about the communities as doing so would blind me of possible emerging issues. Having an open mind meant I was open to other issues that were not part of my initial assumptions.

Using the women's law approach, theories that explained the possible causes of barriers to women accessing potable water and basic sanitation in Alaska and Shackleton emerged through the research. One of such emerging issues was politics. The role politics had played and lack of the necessary political will became a topical issue. As the woman's law approach is an interactive process, I was able to explore and probe the respondents on issues of politics I had not thought of but I learnt were relevant to the study. I realized that politics had played or was playing an important role in women's access to potable water and basic sanitation in Alaska and Shackleton. Obtaining this empirical data on women's lives was thus instrumental in looking at the implications of availability of potable water and basic sanitation for women and children, the possible human rights violations, assessing state obligations and devising recommendations for state compliance.

Gender and sex analysis

To establish which of the sexes is affected most in situations of zero or limited access to potable water and basic sanitation, I did a gender and sex analysis. Gender describes the social relations between and characteristics of

women and men. It concerns women and men's participation in the determination of their lives including access to rights, power and control over resources (Coates, 1999). In carrying out the research I was particularly interested in the gender division of labour within the home. This I needed for the purpose of accessing who was affected most in cases of zero access or limited access to potable water and sanitation.

Gender is understood to mean that people are normally born female or male sex but learn to be girls and boys who grow up to become women and men. They are taught the appropriate behaviour and attitude, the roles and activities for them and how they should relate to other people (Coates, 1999). During the study, I became aware that men and women's gender roles determine their access to power and to control over adequate water supplies, sanitation and hygiene. If these gender roles are unchallenged, they have a number of direct effects on communities, households and individuals, in particular women and children (Coates, 1999).

In both Alaska and Shackleton, sourcing water was seen as 'women's work'. In these two communities where traditional gender divisions of labour generally apply, the burden on women increases because of non-availability of potable water. In the absence of domestic connections or yard taps, it is women who have to find alternative sources of water. I observed that generally men rarely participated in sourcing water for domestic use. Men actually provided the alternative source as well owners would sell water to women. The gender and sex analysis showed that in times of zero or limited access to water, women spent their time in non-productive work, sourcing domestic water while men spent their time in productive work, providing the alternative source of water.

Using this analysis, it became clear that time spent accessing water, when added to other tasks of social reproduction generally left in the hands of women, imposes a very heavy labour regime on female household members. Comparing Alaska and Shackleton showed that an improvement in quantity of water available for household use would improve the situation of women as access to potable water and basic sanitation would contribute to the general health and productivity of household members, thus indirectly reducing domestic labour in the care-giving sphere.

The gender-sex analysis was also instrumental in the realization that whilst accessing water is women's work in the domestic sphere, in the public sphere the issues remain largely in the hands of men. This is evidenced by the fact that all the Chinhoyi municipal officials I interviewed were male. This shows a definite disjuncture between the responsibility of women for water at the domestic level and the power they enjoy in the political realm of water supplies. This prompted me to conclude that because women play a central part in the provision, household management and safeguarding of water, their pivotal role as providers and users of water should be reflected in institutional arrangements if there is to be any development in the management of water resources. The gender and sex analysis showed that there is need for positive policies that address women's specific needs, policies that equip and empower women to participate at all levels in water resource programmes. This includes decision making and implementation.

The gender and sex analysis further showed that women's participation in water provision policies is of paramount importance as Alaska and Shackleton women and children face detrimental problems of personal safety, hygiene, privacy and health in relation to use of communal toilets. This study showed that women have to wait until darkness to defecate and urinate. This raises a number of security issues. Equally invasive are issues of privacy and personal hygiene related to menstruation, washing and bathing, which are compounded where there is lack of water for hygiene and sanitation.

The human rights approach

To challenge the socio-economic and social injustices related to women's access to potable water and basic sanitation, I employed the human rights approach to development. My first assumption was that access to potable water and basic sanitation is or should be a human right and that the communities of Alaska and Shackleton were being denied these basic human rights. To establish this fact, I adopted a rights approach to development. This approach involves an analysis of a problem or situation from a holistic perspective of human rights and

corresponding obligations of government according to international human rights standards (Goonesekere, 2000). According to Hellum (2000) the rights-based approach places the individual as a holder of basic rights at the core process of development. It emphasizes the relevance of the whole array of human rights in development processes.

Adopting a human rights approach to water and sanitation focused on issues of accessibility, availability and affordability. Within Chinhoyi I initially singled out Alaska and Shackleton communities as having zero to limited access to potable water and basic sanitation. I then assessed the plight of women in the two communities and analyzed delivery in the light of human rights entitlements. The study showed that poor people were particularly vulnerable to the effects of non-availability of potable water and basic sanitation and are thus usually left out in development. Thus approaching development from a rights perspective informs people of their rights and entitlements and empowers them to achieve these rights. This is so because the rights-based approach puts individuals at the centre of development rather than seeing them as passive recipients of aid (WHO, 2003). I found this persuasive, especially as far as the community of Alaska was concerned. The community approached a non-governmental organization to assist with resources to purchase a water pump. The non-governmental organization at first said it could not purchase the pump for the community as it was not in their line of business but offered to assist in sinking a borehole and constructing pit latrines. The community being 'aware' of its right to development refused such aid as it would take them steps back in development. They eventually pooled resources together with the non-governmental organization and the pump was bought. Based on this I found the rights-based approach was able to deliver more sustainable solutions. The decision to purchase a pump was focused on what the community and individuals required rather than what the external agencies deemed was needed.

Using the rights-based approach enabled me to realize that human rights have implications on a range of actors directly and indirectly concerned with water issues. Governments as primary duty bearers must take concrete steps to respect, protect and fulfil the right to water and other water-related rights. Government should also ensure that everyone operating within its jurisdiction does the same (WHO, 2003). Human rights obligations require that actions of a legislative, administrative or policy nature be assessed in the light of the obligation to protect, promote and fulfil human rights. Furthermore, human rights, unlike other societal aspirations or claims, carry not only moral force but also legal validity or entitlements. They create obligations for duty holders to act and enable right holders to exercise the rights to which they are entitled (Goonesekere, 2000).

To assess the extent to which the right to potable water and basic sanitation was being infringed upon in the communities of Alaska and Shackleton, I was guided by General Comment number 15 on the Right to Water, adopted in November 2002 by the committee on Economic, Social and Cultural Rights. According to this comment, the principal elements of the right to water are availability, quality and accessibility. Supply must be sufficient for regular personal and domestic use, including drinking, food preparation, sanitation, personal and household hygiene. I was also guided by goal number 7 of the Millennium Development Goals, to reduce by half by 2015 the number of people without safe and reliable potable water and basic sanitation. Using the rights-based approach, potable water and basic sanitation should thus be seen as a legal entitlement rather than a commodity provided on a charitable basis (WHO, 2003).

As a result of the above, I did an analysis of existing legislation and policy together with human rights instruments in an effort to make a case for the Alaskan and the Shackleton women.

Influence of actors on structures

One of my assumptions was that the municipality of Chinhoyi has an obligation to provide potable water and basic sanitation to Alaska and Shackleton and this obligation is not being fulfilled. My reasoning for the non-fulfilment of the obligation was that it was a result of bad governance at local level resulting in mismanagement and misappropriation of public funds. To establish the facts on the ground, I looked at how actors like the

municipality, government ministries and departments as well as political leaders influence structures like provision of potable water and basic sanitation. Looking at how the actors were interacting with the structures, I came to the conclusion that lack of access to potable water and basic sanitation by the two communities was not a result of absolute scarcity of water but political selfishness and bureaucratic inefficiency. The actors and structures approach directed me to the key respondents for my study.

Research design

Overview of research sites

The research was carried out in Chinhoyi, the capital town of Mashonaland West Province. Two communities which were perceived to have no access to potable water and basic sanitation were selected. These two are the former mining communities of Alaska and Shackleton.

The sample

Fifty household representatives were interviewed in Shackleton and 20 from Alaska village houses as well as 10 senior township household representatives. These were selected randomly. The interviews targeted the members of the household responsible for the collection of water for domestic use. The sample consisted largely of women as they traditionally carry out water collection for the rest of the household. To allow for a broad range of opinions, men were also interviewed.

Data collection methods

In-depth interviews with key respondents

The key respondents were as follows:

Interviewees	female	male	Total
Community leaders	1	4	5
Clinic staff	2	0	2
Provincial medical directors office	0	1	1
School teachers	2	1	3
Municipal officials	0	6	6
Former mine engineer	0	1	1
Laboratory technician	0	1	1
Well owner	0	3	3
TOTAL	5	17	22

The key respondents were selected based on the experience and the conceptual skills they were perceived to have given their knowledge of the communities of Alaska and Shackleton and the water situation at the two communities. Focus was on the implications of zero or limited access to potable water and basic sanitation for women and children and the possible interventions. Required data was collected as the respondents were conversant with the Alaskan and Shackleton water problems thus had the capacity to provide the desired information.

Individual interviews

Interviewees	female	male	Total
Shackleton residents	55	15	70
Alaska village houses dwellers	20	5	25
Alaska senior township dwellers	8	4	12
TOTAL	83	24	107

A mixture of young women, old women and men were interviewed. The interviewees were selected at random, mostly at their homes, at the well where they sourced for water and at marketplaces. The respondents were asked their opinion and experiential data in as far as access to potable water and basic sanitation was concerned. The interviews started by briefing the respondent on the objectives of the study. The interview guide was split into the following sections:

1. Personal details – this section included enquiries into age, sex, length of time in the community, occupation and number in the household. This information was required mainly for a gender and sex analysis. The information provided insights into an analysis of the two sexes looking into which sex was involved more in collection of water for domestic purposes and the implications lack of potable water and basic sanitation had on that particular sex group.
2. The second section looked at collection and impact of availability. Focus was on:
 - a) quantity enquiries – to have an idea of the quantity of water available to each household per day, questions on size of water container used and number of journeys to the water source per day were asked;
 - b) water source – this included distance from homestead to the source, type of source, whether stand pipe, well or borehole;
 - c) views on cleanliness of water and general health problems.

The questions were asked for both dry and wet seasons. The nature and design of questions allowed the respondents to express their personal views and opinions.

3. Sanitation – the last section looked at sanitary issues. Focus was on availability and accessibility of toilets, whether the communal toilets were being used and, if not, why they were not being used and what the respondents were using as a substitute. Questions also looked at the safety and privacy of the sanitary facilities as well as possible health risks.

After each interview was completed, respondents were asked if they wanted to add anything further. This was left until the end to prevent other issues influencing responses to standard questions. It is at this point that issues of politics would come up and be discussed. As noted earlier, politics and related issues were not covered in my initial assumptions, as a result, these were not part of the standard questions so political issues came up as emerging issues. I found the interviews effective as a method of data collection because they gave me the ability to clarify any issues and follow ups could be done on the spot.

Focus group discussions

Focus group discussions were held mainly at the wells and boreholes where women and children of both sexes, but mainly girls, collected water either in the early morning or late afternoon. Three focus group discussions were held. The discussion areas were structured in the same way as the interview guide. The advantage focus group discussions had over interviews was that issues were discussed at length and varying opinions debated. I noted that men had different views compared to women in as far as whose responsibility it is to source water for

domestic use. Men viewed it as women's work. Most of the women were of the view that in cases of non-availability of water, men should assist in water collection as they had better physical strength compared to women. Woman complained that carrying water for long distances was putting too much strain on them, bearing in mind that they had other household chores. The debates took a long time and I almost failed to contain them. This debate method had a special strength in that it brought out the value and depth of local understanding of issues relating to rights and entitlements.

Observations

These involved observing how household members managed the little water available to them. I made observations with regard to household and personal hygiene. I observed that hygiene was a critical issue, especially at Shackleton. At most houses I visited, used utensils were seen lying around without having been washed. I also noticed that fruits were being consumed without being washed first.⁴ I observed that there was no sanitation to speak of at Shackleton. The communal toilets used to be flush toilets and with no water they were unusable.

This technique as a tool for collecting data was selected because it allowed me to obtain information directly rather than through reports compiled by others, making it more reliable. Furthermore, observation as a method of data collection has a strength in that it allows for triangulation to verify accuracy of data. Of most significance, it allows one to determine the veracity of what one has been told as data can be exaggerated during interviews and discussions.

Assessment of methodology

I found the data collection methods discussed above effective. However, as an outsider to the communities, at times I felt the respondents were modifying their answers to specific questions and diverting from the truth, especially at Shackleton. Some thought I was from a donor organization and I had come to give them aid. An example was the question on how much the residents were paying for water from the wells and boreholes. Varying figures were given, with some as high as Z\$100 000, it turned out from the well owners' records that the actual figure was Z\$40 000. These varying figures I think were given so as to solicit aid. As will be noted in the findings of this study, Shackleton is a high dependency community.

Further, the study sites were visited a week prior to the commencement of the research in order to randomly sample the respondents and explain the nature of the study to the community leaders. As regards political issues, this could have given community leaders the chance to meet with the selected respondents in order to influence their responses. This specifically applied to Shackleton settlement as it is a ZANU PF stronghold. This I suspected as some respondents would strongly dispute what other respondents had said, especially on the political interests of those who assisted in their resettlement from Bere and Thompson farms to Shackleton.

However, despite the above limitations, the data collected remains valid as the possible biases were minimized by continuous triangulation to check validity or otherwise of the data.

⁴ Alaska and Shackleton areas have a lot of Mango fruits and when I carried out the research i.e. October to January, the fruits were in season.

A tale of two communities: same problems but different responses

‘Many of us who have water delivered straight to our homes pay little attention to the multitude of ways in which we depend on the precious resource or the risks we would be exposed to without it’ (Calaguas and Roaf, 2001).

This chapter focuses on the experiences of the women of Alaska and Shackleton in accessing potable water and basic sanitation. The chapter will show how differently the two communities are responding to the problem and the possible reasons why the two communities are behaving that way.

The Alaska situation

Prior to commencing this study, I observed a woman from my workplace collecting water in 20 litre containers on a daily basis. I established that this woman was a resident of Alaska. She would transport the water in her car. That’s how I learnt that there was a potable water problem in the Alaska community. From the conversation I had with her, I realized that those who had the means were at an advantage in times of a crisis. My heart immediately went out to the common women of Alaska. Those who were not employed and would never dream of owning a car. That’s how I developed an interest in finding out more about the situation of the women of Alaska in accessing potable water and basic sanitation, giving birth to this study.

Alaska is a settlement made up of different economic classes – high, low and very low income classes. The settlement comprises 721 village houses occupied by low income earners and 150 senior township housing units⁵ occupied by middle to high income earners. Almost 90 per cent of the residents of Alaska are formally employed and work in Chinhoyi town with the majority of senior township occupants employed in senior positions at their places of work. Alaska had the advantage that when the mine was closed in 1998, the houses were sold to sitting tenants some of whom later sold the houses to other people. According to the respondents, when the mine was still operational, water was never an issue. This was so because the smelter and refinery at the mine required lots and lots of water thus water was always in abundance. The source of water was the Hunyani river for industrial purposes and Chidzuwi mine shaft for domestic purposes. Water was available four times a day for a continuous period of two hours at each interval. During public holidays and weekends when the smelter was closed, water was available the whole day. Domestic water was thus easily accessible. Not much time was spent sourcing water. Water was provided to the mine residents as an employment benefit to the workers.

Water only became an issue after the mine was closed and employment was terminated. As a result, the Zimbabwe Mineral Development Corporation owned mine was no longer obligated to provide water to the community. According to the respondents, no formal communication was given as to who was to take over the responsibility of water and sanitation services. One woman summed it up by saying:

⁵ In a mining settlement set up, this is where the senior employees of the mine live. The senior township is a low density residential area.

‘Takangomuka kusina mvura, takamirira tichifunga kuti zvimwe mukomana anovhuramvura ararisa. Zuva rese rakaperapasina chauya, rechipiri ndiizvozvo, retatu, rechina, ndipo patakabva taziva kuti upenyu hwaoma. Takambenge taudzwa kuti mugodhi vave kuvharwa asi hatina kuudzwa kuti chii chaizoitika kwatiri maererano ne mvura.’

‘We just woke up with no water in our taps. At first they thought the person responsible had overslept. After four days that’s when it sunk in that provision of domestic water was no longer the mine’s responsibility. As a result of this residents had to resort to other means of obtaining water for survival.’

Data collected showed that most had to dig unprotected wells within their homesteads, posing a health hazard. The secretary of the Alaska residents’ association said;

‘The water situation at first was bad; it grew worse and then became catastrophic. Residents had to come together. It started with a few from the senior township who could not stand the situation as they were used to piped water and flush toilets. They organized the rest and called for a meeting.’

He added that at the meeting a water management committee was selected. The committee was tasked to collect money from the residents so as to repair the water pump which had broken down leading to the water crisis. The money collection process took a long time as there was resistance from the lower classes in the community as they were used to getting services for ‘free’ from the mine. Residents agreed to levy each other Z\$2,000 per household for the village houses and Z\$10,000 for the senior township residents. By the time they collected the money, they discovered that the pump was no longer serviceable thus needed to be replaced by a new pump at a cost of Z\$15,000,000. The pump price rose to Z\$32,000,000 within the same month.

By then the residents could no longer afford the purchase of the pump. The committee approached the donor community for assistance. CADEC, the organization they approached, said they could only assist with the construction of pit latrines and sinking boreholes as that was their line of aid. This was not acceptable as the residents were used to piped water and flush toilets. The committee thus negotiated with the organization for it to release the funds they intended to use for sinking boreholes and construction of pit latrines so that they could pool resources together and purchase a pump. A pump was finally purchased at the value of Z\$43,000,000.

Currently residents of Alaska are receiving water twice a day from 0500hrs to 0800hrs then from 1600hrs to 1900hrs. The rationing is not because of water scarcity but because of pumping capacity.

The Shackleton situation

Shackleton, unlike Alaska, is made up of one class, the low income class. I gathered that like Alaska, Shackleton was owned by the Zimbabwe Mineral Development Corporation but unlike Alaska, when the mine closed the sitting tenants opted not to purchase the houses. They vacated and relocated elsewhere. Thus the settlement remained unoccupied.

On asking where the current residents came from, I was told that towards the end of 1999, there was a cholera outbreak at two commercial farms near Chinhoyi known as Thompson and Bere farms. The then residents of these farms were moved to Shackleton by the Ministry of Health and Child Welfare in conjunction with the Ministry of Local Government, Public Works and Urban Development. The former member of parliament for Chinhoyi Urban constituency who was at that time campaigning for the 2000 parliamentary elections facilitated the relocation. Shackleton became the aspiring member of parliament’s campaigning base. Potable water and sanitation were not an issue then as any breakdown in the system was quickly attended to. Shackleton was receiving water from Chidzuwi mine shaft, the same source that was serving Alaska. The tightly contested elections were held and the Shackleton community played the desired role of electing the member of parliament into office. Services continued for almost a year until the pump finally broke down in 2002 – the last time Shackleton residents had piped water and the leisure of using a flush toilet.

Shackleton today

Water availability

The women of Shackleton stated that since the breakdown of the pump, residents have resorted to buying water from enterprising well owners as well as from a borehole situated at a nearby farm. I observed that the wells are unprotected as shown by the picture below.



An unprotected well where some of Shackleton residents get water for domestic use

In terms of quantity of water available to the community for domestic use, each household was limited to a maximum of 40 litres per day during the dry season.⁶ For an average family of six the respondents said this was not adequate as it translates to just over six litres per individual per day. On being asked how they were managing with so little water one woman said:

‘We have to be so careful to make the water last, we cannot give children and visitors like you water to drink at will. This is regardless of the fact that Chinhoyi is a very hot area. I am a Mukorekore by tribe. Where I come from it is our tradition that a visitor is welcomed in the home by a mug full of water. We cannot do that here. We have since stopped that tradition.’

Another woman added:

‘The situation is so bad, if a child soils a nappy, there is never adequate water to clean the child. If it’s just urine we either dry the napkin without washing it or let it dry on the child. This is our form of recycling as we wash the nappies after two or three uses depending on the situation.’

According to her, the situation is so bad and there seems to be no solution in sight.

In order to save water, most of the women interviewed said they do not collect their 40 litre allocation at once. They said they collect water twice a day – early morning and late afternoon so that it lasts the whole day. If they collected once, chances are that water would all be used up leaving them stranded the whole day. I was impressed by one woman who said that in times of crisis, one has to develop some survival skills and that’s exactly what the Shackleton women have done.

⁶ The quantities however increase during the rain season as a result of water harvesting from the roof.

Accessibility of water

Physical accessibility

The World Health Organization (WHO) defines access to potable water in urban areas as access to piped water or public standpipes within 200 metres of a dwelling or housing unit. Shackleton community has no access to piped water. They buy water from well and private borehole owners. I observed that the wells and boreholes from which the community was buying water for domestic purposes were scattered around a radius of 1,5 to 2 kilometres. Women would be seen carrying water buckets on their heads, while men pushed wheelbarrows from the water source as illustrated by the pictures below.



Women and men sourcing water

For laundry the community relies on a dam which I estimated to be 4–5 kilometres away. At a focus group discussion I had with the women of Shackleton at one of the wells, the majority said water collection was strenuous. One woman within the group added that the physical strain on woman caused by the distances they now have to walk in search of water is unbearable taking into consideration that the community on average is comprised of very young children, middle aged and old aged groups. Most of the youths who have better physical strength to absorb the strain have left the community in search of better opportunities. The HIV/AIDS pandemic further complicates the situation as the young generation is affected most. This leaves the older women with the mammoth task of sourcing water.

From the same group, I took time activity profiles of the women to gain an insight into women's use of time. I was interested in time used for economic and developmental activities, personal activities and water collection. It turned out that on average women had 12–15 hour working days and of that at least 4 hours were spent in search of water. I found that water collection was time consuming as it involved almost a third of the women's time. This is time that could be used for more productive activities, as will be discussed later in this chapter.

Affordability

In terms of costs, the Shackleton users were paying more per unit for water than the other residents of Chinhoyi serviced by the municipality. Shackleton residents were paying Z\$40,000 a month to either well owners or borehole owners. In terms of the 2005 budget⁷ of the municipality of Chinhoyi, the minimum charge for water

⁷ Appendix 1

was pegged at \$19,000 with a variable charge from the ninth cubic metre at \$1,800 per cubic metre. An official at the revenue collection office at the municipality of Chinhoyi said that on average very few households would pay more than Z\$40,000 per month. This showed that Shackleton residents were paying more per unit for water than other residents of Chinhoyi. The costs I discovered were even more as the community was not only paying more in absolute terms but also more in social costs due to the quality of the water available to them and the degraded environment they live in.

Water quality

‘When water is scarce, people must buy it frequently without guarantee of quality’ (Assaf, 2004).

As noted earlier, women and children living in Shackleton begin each day searching, collecting and hauling water essential for basic survival. Those who depended wholly on unprotected well water were exposing themselves to health risks. This I suspected because most of the well owners had left their homes to stay near their wells to guard them. One well owner said that the reason why he was guarding his well was that he feared the well could be poisoned. I observed that the well owner had constructed a temporary shelter to live in. Furthermore, there were no sanitary facilities in sight. That prompted me to take water samples from the well for microbiological testing. From looking at the water with the naked eye, it looked very clean. One of my colleagues I was with when we collected the water sample actually drank the water and when I showed him the test results he was greatly affected. The pictures below show the amount of bacteria that was found in the water.



Microbiological results of well water

The left spread plate (the one that shows no growth) was not inoculated (no water was put in it) hence there was no growth. The middle and last spread plates were inoculated, they contained 1ml of well water, the process was done using aseptic technique and the water was incubated for 48 hours. After 12 hours the colonies that had started growing in the water were counted and 270 colonies were identified. After 48 hours, the colonies were too numerous to count.

The microbiological results of the well water showed that the water was contaminated with micro organisms. The micro organisms present were identified as *Escherichia Coli* (E- *Coli*). The laboratory technician said this indicated faecal contamination. He explained that this water is not safe to use as potable water as it could easily be a carrier of waterborne diseases, such as cholera and dysentery.

Sanitation

‘To an average urban dweller, going to the toilet hardly constitutes a stressful situation. One goes, flushes the toilet and forgets about the importance of the facility in their lives’ (Calaguas and Roaf, 2001).

The above I found to be exactly the opposite in Shackleton. The interviews revealed that sanitation was really a nightmare for Shackleton residents, and more so for the women and children. The 587 Shackleton housing units are serviced by 26 communal toilets. Below is a picture of what the communal toilets look like from the outside.



Communal toilets

The picture below shows the inside of the toilet. These used to be flush toilets but now without water the toilets are virtually unusable.



Inside of the communal toilets

As a result, the community has been forced to resort to alternative means, the most common being defecating in the open. Some have constructed shallow pit latrines within their homesteads, posing environmental and health risks (see pictures below):



Shallow pit latrines constructed within some homesteads

The residents interviewed stated that what they want is a sanitary system that reinforces their right to privacy and human dignity. This is so because making use of the ablution facility should be an individual and completely private affair. As far as Shackleton is concerned, I observed it is impossible to go to the toilet without passers by or neighbours observing you. Most women considered the location and orientation of the toilets to be unsafe and exposed. The question of safety and security was of paramount concern to women. What disturbed them most was the fact that anyone can observe them going to the toilet. This exposed them to risks of being attacked, especially at night. The problem they said was further compounded by the fact that the women did not feel comfortable using the communal toilets even when they were clean, now that they are dirty and unusable they have to resort to defecating in the open. This, women interviewed said, was even worse as they have to wait until darkness to defecate and pass urine. I found this to have a number of detrimental effects, including lack of security in terms of fear of rape and harassment.

The heavy burden of poverty

In its simplest terms, poverty refers to deprivation of basic needs. Economists usually concern themselves with the scarcity of the means by which the ends are realized (Kabeer, 1994). This scarcity of means, I discovered, plays a very critical role in as far as women's access to potable water and basic sanitation in the communities of Alaska and Shackleton are concerned. The study clearly brought out issues of class and how class influences one's access to resources. A comparison of the two communities showed that in situations of limited or no access to resources, in this case potable water and basic sanitation, the poor are the ones mostly directly affected. The comparison further shows that not only are the poor less likely to have access to safe drinking water and basic sanitation, they are also less likely to have the financial and human resources to manage the impact of deprivation.

As shown earlier, the two communities used to get water from the same source, the Chidzuwi mine shaft, whilst the mine was still operational. The mine ceased its operations leading to the cessation of water supplies to Alaska and Shackleton. Alaska today still gets water from the Chidzuwi mine shaft but Shackleton does not. This is so because Alaska had the necessary human and financial resources to manage the impact of the deprivation. The Alaskan community managed to mobilize resources to purchase a new pump. Shackleton could not. As noted earlier, Shackleton residents were mere farm labourers who were resettled towards the end of 1999 for a political purpose. Their services were only required until the 2000 elections after which they became 'excess baggage'. They lacked the necessary financial and human resources to manage the impact of the deprivation.

Results from the comparison of the two communities are in line with the sentiments of Crow and Roy (2004) that lack of water resources can be a primary cause of a person's poverty. Further, lack of financial resources can result in an individual or household's inability to obtain an adequate quantity of safe water. Thus lack of financial resources and lack of water resources are linked together in a negative feedback loop that can keep individual households and communities in a dynamic poverty trap (Crow and Roy, 2004).

Crow and Roy (2004) further say that people in water poverty traps experience low incomes but face high fixed costs of water supply facilities. This proved true as far as Shackleton is concerned. Shackleton's residents pay high prices for water and, because of scarcity, the community does not participate in economic activities that require relatively large amounts of water making them sink deeper and deeper into poverty.

Implications for women and children

Because of traditional gender roles, the task of gathering water for the family is considered women's work. In this study I found out that women and men had distinct responsibilities and different stakes in using and managing water. I realized that as care givers and household managers, it is more the women's responsibility to ensure that their families have water for their daily lives. Thus I came to the conclusion that in times of water crises, women and children are affected most in terms of health and livelihood.

Implications for health

According to Gleick (1999), people in desperate situations often lack the choice or the capacity to distinguish between safe water and unsafe water. They are forced to use whatever water is available. As care givers and guardians of family health, women have a central role to play in stopping the spread of preventable diseases but when access to safe water is remote, women are forced to risk getting water from contaminated sources. This is the case as far as the community of Shackleton is concerned.

In a discussion I held with a health official at the clinic⁸ where most of the Shackleton residents seek medical attention, the official emphasized the fact that it is not sufficient merely to have access to water in adequate quantities, water for domestic use should be of adequate quality to maintain health. This means that water for domestic use must be free from harmful biological and chemical contamination.

Calaguas and Roaf (2001) add that communities that lack access to safe water and basic sanitation are often affected by water-related diseases. Firstly there is the direct impact of consuming contaminated water leading to what are known as waterborne diseases, for example diarrhoea, typhoid, dysentery and cholera. Secondly there are diseases known as 'water wash' diseases. These are caused by inadequate water being available for personal hygiene. Such diseases include skin and eye infections. Lastly there are what are known as water-based diseases and water-related diseases, which are as a result of the environment providing an essential habitat for parasites that cause human diseases. Bilharzia and malaria are the most common.

Statistics on reported cases of waterborne diseases in Chinhoyi urban obtained from the Chinhoyi provincial hospital, health information office and the provincial medical director's office⁹ indicated recurrent prevalence of waterborne diseases as a result of contaminated water. It must be noted that these statistics include Alaska and Shackleton but do not give the individual breakdown of the two communities. Such individual statistics could not be obtained from clinics that service Alaska and Shackleton partly due to issues of confidentiality but mainly in my opinion due to poor record keeping. I am however using the statistics based on what the official at the provincial medical director's office said. He attributed 5–10 per cent of the provincial waterborne diseases for the past 5 years as coming from Shackleton and Alaska due to the water situation in these two communities. This percentage he said is quite high given the fact that the two communities are just a small fraction of the Chinhoyi urban population.

⁸ Murereka (Lions Den) Clinic

⁹ Appendix 3

Furthermore, although the statistics are not gendered the officer said that from his experience, women and children are affected most because they are in regular contact with poor quality water. He added that even when waterborne diseases do not affect women personally, their burdens increase in caring for others who are ill.

There are also very strong links between women, water and non-waterborne illness, in particular the HIV/AIDS pandemic. Caring for HIV/AIDS patient requires more water to maintain personal hygiene. This has made collecting and using water more difficult as women strive to keep up with the competing demands of caring for the sick, sourcing the required quantities of water as well as doing other domestic work.

As noted earlier in this chapter, the women of Shackleton are not only affected by the quality of water they use for household activities but also the quantity of water available is of major concern. According to Sheridan (2005) supplies of contaminated water are critical to health but there is a general consensus that water quantity is even more important than quality for maintaining health. Contaminated water contributes to outbreaks of disease but too little water makes it difficult to maintain the sanitary conditions that prevent contamination. Sheridan argues that faecal contamination that leads to diarrhoeal diseases and intestinal parasites is more highly correlated to dirty hands than it is to the quality of drinking water. Thus to lessen the health burden of Shackleton women, what they need as an immediate measure is an increase in quantity of water then issues of quality can be worked on.

Although 20 litres per person per day is the current standard for household water consumption (WHO/UNICEF, 2000), it has been estimated that 30–40 litres a day per person are the minimum needed if drinking, cooking, laundry and basic hygiene are all taken into consideration (Gleick, 1999)

In Shackleton and some parts of Alaska, problems posed by inadequate water supplies are further complicated by poor sanitation which causes water to become contaminated, greatly heightening the need for household hygiene and thus increasing women's household burdens. According to Curtis, Cairncross and Yonli (2000) safe stool disposal is far more effective as a safeguard against disease than any amount of hand washing. Although this contradicts what Sheridan (2004) above said – that faecal contamination that leads to diarrhoeal diseases and intestinal parasites is more highly correlated to dirty hands, in essence, this means for total household and personal hygiene, both safe stool disposal and enough water to wash hands as often as needed are a must. As noted earlier, Shackleton is served by communal toilets that are filthy, foul smelling and located a distance from the housing units. This causes residents to avoid the toilets and defecate in the open causing environmental pollution. Women in particular suffer from lack of appropriate sanitation facilities. When there is little privacy or security for them, woman and girls have to go into an appropriate location where they risk being attacked (WHO, 2003).

Implications for children

Urban children have long been considered better off than rural children in terms of their health and survival but this urban advantage has declined in some areas and is increasingly being called into question (Sheridan, 2004). This study has shown that Alaska and Shackleton are not an exception to this. Although insufficient and unsafe water supplies and sanitation affects people of all ages, children's health and wellbeing is particularly compromised. Due to their size, physiological make-up and behaviour, children are more vulnerable than adults to environmental hazards (Calaguas and Roaf, 2001)

Children's vulnerability to pathogens is related to their exposure and to their level of immunity. Small children have the drive to play and explore, they are in close contact with the ground and they have little appreciation of hygiene (Sheridan, 2004). This means that they are more likely to come into contact with excreta, the primary source of diarrhoeal diseases and intestinal parasites as well as other pathogens (Sheridan, 2004). This I observed in Shackleton. Most of the children were moving around, playing in waterlogged ground with no shoes or protective clothing. Typical childhood behaviours and putting objects in the mouth in a polluted environment

were also observed, thus exposing children to increased risk. A health official at Murereka clinic confirmed that they were treating more children suffering from waterborne diseases compared to adults. She explained that children under the age of five breathe more air, drink more water and eat more food per unit of body weight than adults so they experience higher rates of exposure to pathogens and pollutants.

Implications for livelihoods

Non-availability of potable water and basic sanitation in the communities of Alaska and Shackleton have led to drastic changes in the quality of life of the residents. Women are spending more time in search of water, especially during the dry season. This affects their contribution to household income, making them poorer, thus increasing their economic subordination to men. When the mine was still operational and there was a constant supply of water, women told me that they used to contribute through expenditure saving activities, for example, gardening. They also contributed through income generating activities and micro enterprise work for example handcrafts and vegetable vending. It is work in micro enterprises that provided the women with income especially during the dry season when income from other sources like agricultural work was absent. This was a valuable source of income for poor families as it was a means for women to meet their practical and gender needs. This is no longer the case because most of that time now is spent in search of water. Furthermore, Shackleton residents are paying more per unit of water compared to other residents of Chinhoyi. This is sinking them deeper and deeper into poverty. The contaminated water they are exposed to means they are likely to be spending more than other residents of Chinhoyi on health costs .

This lack of access to a reliable, adequate, safe and affordable water supply impacts directly on the livelihoods of the urban poor. It impacts on their ability to engage in income-generating activities, the types of livelihood they can engage in, their income from those activities and their overall cost of living (Calaguas and Roaf, 2001).

Implications for education

Shackleton has a primary school. I interviewed some of the teaching staff who said each pupil is required to take two litres of water to school every day. The water is used mainly for sanitary purposes. When I asked whether or not pupils comply and what happens to those who do not, the teachers said if it becomes a habit the pupil is sent back home. They however agreed that doing so is denying the child his or her right to education but they were quick to point out that there was nothing much that could be done, given the complexity of the situation. The school cannot function without water. To them it was better for a few pupils to miss school rather than for the whole school to be closed as had happened to the clinic.¹⁰

The pupils interviewed contradicted the teachers as they said failure to bring water to school attracts immediate corporal punishment. Judging by my own experiences as a pupil back then, I believed the pupils more than the teachers. Because of fear of being beaten, pupils said if they cannot take water to school, they just absent themselves from school.

This study also showed that time spent in search of water has implications for the quality of education. Firstly, the pupils spent valuable time they would have spent studying like their other urban counterparts, in search of water. They walk long distances carrying heavy loads tiring their small bodies. Secondly, I gathered that the school has a problem in attracting qualified teachers because of the perennial water problem. Teachers who assume duty without being aware of the water problems transfer to other schools at the earliest opportunity. One teacher said she was frantically working for a transfer. She said she would rather go to a school with transport problems as long as potable water is available because travelling problems are periodical but water use is an everyday thing. This meant the staff turnover at the school was high, directly impacting on the quality of

¹⁰ The clinic at Shackleton was closed because of non-availability of water.

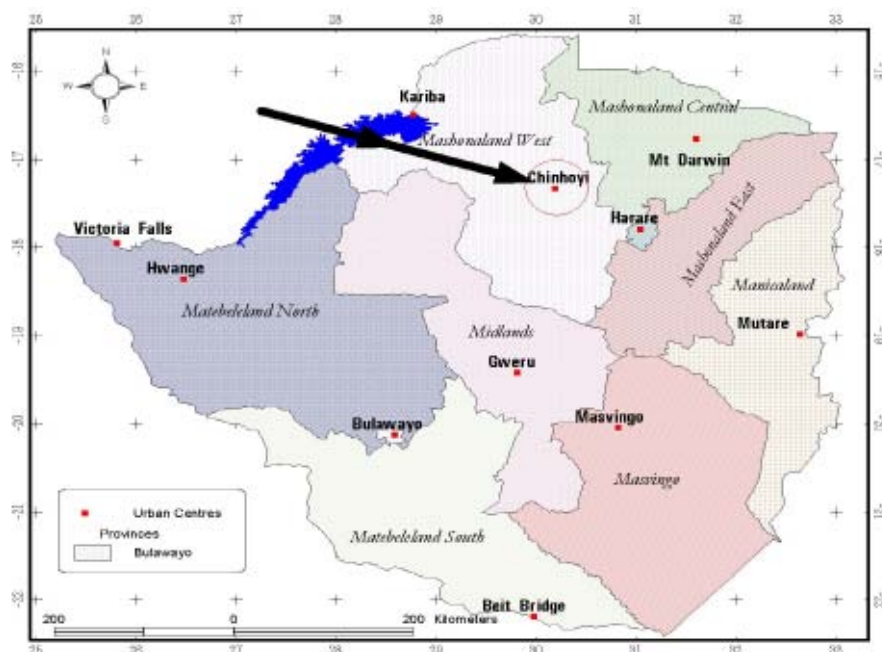
education.

CHAPTER 4

The plight of the Alaskan and Shackleton women

‘If the misery of our poor be caused not by the laws of nature but by our institutions, great is our sin’
(Charles Darwin cited in Gleick, 1999).

Chinhoyi town is located about 115 kilometres from the capital city of Harare. It is the provincial capital of Mashonaland West province and is under municipal jurisdiction with its administrative boundaries flanked by commercial agricultural farms. Chinhoyi town’s main water source is the Manyame, also known as Hunyani river. The river flows through the town on its eastern sides supplying the town with water for domestic, industrial and agricultural use.



Location of Chinhoyi town

In many urban areas, water services are provided by a centralized system operated either by public, quasi – public or private agencies. Environmental sanitation services, including sewerage, drainage, refuse collection and disposal, are also built and contracted centrally by the municipal and city authorities (Calaguas and Roaf, 2001). The same applies to Chinhoyi whose boundaries as of 2005 were extended to include Alaska and Shackleton.

¹¹ A delimitation commission is a constitutional body according to section 59(1) of the constitution of Zimbabwe. All members of the commission are appointed by the president. The function of a delimitation commission is to determine the limits of the constituencies into which Zimbabwe is to be divided taking into account a number of aspects chief amongst which is the number of voters in each area.

As noted in the previous chapter, Alaska and Shackleton settlements are not being serviced by the municipality of Chinhoyi in terms of provision of potable water and basic sanitation. In carrying out the research, I discovered that this is not as a result of absolute scarcity but the current water crisis in Alaska and Shackleton is essentially a crisis in governance.

Governance has been defined as a multi-faceted concept encompassing all aspects of the exercise of authority through formal and informal institutions in the management of the resources endowment of a state (Huther and Shah, 2000). The quality of governance is thus determined by the impact of exercise of power on the equality of life enjoyed by citizens. In an effort to investigate and explain the root cause of the water and sanitation crisis in Alaska and Shackleton, I looked at governance as the various power relations in society that play the role in deciding who gets what, where and when. I looked at how politics has influenced good governance in the provision of potable water and basic sanitation.

Have Alaska and Shackleton communities always been under the boundaries of Chinhoyi?

According to an official at the municipality of Chinhoyi, when the Zimbabwe Mineral Development Corporation owned mine was still operational, Alaska and Shackleton fell under the administration of Makonde rural district council and the municipality of Chinhoyi had no interest whatsoever in the two communities. The mine would pay rates to the rural district council with the municipality of Chinhoyi playing no part. It was only after the closure of the mine in 1998 and towards the end of 1999 that a directive was given by the Ministry of Local Government, Public works and Urban Development that the boundaries of Chinhoyi municipality had been extended to include Alaska and Shackleton. The official said reasons given were that the delimitation commission² which had been tasked to redraw constituency boundaries for the 2000 elections had extended the Chinhoyi urban constituency to include Alaska and Shackleton. Thus it necessarily followed that the two communities had to fall under the governance of Chinhoyi municipality.

The official explained that it was after the directive was given that people were moved from Bere and Thompson farms after an outbreak of cholera. In his opinion, normally the Bere and Thompson farm residents should have been transported to their rural homes after such an outbreak but they found strategic reasons at that time to take the group there so as to increase the number of urban voters.

On being settled, the now Shackleton residents were promised free services by the aspiring member of parliament for the ruling party. They were given all the usual promises of an election campaign. This, I was told, turned Shackleton into a political settlement. The after effects of which can still be felt today as the municipality of Chinhoyi is finding it difficult to make inroads into the settlement.

On asking what the standard procedure for extending boundaries of a town are, I was told that the procedure is that any such extension should be formally gazetted. No procedure was followed in this case because all that the municipality received was a directive. According to the official, political interests took precedence over good governance.

As a result I learnt and observed that Shackleton became a high dependency settlement as the residents became accustomed to getting services for free. This is so because when the Alaskans were organizing themselves to purchase a new pump, Shackleton residents distanced themselves from the venture. This they could have done jointly as the two settlements used to get water from the same source, the Chidzuwi mine shaft. The official said:

‘They chose to remain clinging to the prior 2000 election promises given when they were settled that they would get services for free.’

This has left the Shackleton residents sinking deeper and deeper into poverty as they are now paying more for

² Appendices 1 and 2

potable water not only directly but indirectly as well in terms of time, health and general livelihood.

Are the two communities visible in Chinhoyi municipality planning?

When I asked this question, I was shown the 2005 and 2006 budgets¹² for Chinhoyi municipality. The official explained that the 2005 budget and any other prior budgets did not cater for Alaska and Shackleton; the reasoning being that the two settlements did not officially fall under the administrative jurisdiction of Chinhoyi municipality. It was only in the 2006 budget that the two communities were visible in municipal planning. He explained further that the reason for the non-visibility of the two communities in municipal planning was that it took a long time for the extension of the boundaries of Chinhoyi town to include Alaska and Shackleton. Making visible Alaska and Shackleton in municipal planning before the gazetting had been done would have meant legitimizing an illegal procedure and it would have meant political acceptance of the two communities as *bona fide* settlements within the jurisdiction of Chinhoyi municipality.

The official added:

‘After the directive was given, politically Alaska and Shackleton became part of Chinhoyi urban but administratively that was not possible without the necessary procedure being followed. The two were not budgeted for, when they were finally gazetted to be under the jurisdiction of Chinhoyi municipality in 2005, it was too late to include them in the budget as the budgets had already been approved. But in 2006 it’s different. The 2006 budget now includes Alaska and Shackleton and revenue collection should start soon, for, without revenue, there is no way we can restore water and sanitation services.’

The official conceded that it was going to be a big fight to collect revenue from the two communities and moreso at Shackleton. In his view, in Alaska, given that most of the residents own the houses they live in and that the general socio-economic standing of the community was not bad, they were most likely going to cooperate. It was Shackleton he was worried about. To him Shackleton was a ‘tall order’ and he blamed the politicians for taking advantage of the voters, promising them the impossible.

The official explained that the situation was equally difficult for the municipality because there was no way the municipality could restore provision of water and sanitation services to Alaska and Shackleton without revenue, yet on the other hand there was no way Chinhoyi could be given city status without returning sanitation at Shackleton. He added that it was a bigger problem than was apparent. To him the way forward was to instill a sense of ownership in the Shackleton community by undoing the damage that was done by politicians. Shackleton should transform itself from a high dependency community into a responsible community by beginning to see themselves as any other Chinhoyi resident who has a right to potable water and sanitation, together with a corresponding obligation to pay for the services.

What is the meaning of all this?

Political selfishness

All the municipal officials I talked to complained of too much political interference in the running of municipalities. They complained of lack of autonomy in council activities. Much of the blame was levelled against the Ministry of Local Government, Public Works and Urban Development which, they said, was interfering with the running of urban councils in most cases for selfish political mileage. There was too much political interference in the running of the municipality by central government and the ruling party. One official said;

‘To ensure safe provision of water and sanitation, it is of paramount Importance to have effective and efficient institutions. This ceases to be the case in situations where directives are given without proper planning. It is such directives that are loaded with political connotations that have a negative bearing on the smooth running of the municipality. Planning is difficult for you can never know what’s coming

next.’

Thus, for municipalities to act effectively and efficiently in the provision of potable water and basic sanitation, there is need for them to operate independent of political interference and pressure.

Bureaucratic inefficiency

Because of bureaucratic red tape within the Ministry of Local Government, Public Works and Urban Development, whether it was intentional or not, it took nearly five years for Alaska and Shackleton settlements to officially fall within the jurisdiction of the municipality of Chinhoyi. The five years meant that Alaska and Shackleton communities were ungoverned. As a result there was no provision of potable water and basic sanitation to the two communities, putting the residents’ lives at risk. The communities had been withdrawn from the jurisdiction of Makonde rural district council. On the other hand, the Chinhoyi municipality was dragging its feet in recognizing the two settlements as no formal handover had been done. As a result of bureaucratic red tape the communities of Alaska and Shackleton were denied access to potable water and basic sanitation.

A municipal official said that the official handover of Alaska and Shackleton to the municipality of Chinhoyi was finally done after the municipality had put pressure on the Ministry of Local Government, Public Works and Urban Development. Initially the municipality was not interested in taking over administration of the two communities until it applied for a city status in 2004. This meant for the town to be awarded city status it had to be bigger, not only in terms of population but geographically as well. Expanding the boundaries of the town became inevitable. As a result, the goal posts shifted; the previously marginalized settlements of Alaska and Shackleton in the municipal boundaries became a priority.

Whilst all this was happening, it was the women and children of Alaska and Shackleton who were at the receiving end. The municipality only acted when it became advantageous for it to do so. The municipality was prepared to shift the goal posts when it suited them best. I observed that all the top decision makers of the municipality were men with only one woman who was the accountant. This I noted has a bearing on the prioritization of women’s issues, of which access to potable water and basic sanitation is chief amongst them. It is now generally accepted that unless women constitute a ‘critical mass’ of at least a third of those in decision making, their presence makes little difference to the outcome of governance (Huther and Shah, 2000). This is in line with the Beijing Platform for Action (1995) that provides that without the active participation of women and the incorporation of women’s perspectives in all levels of decision making, the goals of equality, development and peace cannot be achieved. Thus more women in the running of the affairs of the municipality would have made a difference as there is a likelihood that they are in a better position than men to understand issues that affect women.

I thus submit that without this happening, the communities of Alaska and Shackleton will remain marginalized with their women and children continuing to carry the heavy burden of poverty inflicted upon them by lack of access to potable water and basic sanitation. From the findings of this chapter, I thus concluded that the current water and sanitation crisis at Alaska and Shackleton is not a result of absolute scarcity of water but essentially a crisis in governance.

CHAPTER 5

Making a case for Alaskan and Shackleton women

‘Did you know that the adult human body is about 50 – 60 per cent water, a child’s body is approximately 75 per cent water, the human brain is also about 75 per cent water. While the human body can live up to two weeks without food, it can only survive a few days without water’ (Calaguas and Roaf, 2001).

Is there a human right to water?

This chapter will look at whether individuals or groups have a legal right to potable water and basic sanitation and whether there is an obligation for the state to provide these two human needs when they are lacking.

The year 2003 was identified by the United Nations as the international year of fresh water with the aim partly of reaffirming the United Nations Millennium Development Goal number 7, that is to halve by year 2015 the proportion of people who are unable to reach or afford safe drinking water and to stop the unsustainable exploitation of water resources. This ambitious goal, endorsed by the World Summit on Sustainable Development held in Johannesburg in 2002, also set a new target of halving the proportion of people who do not have access to basic sanitation by 2015 (Scanlon *et al.*, 2003)

Why access to potable water and basic sanitation should be a human right

The supply of adequate water for domestic use and personal hygiene should be part of the priority rights of all citizens. Besides individual welfare, as stated above, availability of potable water is regarded as the determinant of socio-economic development since access to safe water underpins all progress for poor communities like Shackleton (Antonio and Grassi, 2004). This acts positively in improving the community’s life circumstances. Investing in safe water, basic sanitation and hygiene education is therefore one of the smartest and surest investments that lead to a sustainable future (Antonio and Grassi, 2004). It is because of this that universal access to drinking water delivered to all houses should come first on the agenda of every public policy referring to health, environment, welfare and urban or regional development (Antonio and Grassi, 2004). It is against this background that access to potable water and sanitation should be formally treated as a human right.

This chapter will show that reaching all eight of the Millennium Development Goals depends on reaching goal seven which calls for the reduction by half of the proportion of people living without access to safe water and basic sanitation by 2015.

The human right to water

The human right to water is not specifically addressed in the 1948 Universal Declaration on Human Rights, the 1966 Covenant on Economic, Social and Cultural Rights and the 1966 Covenant on Civil and Political Right. One of the earliest comprehensive water conferences was the 1977 Mar del Plata conference. The conference statement issued at the close of the meeting explicitly recognized the right to access water for basic needs (UN, 1977 cited in Gleick, 1999).

The statement read:

‘...all peoples whatever their stage of development and their social and economic conditions have a

right to have access to drinking water in quantities and of a quality equal to their basic need.’

This research showed that the water available to Alaska and especially Shackleton is neither the quantity or quality that meets the communities’ needs. Furthermore, what is required is not just drinking water but adequate potable water for all domestic needs. This includes washing, drinking and cooking.

In 1986 the United Nations General Assembly adopted the Declaration on the Right to Development. Article 8 of the declaration obliges states to undertake at national level all necessary measures for the realization of the right to development and shall ensure equality to all in their access to basic resources. In interpreting this article, the United Nations explicitly included water as a basic resource when it stated that the persistent conditions of underdevelopment in which millions of humans are deprived access to such essentials as food, water and clothing in adequate measure represents a clear and flagrant mass violation of human rights (United Nations, 1995, cited in Gleick, 1999).

The explicit recognition of water continued with the 1989 Convention on the Rights of the Child. Article 24 parallel to article 25 of the Universal Declaration of Rights provides that a child has a right to enjoy the highest attainable standard of health. Among other measures, states are expected to combat diseases and malnutrition through the provision of adequate nutritious foods and clean water. A similar provision with the same explicit recognition of the provision of safe drinking water as a human right appears in article 14 (2) (c) of the 1990 African Charter on the Rights and Welfare of the Child. Shackleton and Alaska’s children were found to be at risk of water-related diseases despite the existence of these entitlements.

The Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) forms the most important human rights framework for promoting women’s access to water and participation in water management. In a single document, it encompasses a series of civil, political, economic and social human rights that have a bearing on women’s access to water (Hellum, 2001). In particular, article 14 (h) provides that state parties shall take the appropriate measures to ensure the enjoyment of adequate living conditions for rural women, particularly in relation to housing, sanitation, electricity and water supply.

Although my research was not on rural women but on urban women, this article remains applicable to my study because if potable water and sanitation should be made available to rural women, the same should apply to urban women. In my opinion, CEDAW specifically mentions rural women as they are the ones visibly left out in development. This even makes the case for urban women stronger as their access to potable water and sanitation is assumed to be obvious. This is not the case as far as the communities of Alaska and Shackleton are concerned.

The Women’s Protocol in article 15 further provides that state parties should ensure that women have a right to nutritious and adequate food. And, further, that state parties shall take appropriate measures to provide women with access to clean drinking water and sources of domestic fuel.

On 26 November 2002 at the close of its 29th session, the United Nations Committee on Economic, Social and Cultural rights issued General Comment number 15 of 2002 that declared that water is a limited natural resource and a public good, fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is thus a prerequisite for the realization of other human rights. The committee went on to define this right as a right that entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. According to this United Nations committee, the principal elements to the right to water are thus availability, quality and accessibility.

Availability

Regarding physical access the comment states that a water supply is sufficient and continuous for personal and domestic uses, such as drinking, personal sanitation and household hygiene, if it follows at least the basic

access defined by the World Health Organization guidelines. According to the guidelines, a community has no access if residents walk for more than 200 metres and where volumes of water collected are below five litres per capita per day. This I found was the case as far as Shackleton community is concerned. Thus Shackleton community has no access to potable water, directly contravening provisions of General Comment 15.

Water quality

The comment further provides that water supplied must be safe for human consumption. For this to be so, it should be free of any contaminants. Water available to Shackleton failed the microbiological tests and was found unsafe for human consumption, exposing the community to health risks. Women and children were found to be at higher risk as they were more in contact with the water compared to the men in the community.

Accessibility

According to General Comment 15, water facilities and services must be available to every human being. The comment identifies three overlapping dimensions which I found applicable to my study. In terms of physical accessibility, the comment directs that water must be within safe physical reach for all sections of the population. Sufficient, safe and acceptable water must be accessible within or in the immediate vicinity of each household, educational facility and workplace. Conditions at Shackleton do not meet this requirement. Water is not available within the vicinity of the household or at the primary school. Pupils are required to bring water to school. The comment further provides that physical security should not be threatened during access to water facilities and services. This study actually established that Shackleton women are at risk when in search of sanitation facilities.

The comment also looks at economic accessibility in that water and water facilities and services must be affordable to all. It provides further that the direct and indirect costs associated with securing water must not compromise or threaten the realization of other covenant rights. Water available to Shackleton was found to be expensive, both in direct and indirect costs, thus not compliant with the provisions of General Comment 15.

Lastly, the comment calls for non-discrimination against marginalized areas or groups in that water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population. Governments are thus obliged to take steps to remove any de facto discrimination that could impede enjoyment of the right to water. Bureaucratic inefficiency within the Ministry of Local Government, Public works and Urban Development, together with political interference in the running of the municipality of Chinhoyi, were found to be instrumental in the discrimination against the communities of Alaska and Shackleton, leading to the two communities being marginalized in terms of access to potable water and basic sanitation.

The human right to water is being infringed upon as far as the communities of Alaska and Shackleton are concerned, thus this calls for immediate interventions.

There is also need for explicit recognition of the right to water under civil and political rights. A distinction is drawn between states' obligations imposed by civil and political rights which must be 'ensured' and socio-economic rights which must be recognized and realized progressively to the maximum extent of available resources. It is sometimes argued that there is a hierarchy of rights according to which some rights (civil and political) are more important than others, guaranteed and immediately realizable (Goonesekere, 2000) According to the same argument, other rights (socio-economic and cultural rights) are not immediately realizable but may be postponed until adequate resources are available (Goonesekere, 2000).

Since water forms the essence of life, the right to water needs to be recognized as a civil and political right. This is so because civil and political rights are characterized as 'hard' rights. They are justifiable in court as they

¹³ Circle of rights, module 16 on the right to education.

impose negative duties on states for recognition, protection and non-interference (Goonesekere, 2000). Thus General Comment number 15 on socio-economic and cultural rights that explicitly recognizes the right to water is not adequate in itself since socio-economic rights are considered to be ‘soft’ rights imposing positive duties on the state. These duties can best be realized progressively through allocation of resources and administrative policy planning rather than enforcement by the state. On this basis, considering the current economic situation in Zimbabwe, applying socio-economic rights would mean no immediate solution for the communities of Alaska and Shackleton.

Other related human rights violations

Right to education

As noted in the findings, Shackleton has a primary school. Pupils are required to bring water to school which, given the circumstances at Shackleton, they may not always manage. Failure leads to the pupil being subjected to corporal punishment or being sent back home. This leads to absenteeism which is denying the children the right to education. Education has been regarded in all societies and throughout human history both as an end in itself and as a means for the individual and society to grow. Its recognition as a human right is derived from the indispensability of education to the preservation and enhancement of the inherent dignity of the human person.¹³

Right to health

The right to health was recognized as early as 1946 when the World Health Organization stated that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being. The Universal Declaration of Human Rights then came in 1948 and guaranteed all people a right to a standard of living adequate for their health and wellbeing. Article 12 of the International Covenant on Economic, Social and Cultural Rights also recognized the right to health. Article 24 of the Convention on the Rights of the Child further guarantees that children are entitled to the highest attainable standard of health. Evidence gathered at Alaska and Shackleton shows that there is absolutely no compliancy with these provisions. The community of Shackleton is exposed to so many health risks that Shackleton was found to be a ‘health time bomb’.

Right to sustainable development

The Vienna Declaration states that the right to development is a universal and inalienable right. The right to development is further described as an integral part of fundamental human rights. Article 8 (1) of the Declaration on the Right to Development provides that state parties should undertake at national level all necessary measures for the realization of the right to development and shall ensure, among other things, equality of opportunity for all in their access to basic resources. This study has shown that there is no equality of opportunity in as far as Chinhoyi town is concerned. Alaska and Shackleton women are being discriminated against. They cannot fully participate in developmental projects, for example, income-generating activities or income serving activities, like the other Chinhoyi women because they spend valuable time in search of water.

Attainment of the Millennium Development Goals by these two communities is dependent on availability of potable water and basic sanitation. Under goal number three, that is to promote gender equality and empowerment of women, there are two targets that depend on provision of adequate sanitation and better access to an improved water source. Firstly, the target on balancing the ratio of girls and boys in education is largely dependent on availability of potable water. Secondly, the target of balancing the ratio of men and women in wage employment and the non-agricultural sector also largely depends on availability of potable water and basic sanitation. The research showed that girls are more involved in sourcing water than boys, hence girls’ education is more likely to be affected as they spend more time in search of water. Balancing the ratio of women and men in wage employment is dependent on provision of safe water sources as this would free women from spending hours on end sourcing water and carrying it home.

Under goal number four, that is to reduce child mortality, there are also two targets that depend on the provision of adequate water and basic sanitation. The first target of reducing the under five mortality rate by two thirds between 1990–2015 and, secondly, reducing by the same margin within the same period the infant mortality rate will remain unmet in Shackleton unless water-related diseases are reduced through improved access to potable water and basic sanitation.

On goal six, that is to combat HIV/AIDS, malaria and other diseases, the research showed that Shackleton is more at risk as far as malaria is concerned due to non-availability of potable water and basic sanitation. This has prompted residents to dig numerous shallow and unprotected wells within the community. These stagnant waters provide excellent breeding places for mosquitoes that transmit malaria. Achieving the target related to malaria and other diseases will thus critically depend on improvement of water supplies and basic sanitation.

It is clear that achieving several millennium development goals is critically dependent on improving potable water and basic sanitation provision for the poor. The current situation at Alaska and Shackleton gives little cause for optimism.

Whose responsibility is it to provide potable water and basic sanitation to the communities of Alaska and Shackleton?

Governments hold the primary responsibility for ensuring the realization of human rights (WHO, 2003). While the international declarations and formal conference statements cited support the right to water, they do not require states to meet an individual's water requirements (Gleick, 1999). Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights, obligates states to provide the institutional, economic and social environment necessary to help individuals to progressively realize their rights (Gleick, 1999). Local governments are often on the frontline in providing water and sanitation services. They have a major stake in the success of efforts to provide sustainable and equitable management of water to the poor. The role of local authorities may be summarized as that of a filter between the urban population and the environment (International Conference on Freshwater, Bonn, 2001). Local governments are usually given the responsibility by national government to ensure access to water provision services as well as to determine who receives the service and under what conditions.

The Zimbabwean Water Act, chapter 20:24 section 32, stipulates that everyone is entitled to water for primary purposes. The act defines primary purposes as any reasonable use of water for basic domestic human needs in or about the areas of residential premises. The Public Health Act, chapter 15:09, section 64 (1), further puts the responsibility on the local authority to provide sufficient water for drinking and domestic purposes to residents within its locality. Section 66 of the same Act further requires the local authority to maintain existing water supplies in good order for effective distribution of a supply of pure water for drinking and domestic purposes.

The above legislation thus places responsibility on local authorities to provide water to residents within their locality. The Urban Councils Act, chapter 29:15 section 183 (1) goes further to provide that a council may provide and maintain a supply of water within or outside the council area and for this purpose the council may, in accordance with the Water Act chapter 20:24, take such measures and construct water works whether inside or outside the council area, as it considers necessary for the provision and maintenance of water supplies. In the light of the above provision, the municipality of Chinhoyi cannot justify not providing water to Alaska and Shackleton simply on the basis that the two communities did not appear within the municipality's official administrative boundaries. If the municipality so wished, it could have evoked the above provisions and extended its water provision services to Alaska and Shackleton settlements. This would not have been *ultra vires* the provisions of the Urban Councils Act as the Act gives the urban councils the discretion to provide water services even to settlements outside the council area.

¹⁴ Communication number 67/1980 un doc CCPR/C/OP/1@20 1984 cited in Scanlon *et al.*, 2003.

Strengthening the case for Alaska and Shackleton women

The Alaska and Shackleton women could bring a case compelling the state to stop violating their right to potable water and basic sanitation and implement immediate measures that will see the two communities accessing potable water and basic sanitation. Below is case law that supports such an action. Although these cases are not binding to our jurisdiction, they can be persuasive in future cases of similar circumstances.

In *Gabcikovo–Nagymaros* (case cited in Scanlon *et al.*, 2003), a Slovakia- Hungary case concerning the Gabcikovo–Nagymaros project, Judge Weeramty wrote in his judgment of 25 September 1997 that:

‘...the protection of environment ...is a vital part of contemporary human rights doctrine for it is a *sine qua non* for numerous human rights such as the right to health and the right to life itself...damage to the environment can impasse and undermine all human rights spoken of in the Universal Declaration of Human Rights and other human rights instruments.’

The same applies to Shackleton since unavailability of potable water and basic sanitation was seen to be a direct threat to the environment. Enterprising residents have taken advantage of the situation and dug unprotected wells thereby selling contaminated water to the community. Because the communal toilets are unusable as a result of non-availability of water, residents have resorted to using the bush or constructing shallow pit latrines within their homesteads.

In *the E.H.P v Canada*,¹⁴ referred to as the Port Hope case, the complainant alleged that the dumping of nuclear waste in the Port Hope area in Ontario was causing large-scale pollution of residences, thus threatening peoples’ lives. Though the United Nations Human Rights Committee ultimately declared the complaint inadmissible due to failure to exhaust local remedies, it observed that the case raised serious issues under article 6 (1) of the international Covenant on Civil and Political Rights with regard to the states obligation to protect human life.

In the communication 25/89, 47/90, 56/91 and 100/93 (cited in Scanlon *et al.*, 2003) the Africa Commission noted that the failure of the government to provide basic services, such as safe drinking water and electricity and adequate supplies of medicines, as alleged in the communication 100/93 constitutes a violation of article 16 of the African charter. The charter states that individuals shall have the right to enjoy the best attainable state of physical and mental health and that state parties should take the necessary measures to protect the health of their people.

Protecting the health of the people of Alaska and Shackleton is exactly what the state has failed to do through non-compliance with the discussed human rights instruments.

The state through the local authority has thus failed to respect the community’s right to potable water and basic sanitation and all the other rights that necessarily follow. The obligation to respect requires the state and all its agents and organs to refrain from doing anything that violates the integrity of the individual or infringes on his or her freedom (Goonesekere, 2000). This study has shown that Alaska and Shackleton’s rights to potable water and basic sanitation are not being respected as the state has not taken the necessary steps to ensure that its agencies refrain from interfering directly or indirectly with the individual’s right to potable water and basic sanitation.

Furthermore, the state through the local authority has failed to protect the community’s right to water by preventing political interference in issues of governance. The obligation to protect requires the states and its agents to take measures necessary to prevent other individuals or group from violating the integrity, freedom of action of other human rights of the individual, including prevention of infringements of his or her access to material resources (Goonesekere, 2000).

Lastly, the state should fulfil the communities’ right to potable water and basic sanitation by adopting the

necessary measures directed towards the full realization of the right through facilitation, promotion and subsequent provision of potable water and basic sanitation. The obligation to fulfil thus requires the state to take measures necessary to ensure that each person within its jurisdiction has opportunities that will eventually lead to his or her enjoyment of human rights.

CHAPTER 6

Interventions

‘The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough to those who have little’ (Franklin D Roosevelt cited in Gleick, 1999).

The alleviation of the plight of the women of Alaska and Shackleton has both short and long term dimensions.

Short-term interventions

The situation at Shackleton is so desperate that there is need for immediate interventions; there is need for government and its departments together with civil society to pool resources and take immediate measures that will reduce the dangers of water contamination. For a start, provision of chlorine tablets to add to the available water would reduce contamination to some extent. This would be enhanced by promoting hygiene awareness as most contamination was seen to be as a result of unhygienic activities, for example defecating in the open.

The research showed that an increase in quantity of water encourages hygienic practices, thus there is need to construct more boreholes and temporary latrines as a stopgap measure. Construction of the widely used Blair toilets in Zimbabwe could be an alternative while the municipality is putting its house in order.

It should be noted that these are not sustainable solutions to the problem. There is need for long-term interventions that are more sustainable.

Long-term interventions

Legal redress

Being a lawyer I agree with those that see law as the starting point as it provides the necessary foundation for the protection of the rights of individuals. It is also a reference of last resort by providing a basis for enforcement and redress in the case of abuse (WaterAid, 2003).

Although the Constitution of Zimbabwe does not provide for an explicit human right to water, it provides for the right to life in section 12. In other countries where there is lack of explicit reference to a right to water in the national legislation, cases have been brought under environmental or public health legislation and the courts have interpreted the right to water under other constitutional rights such as the right to life and a healthy environment. For example, in India where the right to water is not enshrined as a fundamental right in the national constitution, the courts at both state and federal level have interpreted article 21 of the constitution on the right to life as encompassing the right to safe and sufficient water and sanitation (WaterAid, 2003)

In 1990, the Kerala High Court in *Attakoya – Thangal v Union of India* (cited by WaterAid, 2003) recognized the fundamental importance of the right to water. In this case, the petitioners claimed that a scheme for pumping up ground water for supplying potable water to the Laccadive (now known as the Lakshadweep Islands) in the Arabia Sea would upset the freshwater equilibrium leading to salinity in the available water resources and causing more long-term harm than short-term benefits. The Kerala High Court in its judgment recognized the right of people to clean water as a right to life enshrined in article 21. The same interpretation can be given to section 12 of the constitution of Zimbabwe on the right to life, meaning Alaska and Shackleton women can bring a constitutional case citing violation of their right to life since water forms the essence of life.

Individuals, communities and progressive judiciaries worldwide have used numerous methods, including public interest litigation, to obtain legal redress on issues affecting the right to water. A good example is the case of Paynemil community in Argentina (cited by WaterAid, 2003), where an injunction was filed against the government in order to prevent activities impacting on the right to water of the community. The injunction also sought to make the government accountable for its failure to meet its obligations with regard to this right.

In this case, the water supply of an indigenous community, the Paynemil Mapache community in Neuquen, Argentina, had been polluted with lead and mercury by an oil company. The public defender of minors on Neuquen (children's public defender) filed an injunction against the Neuquen government on the grounds that the provincial state was obliged to provide necessary fresh water for community survival since access to water is a basic human right. She argued that since the right to health can only be guaranteed through access to water, access to water is a fundamental human right and the government was neglecting its obligation to safeguard the health of the population (WaterAid, 2003).

The Zimbabwean Water Act, chapter 20:24 section 32, stipulates that everyone is entitled to water for primary purposes. The Act defines primary purposes as any reasonable use of water for basic domestic human needs in or about the areas of residential premises. The Public Health Act, chapter 15:09, section 64 (1), further puts the responsibility on the local authority to provide sufficient water for drinking and domestic purposes to residents within its locality. Section 66 of the same Act further requires the local authority to maintain existing water supplies in good order for effective distribution of a supply of pure water for drinking and domestic purposes.

The above legislation thus places responsibility on local authorities to provide water to residents within their locality. The Urban Councils Act, chapter 29.15 in section 183 (1), goes further to provide that a council may provide and maintain a supply of water within or outside the council area and for this purpose the council may, in accordance with the Water Act chapter 20.24, take such measures and construct water works whether inside or outside the council area as it considers necessary for the provision and maintenance of water supplies. In the light of the above provision, the municipality of Chinhoyi cannot justify not providing water to Alaska and Shackleton simply on the basis that the two communities did not appear within the municipality's official administrative boundaries. If the municipality so wished, it could have evoked the above provisions and extended its water provision services to Alaska and Shackleton settlements as doing so would not have been *ultra vires* the provisions of the Urban Councils Act as the Act gives urban councils a discretion to provide water services even to settlements outside the council area.

An application seeking a court interdict on behalf of Alaska and Shackleton women can thus be filed against the Ministry of Local Government, Public Works and Urban Development as the first respondent and the municipality of Chinhoyi as the second respondent. The application could seek an order to make the respondents comply with the provisions of the Public Health Act.

Domestication of human rights instruments

Zimbabwe should move towards domestication of the human rights instruments to which the country is signatory. If Zimbabwe fulfils its obligations by incorporating human rights treaties into national legislation and policies, the right to water becomes enforceable as an explicit right. The South African constitution is such an example. The Bill of Rights, adopted by the South African constitution in 1994 offers a clear example of state practice relevant to an explicit human right to water. Section 27 (1) (b) of the constitution provides that everyone has a right to access sufficient food and water. South Africa also has policies in place to support the right to water, for example, in 1994, the reconstruction and development programme, in line with the constitution, declared that access to water was a basic right and it set a minimum standard in the short term of 25–30 litres per person per day within 200 metres of the residence. In the mid-term, a life line of 50 to 60 litres per person per day was set (Water Aid, 2004)

¹⁵ *Mansions v Southern Metropolitan Local Council Witwatersrand local division case # 01/12312; case cited by Water Aid 2004.*

This life line approach informed subsequent legislation such as the Water Services Act of 1997 (Water Aid 2004).

Thus in South Africa where the right to water is enshrined in the national constitution, courts have supported and enforced an explicit right to water. The *Bon Vista Mansion case*¹⁵ in September 2001, demonstrated how the right to water can be used as a legal tool to make a difference to the lives of those living in poverty. In passing a decision in favour of the applicants, the court used section 27 (1) (a) of the constitution as a basis of its decision; this provides that everyone has a right to access to water. The court also referred to the International Covenant on Economic, Social and Cultural Rights.

Administrative reform

As noted in the previous chapters, lack of access to potable water and basic sanitation by the women of Alaska and Shackleton is largely due to bureaucratic inefficiency in local government and water provision services. There is thus need for administrative reform. Those responsible for the provision of water should realize that access to potable water and basic sanitation is a human right and as such they should adopt a human rights centred approach in water provision.

Capacity building

The community of Shackleton was found to be a high dependency community. For a sustainable supply of water services, there is need to work on individual community members so that they are able to perform functions, solve problems and set goals to achieve in order to reduce poverty and promote self reliance. This will in the long term improve the situation of the women of Shackleton.

Empowerment

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

Building partnerships

Once the community is empowered and can stand on its own, there will then be need to build partnerships between the community and the service provider, in this case, the municipality. The main objectives of the partnership should be aimed at building relations between the municipality and the community as well as encouraging households to understand why they have to pay for water. Such partnerships will instill a sense of ownership within the community, leading to sustainable development.

Political will

The root cause of the Alaska and Shackleton water problems is lack of the necessary political will. It is my submission that there is little that can be achieved technically. What is needed first and for all is political effectiveness, political will and effective governance.

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Appendix 1

MUNICIPALITY OF CHINHOYI			
YEAR 2005 BUDGET			
TARIFF SCHEDULE			
Notice is hereby given that in terms of Sections 219 and 274 of the Urban Councils Act (Chapter 29:15) the Municipality of Chinhoyi has resolved to fix charges and tariffs as follows for the financial year commencing 1 January 2005			
HIGH DENSITY AREAS			
	CURRENT	PROPOSED 01/01/05	
	\$	\$	
1 Supplementary Charges			
1 Residential Properties	4 216.24	26,000	
Staff Houses (Chikonohono)			
Chikonohono, Gurohiti			
Cold Stream, White City, Hunyani	3 764.56	23,000	
Mpata, Chitambo, Gadzema	3 387.84	21,000	
2 Commercial Properties			
(cents in the dollar) p.m.	34.35	100	
2 Bus entry fees	10 000.00	50 000	
3 Wholesale market fees			
3.1 Per 1 ton truck	2000.00	25,000	
3.2 Over 2 ton truck	4000.00	50,000	
3.3 Market stall rental - Type A	500.00	3,000	
- Type B	300.00	2,000	
3.4 Clothing Vendors	1000.00	10,000	
3.5 Bulk Wholesale Vendors	1000.00	10,000	
3.6 Bus Terminus Vendors	100.00	1,000	
3.7 Fine for vending in unauthorised areas			
Vegetables	2000.00	20,000	
Others	5000.00	50,000	
4 Vegetable market rentals	500.00	5,000	
5 Sewer charges			
5.1 Sewer charges	4778.90	39,000	
5.2 Connection fees	Cost + 25%	Cost + 25%	
6 Water charges			
6.1 Minimum charge	2343.60	19,000	
6.2 Variable charge from 9th cubic metre	216.00	1,800	
6.3 Reconnection fees	3726.00	30,000	
6.4 Water connection fees	Cost + 25%	Cost + 25%	
6.5 Water security deposit (paid by new stand owners)	14536.80	120,000	
7 Refuse removal			
7.1 Penalty for illegal refuse dumping	20250.00	150,000	
7.2 Rubbish removal by request	20250.00	102,000	
8 Library			
8.1 Membership fees			
Adults	5000.00	20,000	
Sec. School Pupils	400.00	10,000	
Primary school pupils	200.00	5,000	
8.2 Monthly subscriptions			
Adults	200.00	10,000	
Secondary school pupils	30.00	5,000	
Primary school pupils	16.00	2,000	
9 Ground Hire			
Football- Lower division	15 000.00	Higher of 100,000 or 20% of gross	
- PSL	20% of gross	Higher of 250,000 or 20% of gross	
Others	30 000.00	Higher of 250,000 or 20% of gross	
Music	20% of gross	Higher of 250,000 or 20% of gross	

Appendix 2