

Local Governance as a Creature of the Statute: Decentralization and Local Governance in Zimbabwe

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Abstract- This article examines decentralisation in Zimbabwe. Decentralisation is the transfer of power from a central authority to the lower levels of government. This transfer of power can be done by the government on behalf of the state as a whole or by offices within larger organizations. The article traces the historical evolution of decentralization in Zimbabwe and finds that the terrain is marked by three phases that is, the colonial, post-colonial and constitutional periods. In the colonial phase (1890-1979), decentralization was characterized by a two-tier local governance system divided along racial lines, with the white minority benefiting more than the black majority. The post-colonial decentralization (1980 to 2008) sought to undo the racial imbalances of the colonial period by redistributing power and resources to the previously marginalized black majority. However, this system was fraught with weaknesses because local governance remained a mere creature of the statute without full power and adequate resources to effect development. Hence, the constitutional period (2009 to date) seeks to fully extend power to local governments by creating a platform for devolution. Devolution is argued as the most effective form of transferring powers and resources in Zimbabwe to ensure that the country achieves middle income status by the year 2030.

Index Terms- decentralisation, devolution, local governance, local government, creature of the statute

INTRODUCTION

Decentralisation in Zimbabwe is marked by three distinct phases which have shaped the transfer of power from the central authorities to the lower levels of government. During the colonial era, decentralisation was characterised by a two-tier local governance system which was divided along racial lines, with the white minority benefiting more than the black majority. Colonial local government structures were not autonomous. At independence, the new government pursued decentralization to undo the racial imbalances of the colonial era by transferring power and resources to the previously marginalized black majority. The post-colonial decentralisation was characterised by the creation of new ministries such as the Ministry of Local Government and Rural and Urban Development (MLGRUD).

Legislative changes were also made to democratize and strengthen local governments. However, because the independent government had inherited the colonial forms of local governance systems, local governance remained a creature of the statute with little or no power to make decisions, raise revenues and enact by laws. As a result, decentralized local governments performed poorly at the hands of the political elite who personalized power for their own benefit. The challenges which were facing decentralised local governments brought to the fore the issue of devolution during the constitutional reviews period between 2009 and to date. The argument for devolution was based on the premise that it would be a panacea to the personalisation of power that had dominated local governments in the last two decades.

Hence, in line with the provisions of the Constitution of Zimbabwe, President Mnangagwa called for Zimbabwe to embrace devolution as a strategy to spearhead rapid financial growth so that the country can achieve middle income status by the year 2030. Given the weaknesses of decentralisation prior to the Constitution of Zimbabwe, devolution is argued to be the most effective form of decentralisation in that authority is transferred to local institutions that are best equipped to address specific issues.

This article is organised into six sections. The first section defines the concept of decentralisation as the sharing or transfer of power from a central authority to the lower levels of government. In the second section, the paper highlights the three forms of decentralisation, that is, devolution, delegation and decentralisation. The paper progresses to relate the concept of decentralisation to local governance by emphasising the importance of decentralisation as a key component of local governance. The fourth section is devoted to a discussion of the colonial and post-colonial evolution of decentralization in Zimbabwe. However, the weaknesses of decentralization are also discussed in the fifth section. The paper argues that the weaknesses of decentralization can be attributed to the fact that local governance is a creature of the statute, devoid of any power or resources to effect meaningful development. Lastly, I conclude by exploring devolution as a way of strengthening decentralization in Zimbabwe.

I. CONCEPTUALIZING DECENTRALIZATION

Decentralisation is a concept that has been defined in various ways by several scholars in the local governance discourse. The differences in definitions can be attributed to the motives and intended outcomes of decentralisation. For instance, decentralisation is a way of improving development, mobilising resources, good governance and devolving financial responsibilities (Likwelile and Gunning, 2018). Others such as Tang and Huhe (2016) are of the view that decentralisation increases community participation and improves democratic processes. Yet in some countries, decentralisation has been used by the political elite to retain power by relinquishing others of it (Aalen and Muriaas, 2017). Although decentralization has different conceptions, what is common in these conceptions is that, it involves the transfer of power from a central authority to a local authority. Fridy and Myers (2019) define decentralization as the delegation of political power to local authorities to solve both individual and community problems through democratic processes. This delegation of power can be done by the government on behalf of the state as a whole or by offices within larger organizations (Cheeseman et al., 2016). Panday (2017) considers decentralization as the sharing of a portion of the state’s power by the ruling group with other autonomous groups within the jurisdiction of the state. Olowu (2009) corroborates these definitions by adding that decentralisation involves the transfer of power to local authorities to allow them to make decisions and govern whilst safeguarding against the abuse of funds and power.

II. FORMS OF DECENTRALIZATION

According to a model proffered by Naidoo (2002) entitled ‘the Dimensions of Decentralisation’, decentralisation can be defined in terms of its overlapping forms, levels and the type or degree of power to be transferred. The form of decentralisation includes the administration, market, fiscal and political dimensions, whilst, the levels of decentralisation include from national, sub-national to local levels. The nature of the power to be transferred refers to devolution, deconcentration and delegation.

Figure 1 Dimensions of Decentralisation

Form		Degree of Power	
Overlapping Activities	Market	Devolution Delegation Deconcentration	From highest to lowest levels
	Political		
	Fiscal		
	Administrative		

(Source: Adapted from Naidoo, 2002)

A. Devolution

As shown in figure 1, the levels of authority may occur from the highest level where devolution occurs. Devolution refers to the transfer of decision-making power from the higher levels of authority to the lower levels, such that the lower units or local authorities are able to make decisions independently from central

control (Panday, 2017). Zimbabwe’s CAMPFIRE philosophy is evidence of this concept, whereby authority was transferred to Rural District Councils (RDCs) by the department of National Parks and Wildlife Management through the Parks and Wildlife Act Chapter [20:14] for the protection of natural resources. When the highest level devolves its functions, they transfer authority for decision making to semi-autonomous units of local government. For example, devolution involves the transfer of responsibilities for services to local authorities that elect their own mayors and councils and raise their own revenues (World Bank, 2020).

B. Delegation

In the middle, there is delegation where decision making power is transferred to other public or private agencies in the context of fiscal decentralization, whilst responsibilities are transferred to public corporations and parastatal organizations although the government retains some measure of control of the decisions made (Mwihaki, 2018). Through delegation, central governments transfer decision making powers to semi-autonomous organizations which are not completely controlled by the central government, but accountable to it (World Bank, 2020). For example, in Zimbabwe, these organizations are guided by central government and statutory instruments; Zimbabwe National Water Authority, Grain Marketing Board, Zimbabwe Electricity Distribution Company and Air Zimbabwe. These firms are referred to as parastatals.

C. Deconcentration

At the lower level, deconcentration occurs where there is no independent authority from the center which happens in the context of administrative decentralization. Deconcentration refers to the transfer of decision-making power from the higher levels of the same government offices, usually involving smaller offices outside the national capital (Makara, 2018). That is to say, it is a power relationship within the same organization. It is considered the weakest form of decentralization and moves responsibilities from central government in the capital city to provinces or districts down to villages and wards. For example, in Zimbabwe, the Ministry of Lands, Agriculture and Rural Resettlement has its central office in the capital, Harare, it has transferred decision making power to its Agricultural and Rural Extension (AGRITEX) branch which has also shifted responsibilities to provincial and district officers and administrators across the country.

III. RELATING DECENTRALIZATION TO LOCAL GOVERNANCE

Local governance is a process which involves the participation of local communities in the management of affairs that concern them (Olowu and Wunsch, 2004). Municipalities and councils utilize local governance to provide public services within their jurisdictions. According to UNDP (2004) local governance is comprised of institutions, mechanisms and processes through which local communities can articulate their needs, interests and also exercise their rights. Good local governance is characterized

by citizen participation, accountable and transparent institutions, pro poor policies and partnerships between key actors at the local level (Olsen, 2007). Thus, local governance pertains more to the process of creating an enabling environment which is conducive for multi stakeholder partnerships (which include private, public and civil society) with the aim of establishing effective local development processes (Olsen, 2007). The key component of local governance is decentralization, which is the process of transferring or distributing power, functions, people or things away from the central authority (Mapuva and Miti, 2019).

The concepts local governance and local government are often used interchangeably; however, there is a difference between the two. Whilst local governance is a process, local government is a segment of the government that manages local affairs through elected officials and technocrats appointed based on their expertise (Mapuva, 2014). Chatiza (2010) also defines local government as an extension of central government which acts to organize development at sub-national level.

Hence, local government is the nearest link between government and its citizens and acts as a conduit through which policies are implemented by the government (Mapuva, 2014). Olowu (2009) adds further by defining local government as the creation of participatory and democratically elected institutions which reflect the needs of people at grassroots level, whilst transforming these needs into actual programs and provision of essential services. Thus, decentralization enables local governments to govern, but with guidance and close monitoring from the central government.

IV. EVOLUTION OF LOCAL GOVERNANCE IN ZIMBABWE

THE COLONIAL PERIOD

Zimbabwe fell under colonial rule from 1890 to 1980. Colonization began with the occupation of land by the British South African Company (BSAC) with permission from the British government. To lubricate its conquests, the BSAC began by dismantling the pre-colonial traditional governance structures of the Ndebele and Shona kingdoms. These were replaced with new colonial institutions (Keulder, 1998). The establishment of the Salisbury Sanitary Board by the BSAC in the 1890s marked the beginning of local governance systems in Zimbabwe (Mapuva and Miti, 2019). The main purpose of local governance was to separate the development of the races, with the white minorities benefiting more than the blacks (Muchadenyika and Williams, 2016). Various councils were established during this time to provide efficient services to the white community.

The colonial local government was characterized by the exclusion of black people from local governance (Kurebwa, 2015). In addition, it was comprised of a two-tier local governance system which was divided along racial lines, with the white minority benefiting more than the black majority (Muchadenyika and Williams, 2016). Colonial local government structures were not autonomous.

They lacked local legitimacy and did not pursue the interests of the black majority. Urban councils were established in the urban areas where the Europeans lived and these had the authority to raise their own revenues, to elect council officials and enact bylaws. This privilege was not extended to African based councils such as the Native councils which heavily depended on

the central white minority led government for financing and authority. The colonial local government system in Zimbabwe shares the same colonial experiences as other Anglophone countries in Africa such as South Africa, Zambia, Malawi and Uganda (Kurebwa, 2015).

In 1898, the BSAC formed the Natives department to further weaken the pre-colonial traditional leadership and its authority. Power was transferred to appointed Native commissioners who had the authority to appoint chiefs and oversaw all native affairs (Chigwata, 2015). The commissioners assumed most of the duties that had been performed by the chiefs in pre-colonial times such as allocation of land, resolution of disputes and conflicts and issuing of cattle permits (Ncube, 2011). Chiefs were now treated as government officials and reported to the central colonial government for guidance in ruling their communities. Headmen were appointed by a Native commissioner and it was a punishable offence for a chief to appoint a headman. For example, Chief Makoni of Rusape in Manicaland province was reprimanded for appointing a headman without the authority of the Native commission in 1917 (Makahamadze et al., 2009). BSAC rule ended in 1923 when Zimbabwe (Southern Rhodesia) was declared a British colony with its own government.

Similar to its BSAC predecessor, the Southern Rhodesian government continued with its policy to weaken the traditional governance structures and tightening its grip on power. Thus, it swiftly implemented African advisory boards between the 1940s and 1970s. These boards were meant to serve the African workers who were living in townships, but reported to a central authority. The African boards only served as advisory units to the urban councils and were meant to control the black people living in townships (Mapuva, 2012).

In contrast, the urban councils were created to serve the needs of the white settlers who were located in the fertile lands which were conducive for commercial agriculture (Chatiza and Chakaipa, 2010). Other urban councils were also established for white settlers residing in mining regions. Black people were only allowed to live in designated townships if they were employed in the factories, industries or as housemaids for the elite white people living in the urban areas.

The white led government began applying decentralization during this time, with devolution in the urban councils. This allowed the urban councils to enforce bylaws, elect council officials and raise their own revenues (Chatiza and Chakaipa, 2010). To legitimize the urban councils, the white minority government passed the Urban Councils Act in 1973. In 1923, Native councils were formed in African areas. This marked the emergence of a rural local government. The Native Councils Act passed in 1937 created Native councils which were composed of chiefs, headmen and a few black people (Muchadenyika and Williams, 2016). Native councils only came into effect after the establishment of Native boards in 1931 which were responsible for managing communal lands (Mutizwa-Mangiza, 1991). The Native boards were led by Native commissioners who were appointed by central government. These boards were later transformed into Native Councils which did not have any powers to elect officials, raise revenue or enact by laws. As a result, they depended on the central government for authority and financing. The Native boards and the Native councils could be classified as a form of deconcentrated units of the center based on the fact that

they were only local or administrative rather than local government.

Through the African Councils Act of 1957, African councils were given powers to enact bylaws and exercise powers that were comparable to the urban councils. As a result of the Act, at least 220 African councils were created with the purposes of providing social services such as education, social welfare and health (Passmore, 1972). The Act also increased citizen participation by creating an environment conducive for democratic processes, social responsibility and progressive leadership. Rural councils were also enacted following the 1966 Rural Councils Act. These began as Road committees whose function was to construct and maintain roads outside the urban council areas (Mutizwa-Mangiza, 1991). Large scale commercial farms and small urban areas were also administered by the Road committees which were transformed into rural councils after the 1966 Rural Councils Act. The rural councils had the authority to collect levies, taxes and rates within their areas of jurisdiction (Kurebwa, 2015). These were under white minority rule. Rural councils also had the same functions as urban councils with an equal measure of autonomy.

POST COLONIAL PERIOD: DECENTRALISATION IN INDEPENDENT ZIMBABWE

Following independence in 1980, the Zimbabwean government began the process of decentralization, in a move to redress colonial imbalances.

The government introduced a wide range of reforms to improve the participation of the black majority and at the same time transferring powers from the central government to rural councils. These reforms included the amendment of colonial instruments such as the African Councils Act, Urban Councils Act and Rural Councils Act and replacing these with the Rural District Councils Act of 1998. The reforms also included the removal of racial discrimination in democratic processes and the redistribution of resources such as land (Kurebwa, 2015).

The rise of decentralization in post-colonial Zimbabwe was a response to the recognition of the important role of the capacity of the local people and a rejection of elitism (Matyszak, 2011).

The post-colonial decentralization was characterized by the creation of new ministries such as the Ministry of Local Government and Rural and Urban Development (MLGRUD). Legislative changes were also made to democratize and strengthen local governments (Tanyanyiwa, 2015). In addition, decentralization involved the strengthening of public participation in development and democratic processes, democratization of the entire government system and redressing of the past colonial imbalances in economic development (Muchadenyika, 2014).

At independence, the Zimbabwean government created the Ministry of Local Government and all local governments (urban, local and native councils) and legislations were brought under one ministry. The 220 African councils established prior to independence were amalgamated under the District Councils Act of 1980 to create district councils. The unification of these councils was seen as a measure of dismantling the colonial government system by promoting nation building and an

equitable distribution of resources and social services (Chakaipa, 2010).

For the first time, the councils were democratically elected and this was a landmark development in the history of local governance in Zimbabwe (Matyszak, 2011). The District Administrator (DA) led as the chief executive of the council and was responsible for planning, coordination and development. However, the powers of the traditional leaders in land allocation were transferred to the district councils (Muchadenyika, 2014). In addition to a Committee of Ministers on Decentralization, the Rural District Council Capacity-Building Program (RDCCBP) on decentralization was established in 1988.

The Prime Minister's directive in 1984 led to the creation of Village and Ward structures within urban and rural councils. The Village Development Committees (VIDCOs) which acted as a link between Ward Development Committees (WADCOs) and the people performed several roles. These included identifying and articulating village needs, organizing village workforce to participate in developmental programs and coordinating with government extension workers at village level.

The Ward Development Committees acted as a central planning and coordinating authority linking six villages (Tanyanyiwa, 2015). However, the VIDCOs and WADCOs faced several challenges emanating from their limited decision-making capacity and lack of financial resources to carry out their work.

V. LOCAL GOVERNANCE AS A CREATURE OF THE STATUTE

After independence, several reforms were made by the new government but none of this transferred autonomy and full decision-making power to local governments. Instead, local governments were maintained as creatures of the statute subject to control from the central government. Decentralized local governments were not guided by any constitutional mandate hence, their functions and establishments were provided for through secondary legislations governed by the Minister appointed to run the local government (Zinyama and Chimanikire, 2019).

As a result, the Ministers had unlimited executive powers and could create or dismantle local authorities as they deemed fit. The Ministers could also suspend and dismiss councilors and mayors at their discretion. For example, citing Section 4 of the Urban Councils Act of 2002, the then Minister of Local Government, Minister Chombo dissolved several opposition party-led councils between 2002 and 2007 on allegations of abuse of office, corruption and mismanagement. These were instantly replaced by administrators who were supporters of the ruling ZANU-PF party (Chigwata et al., 2019). Mayors and councilors were now appointed along partisan lines.

Similarly, through section 4A of the Urban Councils' Act of 2008, the Minister could also appoint special interest councilors for every urban area without any prior consultations with the residents and this was "...a waste of resources and ratepayers' hard-earned money" (Mapuva, 2014:3). The Minister's powers were applied arbitrarily, threatening the very essence of representative and participatory democracy which the post-colonial government strove to achieve at independence. The interference of the Minister in local government affairs in turn created conflicts and disgruntlement between the central

Ministry, the concerned local authorities and residents (Zinyama and Chimanikire, 2019).

Local governance as a creature of the statute created several fault lines in decentralization in Zimbabwe. These included;

- Weak local councils resulting from limited decision making and lack of resources.
- Limited authority to manage key services such as health and water provision.
- Bureaucracy
- Local governments were designed using a top down approach, thus ignoring the local contexts and institutional capacity thereby bypassing the needs of the local communities.
- Jurisdiction of local governments was often large such that there was a disconnection between elected councils and the people, reducing accountability and transparency in initiated activities.
- The appointment of council officials along partisan lines contributed to lack of political will.

Prior to the passing of the Constitution of Zimbabwe (Number 20) in 2013, local government was indeed a creature of the statute, largely dependent of central government for authority and financial resources. With the promulgation of the constitution, particularly section 264 which speaks to a devolved system of local governance, Ministers could no longer dissolve local governments arbitrarily and required constitutional provisions rather than legislative amendments to do so. The constitution also protected mayors and councilors from wanton dismissal in two ways. Firstly, the constitution allowed the dismissal of mayors and councilors only through an independent tribunal. Secondly, it clearly stipulated that mayors and councilors could only be removed due to gross incompetence, mental and physically incapacity, corruption and abuse of office (Chigwata and De Visser, 2018).

In addition, section 264 transferred powers of local governance to the people and promoted the establishment of democratic, effective, transparent and accountable institutions.

VI. CONSTITUTIONAL PERIOD

STRENGTHENING DECENTRALIZATION THROUGH DEVOLUTION

In line with the provisions of the Constitution of Zimbabwe, President Mnangagwa has called for Zimbabwe to embrace devolution as a strategy to spearhead rapid financial growth so that the country can achieve middle income status by the year 2030.

Devolution refers to the transfer of legislative, administrative, executive and fiscal decision-making power to local governments that have a clear jurisdiction which they provide public services to (Muchadenyika, 2013). A major element of devolution is discretionary authority which limits central government to a supervisory role to ensure that local governments operate according to national policy guidelines (Muchadenyika, 2014).

Given the weaknesses of decentralisation prior to the Constitution of Zimbabwe, devolution is argued to be the most effective form of decentralisation in that authority is transferred to local institutions that are best equipped to address specific

issues (Tanyanyiwa, 2015). Compared to past local governance structures which were creatures of the statute, devolution provides a better platform to solve problems whilst taking into cognisance the local contexts and local knowledge. Thus, devolution engenders democratization, good governance and local participation.

The challenges which were facing decentralised local governments brought to the fore the issue of devolution during the constitutional review process between 2009 and 2013. The argument for devolution is based on the premise that it is a remedy to the personalisation of power that had dominated local governments in the last two decades (Chigwata, 2019). Devolution is a shift from the previous decentralised local government legislature such as section 4 of the Urban Councils Act of 2002 which vested most executive powers to the Minister of Local Government (Mapuva and Miti, 2019). Hence, local governments benefit from devolution of authority and responsibilities and cease to depend on a central authority for guidance in their decision making.

Although the 2013 Constitution maintains the central government as the main centre of power, it devolves some of the power to lower structures. On one hand, the previous Lancaster House Constitution of 1979 established horizontal levels of administration which were only meant to support the implementation of government policies.

On the other hand, the new Constitution vertically organized government *into tiers of government*; national, provincial and local. The tiers of government are each endowed with the power and authority to make policies and implement them. The Constitution also established two categories of local authority, that is, urban local authorities, for urban areas and rural local authorities, for rural areas. The local authorities constitute councils comprised of democratically elected councillors.

Therefore, the Constitution of Zimbabwe has made several provisions for the process of devolution. For example, the preamble of the constitution begins by providing a basis for devolution,

Whereas it is desirable to ensure: (a) the preservation of national unity in Zimbabwe and the prevention of all forms of disunity and secessionism; (b) the democratic participation in government by all citizens and communities of Zimbabwe; and (c) the equitable allocation of national resources and the participation of local communities in the determination of development priorities within their areas; there must be devolution of power and responsibilities to lower tiers of government in Zimbabwe (Constitution of Zimbabwe, 2013).

This provision confirms that devolution is the most effective form of transferring powers and resources in Zimbabwe to ensure that the country achieves middle income status by the year 2030. Section 264 of the constitution also provides for devolution where it states that,

[w]henever appropriate, governmental powers and responsibilities must be devolved to provincial and metropolitan councils and local authorities which are competent to carry out those responsibilities efficiently and effectively'

Through the constitution, the local government now enjoys the same recognition as other government entities and they gain more legal force beyond the Acts of Parliament. In addition, the

constitution clearly stipulates the objectives of devolution which are,

- To give powers of local governance to the people and enhance their participation in the exercise of the powers of the State and in making decision affecting them.
- To promote democratic, effective, transparent, accountable and coherent government in Zimbabwe as a whole.
- To preserve and foster the peace, national unity and indivisibility of Zimbabwe.
- And to recognize the right of communities to manage their own affairs and to further their own development.

Whilst the 2013 Constitution positions devolution as one of the potential solutions to the challenges of development, several critics (Mapuva, 2014; Chigwata, 2019 and Tanyanyiwa, 2015) have underscored the need for the design of policy and legislative instruments to support the objectives of the constitution. Without proper policies and laws to back the devolution process, devolution will be a waste of time and resources. At the same time, Mapuva and Miti (2019) also note that there is lack of political will in the constitution. Section 264 does not stipulate a time frame for the implementation of devolution.

VII. CONCLUSION

Prior to independence, decentralization in Zimbabwe was comprised of a two-tier system which was divided according to racial lines. The main purpose of decentralization was to provide efficient services to the European communities, whilst keeping the black majority in check through suppressive legislations. At the dawn of independence, the new government sought to redress these imbalances by introducing a wide range of reforms to improve the participation of the black majority and at the same time transferring powers from the central government to rural councils. Disappointingly, the local governance of this time remained a creature of the statute as it did not have any power or resources to effect development. Instead, it heavily depended on a central authority for decision making and power. This paper explores devolution as a way of strengthening decentralization. It argues that devolution is the most effective way of transferring power and authority to the lower tiers of government.

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