



Provincial And Metropolitan Councils In Zimbabwe: Initial Imaginations on their Role, Structures and Funding

A DISCUSSION PAPER

Prepared for the Centre for Community development in
Zimbabwe and the Harare Residents Trust

**Prepared by the Development Governance Institute
(DEGI)**

Contact:

Kudzai **CHATIZA**

2682 Mainway Meadows, Harare-Zimbabwe

+263 772 908 160/712 210 148, (0)24-2003664

www.degi.co.zw; kudzai@degi.co.zw

Harare, October 2018



TABLE OF CONTENTS

1.0 Introduction.....	1
2.0 Institutions and Motivations for Devolution.....	4
2.1 Delineating Devolution Institutions in Zimbabwe.....	4
2.2 Justifying Devolved Governance in Zimbabwe.....	5
3.0 Structuring Provincial and Metropolitan Councils	9
3.1 Merits and Possible gaps in Emerging Processes	9
3.2 How big are the Councils Anyway?	10
Table 1: Number of Provincial and Metropolitan Councillors as per Constitution (S268:1a to h).....	12
3.3 Proposed Structure for the Councils	13
Figure 1: Structure of Provincial and Metropolitan Councils.....	13
4.0 Staffing and Funding the Councils	14
5.0 Conclusion	15
Annex 1: Thirteen (13) Principles of Decentralisation.....	17

1.0 INTRODUCTION

Zimbabwe has had a relatively long history of designing and transforming governance structures using models approximating devolution (Wekwete 1990¹; Chatiza 2008², 2010³). By the time of its independence in 1980, the country had semi-autonomous local governments in European Areas (urban and rural) alongside African Councils (rural). The latter had a heavily constricted self-governance remit compared to the former. Independent Zimbabwe's first two decades witnessed considerable governance transformations that empowered and amalgamated rural local governance institutions excepting an early dislodging of traditional leaders (Chatiza 2010). The transformations were framed as nation building and removed governance and developmental dualities that were seen in marginalization and race-based opportunity distribution.

The country adopted the colonial government's institutional infrastructure resulting in a decentralization variant utilized at independence being mainly de-concentration⁴. As such, local empowerment occurred alongside and was eventually constrained by distinct centralized structures and processes. Re-centralization got further impetus from the late 1990s with growing opposition politics (Muchadenyika and Williams 2018⁵), dwindling national resources and a general degeneration of the ruling ZANU PF party (Bond and Manyanya 2002⁶; Sachikonye 2012⁷; Moyo 1991⁸; Msipa 2015⁹). Academic, policy and development literature on Zimbabwe has explored the reasons for, the form and implications of power centralization with Mufuka (2016¹⁰) suggesting the 'pathology of tyranny' while Sachikonye (2012) weighs in with 'state authoritarianism'. The analyses have shown that misgovernance arose from conflating state and party, declining state capacity, rising repression and violence during and after elections from before 2000 and sucking of state power into the institution of the presidency seen in the size and centrality of the Office of the President and Cabinet.

¹ Wekwete K H (1990) Constraints to Planning for socialism in Zimbabwe, in de Valk P and Wekwete K H (Eds) Decentralisation for participatory Planning, Gower

² Chatiza K (2008) Opportunities and Challenges in Institutionalising Participatory Development: The case of rural Zimbabwe, PhD Thesis, University of Swansea;

³ Chatiza K (2010) Can Local Government Steer socio-economic transformation in Zimbabwe? Analyzing historical trends and gazing into the future, in de Visser J, Steytler N and Machingauta N (Eds) Local Government Reform in Zimbabwe: A Policy Dialogue, Community Law Centre, University of Western Cape

⁴ A structure where governmental institutions have a centrally-controlled presence from national to local levels

⁵ Muchadenyika D and Williams J J (2018) Politics, Centralisation and Service delivery in Urban Zimbabwe, Journal of Southern African Studies, DOI: 10.1080/03057070.2018.1500748

⁶ Bond P and Manyanya M (2002) Zimbabwe's Plunge: Exhausted Nationalism, Neoliberalism and the search for Social Justice, University of Natal Press

⁷ Sachikonye L (2012) Zimbabwe's lost Decade: Politics, Development and Society, Weaver Press

⁸ Moyo J (1991) The dialectics of national unity and democracy in Zimbabwe pp83-102 in Mandaza I and Sachikonye L (Eds) The One Party State and Democracy: The Zimbabwe Debate, SAPES Trust

⁹ Msipa C. G. (2015) In Pursuit of Freedom and Justice: A Memoir, Weaver

¹⁰ Mufuka K (2016) Life and Times of Robert Mugabe: History of Zimbabwe 1980-2016, Voice of truths, LLC

To be fair, ESAP-period¹¹ public sector reforms included clear efforts at building local government capacity to perform existing functions as well as responsibilities ‘released’ by a restructuring state. The 13 Principles of Decentralization of 1996 (Government of Zimbabwe 1996¹²) were perhaps the most comprehensive ideas around which state transformation was to proceed (see Annex 1). Some success was realised in terms of realigning centre-local relations and transferring powers from national to local government. Makumbe (1996¹³) defines local government as the most critical public development machinery through which participation is expected to take place’. The Principles espoused devolution, yet as indicated above distinct centralization pressures as well as centralizing structures and processes remained. Part of the implementation traction the 13 Principles of Decentralization received may have been a result of central government’s desire to dump-down what became known as ‘unfunded mandates’ i.e. powers/functions transferred without the necessary budget support.

Two points can be made regarding the checkered history of governance transformations in Zimbabwe with a bearing on devolution implementation. One is about the institutional responsibility for devolution implementation and the other is the source of the power transferred. On the first point a perception has been created that devolution implementation is a responsibility of the sector Ministry overseeing the local government sector. The actual meaning of such an understanding has included devolution being conceived as i) focused on empowering local authorities¹⁴ or Councils only, ii) implemented through/by the Ministry responsible for local government making it a ‘Super-Ministry’, iii) creating Provincial and Metropolitan structures acting as an extension of national government not developers of the regions for which they are created, and that iv) the empowered local tiers of government should effectively work alongside deconcentrated national state institutions.

On the second the powers and functions to be transferred are seen as belonging to national government. An extension to this perception is that it is for national government to decide what and when to devolve. This approach explains why national political elites and senior bureaucrats within the Government of Zimbabwe define it as their preserve to interpret S264 (2). This is followed by making the primary focus of devolution to be national government to the exclusion of the Legislature and Judiciary. This ignores the reality that these other arms of the state are affected by (and affect) the structure and functioning of the government/executive. Further, the jurisdiction of the Constitutional Court on matters of interpretation is assumed away. This paper invalidates both perceptions and invokes Sections 2, 88, of Zimbabwe’s 2013 constitution among others to mobilize popular input regarding both the advancement and protection of constitutionalism and local democracy in Zimbabwe.

The above perceptions have confused the debate on devolution in Zimbabwe in the process stymying the development of local democracy. They displace the famed notion that the citizen

¹¹ Economic Structural Adjustment Programme period from 1991 to 1995

¹² The Thirteen Principles adopted by Cabinet to guide the Decentralization process

¹³ Makumbe J (1996) Participatory Development: the case of Zimbabwe, University of Zimbabwe Publications

¹⁴ Currently 92 with 60 of these being rural

is the source and ultimate beneficiary of the exercise of state power as provided in Sections 3:2(f) and 264:2(a) of the Constitution (Government of Zimbabwe 2013a¹⁵). Critically, this explains why the devolution debate got appropriated by political elites and in some ways was used and seen more as a response to ZANU PF hegemony and the succession of ex-President Mugabe than a clear national aspiration towards good governance. Because of party-state conflation and perennial incumbency ZANU PF as the ruling party could not and perhaps remains unable to separate itself from legitimate and popular concerns about the fragility as well as administrative and political incompetence of the Zimbabwean state especially from the mid-1990s. Constructed and seen as about disciplining ZANU PF excesses, devolution became a polarizing lens through which to re-imagine the design of the Zimbabwean state for good governance and better delivery to citizens.

There is however some comfort in the knowledge that a devolution conversation that flows from outside political parties has a heritage older than the main Zimbabwean parties. This is because the motivation for devolution arises from an indefatigable and ground-up desire for good governance (Chatiza 2010; 2012¹⁶; Chatiza et al 2013¹⁷). Wars were waged before 1890 and during colonialism till 1980 to secure good governance. Further, the constitution-making process facilitated under Zimbabwe's Government of National Unity (2009-2013) codified relevant and enduring national aspirations including devolution and decentralization of governmental power and functions (S3:21) based on three tiers of government (S5). The construction of the national objectives in Chapter 2 (S8 to S34) as guiding the state and all institutions and agencies of government is an essential framing for devolution implementation.

This paper argues that devolution implementation does not only flow from Chapter 14 of Zimbabwe's constitution but from the rest of Zimbabwe's Constitution. This emphasis is critical in highlighting that it is not only institutions (rules, powers and functions) provided for in this Chapter that are subject to devolved exercise. It also acknowledges that a constitution does not necessarily create structures but records rights. In this construction the appropriateness of structures is seen in their i) relation to rights on which they are meant to deliver (functions), ii) the extent to which they further values of good governance, and iii) performance of previous (comparable or alternative) structures. All considered it is neither a written constitution nor the laws created under it that guarantee institutional security but the socio-political culture or context in which both the constitution and laws operate. In suggesting alternative structures for Provincial and Metropolitan Councils in this paper the intention was to apply available evidence to contribute to devolution implementation debate in Zimbabwe. This is a response to what seems to be an incomplete framing of devolution.

¹⁵ Constitution of Zimbabwe (Amendment No. 20) Act

¹⁶ Chatiza K (2012) Inclusive Service Delivery, p42-54 in Local Governments in Southern Africa: An Analytical Study of Decentralization, financing, Service delivery and Capacities, UNDP, UNCDF and MDP-ESA, SADC Local Government Desk

¹⁷ Chatiza K, Makanza V, Musekiwa N, Paradza G, Chakaipa S, Mukoto S, Kagoro J, Ndlovu K and Mushamba S (2013) The 2013 Local Government Capacity Assessment Report, Ministry of Local Government (Zimbabwe) and UNDP

2.0 INSTITUTIONS AND MOTIVATIONS FOR DEVOLUTION

This section of the paper provides insights into the institutions involved in the vertical transfer of power under devolution. It also provides broad justifications for the adoption of a devolved governance system in Zimbabwe. The delineation of the institutions funnels the debate towards Provincial and Metropolitan Councils, which are the focus of the paper. In discussing motivations for devolution the paper places a premium on good governance particularly in relation to active citizenship and service delivery. This is discussed by referring to Zimbabwe's post-independence history of governance travails that necessitated enactment of the 2013 Constitution.

2.1 DELINEATING DEVOLUTION INSTITUTIONS IN ZIMBABWE

The constitutional provisions on devolution focus on governmental powers and functions. A restrictive interpretation of these provisions suggests exclusion of the powers and functions assigned to the legislative and judicial arms of the state. However, an expansive reading of these provisions in light of Chapters 2 and 4 of the Constitution of Zimbabwe 2013 shows that to the extent that these are state institutions working alongside government to deliver on national objectives and fundamental human rights and freedoms they have powers and functions subject to devolved exercise.

In this paper, to the extent considered relevant, reference will be made to these other arms of the state. For instance, in the exercise of their powers local authorities may do well to have judicial powers exercised through Municipal Courts. This will require transfer of appropriate judicial powers and functions to this tier of the executive/government. Similarly, law-making is a power clearly subject to devolved exercise. Further, members of the legislature (Members of Parliament and Senators) are constitutionally defined as members of the Provincial and Metropolitan Councils. However, since the paper's principal focus is on the roles, potential structure and funding of Provincial and Metropolitan Councils such references will be kept to the minimum.

For purposes of this paper key devolution institutions are the three tiers of National Government¹⁸, Provincial¹⁹ and Metropolitan²⁰ Councils and Local Authorities. The transfer of governmental powers and functions is from national to the other two tiers. Such transfer is to be guided by a concern with ensuring that i) citizens are better served by institutions closest to them, ii) powers and functions transferred are to be performed by the best suited level of government (subsidiarity), iii) citizens are able to effectively or meaningfully participate in governance, iv) functions and powers are transferred together with the associated/relevant

¹⁸ Government Ministries, Office of the President and Cabinet and State-Owned Enterprises

¹⁹ 8 (three in Mashonaland, two in Matabeleland, Manicaland, Masvingo and the Midlands)

²⁰ 2 (Bulawayo and Harare)

resources and v) the transfer of functions inevitably changes the form (structures) for the transferring and receiving levels of government.

Provincial and Metropolitan Councils are a middle and critical ‘link’ between the other two tiers of government in a three-tier system. They will receive and be strengthened to perform powers and functions vertically split (transferred) from the other two consistent with the principles or concerns stated above. It is important to observe that the Constitution of Zimbabwe assigns powers and functions around which they can make appropriate laws, regulations and administrative measures in S270. These primary or original powers and functions cannot be assigned to another tier without amending the Constitution. A reading of Sections 5, 8, 10, 13 and 14 as well as 264-265, 268-273 further shows the need for a competent and distinct tier of government at provincial/metropolitan level to coherently link and aid the performance of the other two tiers (i.e. whole-of-government functionality).

2.2 JUSTIFYING DEVOLVED GOVERNANCE IN ZIMBABWE

Devolution has been applied in many jurisdictions for a variety of reasons. Citing Ethiopia, Kenya and South Africa de Visser and Steytler (2018²¹) highlight managing transitions to democracy, delivering development and services through decentralising resources, responding to or diffusing inter-ethnic strife, tensions and suppression, providing for self-determination, repairing fragmented political systems and redressing deep rural-urban divides. The scope of the challenges and opportunities that devolution is best suited to resolve or seize is a product of a country’s history. For Zimbabwe there are well-founded reasons for adopting a devolved governance system. Sachikonye’s (2012) notion of ‘state authoritarianism’ spanning five decades from 1958 and Mufuka’s (2016) ‘pathology of tyranny’ during Mugabe’s 36 year²² rule provide stories similar to the justifications for devolution adoption in the three country’s used by de Visser and Steytler (2018).

The first reason for adopting devolution in Zimbabwe relates to the long periods of deliberate emaciation of sub-national institutions by national government. In the last 18 years this has included re-assigning local revenue streams to nationally-controlled institutions as occurred in the water, land and vehicle licensing sectors. This is an extractive structure where local areas are exploited without benefiting in terms of development (Chatiza et al 2015²³; PAC 2012²⁴). National government has also monopolized state-owned enterprises, sanctioned their

²¹ de Visser J and Steytler N (2018) Multi-level Government in South Africa, Ethiopia and Kenya: Observations from the Practuce of Designing and Implementing Multi-level Government Systems, Forum of Federations (The Global Network on Federalism and Devolved Governance), Occassional Paper Series Number 20

²² Up to the point covered by his study

²³ Chatiza K, Muchadenyika D, Makaza D, Nyaunga F, Murungu R J and Matsika L (2015) When Extractives Come Home: An Action Research on the Impact of the Extractives Sector on Women in selected mining communities in Zimbabwe, p45-72 in OIDA International Journal of Sustainable Development

²⁴ Partnership Africa Canada (PAC 2012) You Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields

incompetence²⁵, rewarded them through subsidies at the expense of citizens and allowed some of them to draw local resources further emaciating local institutions (Office of the Auditor General 2016²⁶).

Secondly, national government or more appropriate national political elites have captured, coerced or co-opted local elites into systems of patronage. Other observers (Muchadenyika and Williams 2017²⁷) have noted that public sector professionals have succumbed to political pressure that sustains politics of patronage. As such the local relevance of public professionals and development actors like councilors, traditional leaders and parliamentarians has been rendered sub-optimal. Local structures and processes established for citizen participation in development planning have been rendered useless. People's elected representatives have become both physically inaccessible and locally unaccountable. They spend more time in dialogue with national elites and use such proximity to act as conduits that deliver and justify dictated positions and directives. They also flaunt their wealth that comes from always consorting with Harare²⁸ more than with citizens. This has also become worse as state delivery across the board slumped. The co-option of local elites and their entrapment in the national patronage system has been a result of i) ruling party recruitment, and ii) the agency of local communities and elites 'using' ZANU PF for personal gain.

The third reason is that resource mobilization and deployment by national institutions has become inefficient, opaque and ineffective. Resource centralization has administratively congested national government through 'trekking to Harare' by various interest groups. Centrally-administered programs²⁹ and Funds³⁰ for specific private sector initiatives, parliamentarians³¹ and other social groups (e.g. the youth, farmers, women etc) have been poorly and corruptly run with impunity whose origins lies in Zimbabwe's liberation struggle (Sachikonye 2012) and therefore deeply embedded in the ruling class' political culture. As a consequence some of these programmes have not met their stated objectives, had opaque records, contributed to national debt³² amidst cases of corruption and serious resource leakages. A nationally-administered, bank-funded and youth-focused loan scheme (Kurera/Ukondla³³) experienced gross non-repayment³⁴ and subsequent initiatives also suffered the same fate.

²⁵ The Office of the Auditor General report for 2016 cited governance issues, failure to collect revenue, weak procurement of goods and services, employment costs including allowances outside payroll and gaps in implementing recommendations from previous audits

²⁶ Office of the Auditor General (2016) Report of the Auditor General for the Financial Year Ended December 31, 2015 on State Enterprises and Parastatals Presented to Parliament of Zimbabwe

²⁷ Muchadenyika D and Williams J J (2017) Politics and the Practice of Planning: The case of Zimbabwean Cities, pp33-40 in Cities

²⁸ Used here to Harare as center of political-administrative power, resources and the primary location of Zimbabwe's political elites in Zimbabwe

²⁹ In agriculture e.g. input distribution and mechanization schemes

³⁰ For instance the Youth Fund and War Victims Compensation Fund

³¹ Constituency Development Fund and vehicle loan schemes

³² Government assumed about USD1.4 billion arising from the Reserve Bank of Zimbabwe's quasi-fiscal activities in 2015 (<http://herald.co.zw> 18th August 2015 downloaded October 11 2018)

³³ Shona/Ndebele for 'looking after/taking care' of youths

³⁴⁴ <https://www.newsday.co.zw/2016/04/shocking-cabs-youth-fund-loan-results/> (downloaded October 17, 18)

Programmes and Funds have also not been integrated with local authority planning, been poorly monitored and implemented. Revolving Funds have not been able to go beyond first disbursements as repayments rarely occur. Managing public funds under some recent state initiatives has been less effective than the ‘*Malaitsha*³⁵’ system. This has seen a continuation of fragmented public authority (Mbembe 2015³⁶). Disbursements are seen as payment for supporting the political party (ZANU PF) by some entrenching entitlement while reducing resource accountability.

Fourth, the culture, structural design and public administration processes of national government have recently become more antithetical to the principle of a three-tier system. This is largely a product of a strong executive presidency since its adoption in 1987, the political party-centred governance and rule by deconcentration. Chirisa and Jonga (2009), Jonga (2014³⁷), Nyikadzino and Nhema (2015³⁸), and Dibaba (2016³⁹) show how meddling⁴⁰ by national government affect local governance effectiveness. Meddling undermines local democracy and good governance, increases centre-local institutional conflicts, causes local institutions to become dysfunctional and thus non-developmental. A key source of the challenge has been attributed to the powers assigned to the Minister responsible for overseeing local government through relevant legislation⁴¹.

However, the issue of powers assigned to the Minister is only a symptom of a deep-seated political culture of surveillance particularly of urban local governance (McGregor 2014⁴²). The expressions of such a control focus include the dominance of the Politburo for ZANU PF and the equivalent structure at the MDC which are operationalised through whipping of representatives in both the legislature and at Council level. This system is further entrenched through a caucus system where representatives prioritise party positions ahead of evidence and citizen input in policy and law making as well as administrative processes. Zimbabwe’s political parties are heavily centralised, suck up all power from their grassroots structures and impose candidates and decision alienating and abusing ordinary members. The creation of

³⁵ This is *Ndebele* term used to define a system of sending and receiving goods, messages and money (at times children or family members) through public transport operators. Though used in-country it has become a major connection between the Diaspora community mainly in South Africa with their Zimbabwean relations

³⁶ Mbembe A (2015) *On the Postcolony*, Wits University Press

³⁷ Jonga W (2014) *Local Government System in Zimbabwe and Associated Challenges: Synthesis and Antithesis*, in *Archives of Business Research* Vol. 2 No. 1

³⁸ Nyikadzino T and Nhema A (2015) *The Implications of Centre-Local Relations on Service Delivery in Local Authorities in Zimbabwe: The Case of Chitungwiza*, *Journal of Public Administration and Governance*, ISSN 2161-7104, Vol. 5 No. 2

³⁹ Dibaba K T (2016) *Central Government Interference in Local Affairs of the urban Councils in Zimbabwe* pp313-327 in *International Journal of Accounting, Auditing and taxation*, ISSN 2143-5572 Vol. 3 No. 3

⁴⁰ <https://www.voazimbabwe.com/a/zimbabwe-councils-blam-govt-for-poor-service-delivery-160024795/1476980.html>, downloaded October 17, 18

⁴¹ The main ones include the i) Urban Councils Act, ii) Rural District Councils Act, iii) Regional, Town and Country Planning Act, iv) Provincial Councils and Administration Act, and v) legislation under which assigned state-owned enterprises are established and function e.g. the Zimbabwe United Passenger Company (ZUPCO)

⁴² McGregor J (2014) *Surveillance and the City: Patronage, Power-sharing and the Politics of Urban Control in Zimbabwe*, pp783-804 in Alexander J, McGregor J and Tendi B (Eds.) *Politics, patronage and the State in Zimbabwe*, Weaver

vigilante groups by Zimbabwe's main political parties (ZANU PF and the MDC) has fanned violence and polarisation entrenching party-based 'thinking and acting' disruptive of inclusive governance. Societal polarisation has also made policy making and implementation difficult more so where representatives are Harare-centric and inaccessible to ordinary citizens. Consequently, representatives are unresponsive to localities and citizens are generally disengaged, inactive and mistrustful of public institutions at every level.

Fifth, local authority monitoring or supervision, protection or defense and promotion or capacity development have been incoherent, from afar and in a manner unresponsive to local democracy needs (Chatiza et al 2013). These are functions performed by the Ministry responsible for local government on behalf of the Government of Zimbabwe. The Ministry has not been able to protect local authorities from falling victim to resource re-centralization and mandate encroachment. In the urban land and housing sector Ministry has also itself been the encroacher and abuser of local democracy (Dibaba 2016, Jonga 2014, Muchadenyika 2015⁴³, Muchadenyika and Williams 2018, Government of Zimbabwe 2013b⁴⁴, Chiweshe et al 2013⁴⁵, City of Harare 2010⁴⁶, McGregor 2014, Marongwe et al 2011⁴⁷). Supervision through audits and decisions taken including directives⁴⁸ and suspension of Councils in recent years smacked of sector politicization and were damaging to local good governance particularly citizen-Council interactions. Incidentally Government did not assume Council Debts written off in 2013 (mainly owed by citizens) as it did the Reserve Bank Debt (mainly owed by political elites who benefited from farm mechanization). Besides having a 'guardian angel' of questionable capacity and performance in the post-2000 period local authorities themselves have also not been ably led at technical level. Yawning capacity gaps exist, corruption cases have been reported and staffing has been affected by partisanship while staff loss and the general public sector capacity regression means that adherence to standard operating procedures is rare.

Further analyses justifying a stronger middle tier in a devolved structure in Zimbabwe are needed. Evidence on some of the issues raised in the previous and next section is needed. What is clear so far in this paper is a realization that i) constitutional provisions on devolution require redesigning the state at all levels and across all arms, ii) current governmental fragmentation (or weak coordination) causes resource leakages and ineffective performance, iii) resolving the national economic question needs untangling how the state and citizens relate, and iv)

⁴³ Muchadenyika D (2015) Land for Housing: A Political Resource – Reflections from Zimbabwe's Urban Areas, *Journal of Southern African Studies*, DOI: 10.1080/03057070.2015.1087163

⁴⁴ Audit Report on issues of Land Management and Allocation: Chitungwiza Town and Seke District, Ministry of Local Government

⁴⁵ Chiweshe M, Mutopo P, Ncube M J and Mutondoro F (2013) Analysis of Transparency and Accountability in Land Sector Governance in Zimbabwe, Transparency International Zimbabwe

⁴⁶ Special Investigations Committee's report on City of Harare's Land Sales, Leases and Exchanges from the period October 2004 to December 2009

⁴⁷ Marongwe N, Mukoto S and Chatiza K (2011) Scoping Study on Governance of Urban Land Markets in Zimbabwe, Urban LandMark

⁴⁸ The July 2013 Debt Write-Off Directive is one that has had enduring implications for local democracy and institutional sustainability of local authorities.

representatives and other sub-national governance institutions exhibit very weak downward accountability. These issues require strategic attention as part of implementing the Constitution. Provincial and Metropolitan Councils that are weak and centrally controlled will not aid resolution of these governance weaknesses. Conversely an unwieldy middle tier may duplicate the functions of national and local government tiers. The paper turns to the issue of structuring in the section below.

3.0 STRUCTURING PROVINCIAL AND METROPOLITAN COUNCILS

A wide range of imaginations on the structures (design) and funding of Provincial and Metropolitan Councils followed enactment of Zimbabwe's 2013 Constitution. Public expectations were to move well beyond centrally-administered structures established under the Provincial Councils and Administration Act of 1985. Central government has been torn between retaining the existing administrative structures and making marginal concessions anchored on the office of the Minister of State for Provincial Affairs.

3.1 MERITS AND POSSIBLE GAPS IN EMERGING PROCESSES

Recent Government of Zimbabwe pronouncements suggest that a restrictive remit for Provincial and Metropolitan Councils is contemplated. One conceptualization of the process is one of energizing the devolution already in place⁴⁹. Having noted that the structuring of Provincial and Metropolitan Councils (inclusive of but not limited to preparing the necessary law) requires simultaneous restructuring of national government, local authorities and the National Assembly it becomes instructive to restate the inadequacy of a devolution process led solely by the Ministry responsible for local government.

Further, devolution implementation is not a simple process to be defined, decided on and implemented by national government especially the famed inclinations of governments (not just the Zimbabwean one) to retain powers that must be devolved. The limited remit of devolution implementation implied by a Ministry/sector-led process is clearly evidenced by national government's proceeding to prepare a Provincial and Metropolitan Councils Act (flowing from Sections 265:3, 266.4, 270.2, 272.7 as well as 9 and 273.1) without a devolution implementation framework for the rest of government. How the Ministry responsible for local government is expected to draft a bill and shepherd it through the law making process without such a framework reflects inadequate consideration of the foundational reasons behind constitutional provisions on devolution. Further, public and fiscal sector reform implications of a devolved governance system appear not to have been properly thought through or if done yet to be publicized.

Based on the above it is fair to suggest that the current national executive expects to design and execute devolution in the absence of adequate citizen consultation and local government

⁴⁹ Senior official at the Ministry responsible for local government at a Civil Society event, September 20th 2018

participation. This approach is consistent with previous governments. While the rush may be expected given limited delivery on the legislative agenda during the first five years of the 2013 constitution being adopted, it is unlikely that fundamental governance changes will ensue. It is with the expectation of informing a more inclusive and far-reaching devolution implementation process that the rest of the paper proceeds. A table showing the members of the Provincial and Metropolitan Councils is provided followed by a proposed design of the structures and then issues of funding before a concluding section.

3.2 HOW BIG ARE THE COUNCILS ANYWAY?

A notion has been deposited into preliminary devolution debates suggesting the structures are unwieldy. The most official version of this was on December 9th 2017 at the occasion of the Minister responsible for finance presenting the national budget for 2018. Since comparative figures were not given, this paper proceeds on the understanding that the statement was an attempt at closing debate on a national issue using the excuse of resource scarcity. This is an area (comparative cost analysis of governance structures in aid of or contrary to devolution) that requires serious attention. For purposes of this paper the notion that Provincial and Metropolitan Councils are expensive and unwieldy is thus rejected largely because no law defining how the Councils will function (and therefore the actual costs) exists at present.

The table below shows the sizes of Zimbabwe's Provincial and Metropolitan Councils based on Sections 268 and 269 of the Constitution. In this paper, the membership is defined in relation to policy making rather than implementation. This dissuades arguments suggesting that political representatives may not operate at two levels of government simultaneously and more so if they are responsible for supervising spending (national) and spending (middle tier) public funds. This notion is a smoke-screen as even national Ministers (most of whom are parliamentarians) supervise a whole sector from national to local but with the aid of an Accounting Officer. Further, as policy making platforms closer to citizens Provincial and Metropolitan Councils will not directly spend public funds and will not necessarily be in the same Portfolio Committees as at the National Assembly. The numbers also are not too big as to become inoperable given that Section 271 provides for the establishment of committees for better exercising of their functions. Critically, Provincial and Metropolitan Councils ensure that people's representatives discuss development and governance at a level lower and thus closer to where development and governance activities that matter to citizens are undertaken.

From the onset it is important to reiterate that additional research is contemplated on issues raised and proposals made in this paper. A key area is on costing the Provincial and Metropolitan Councils. This will be approached from the perspective of deepening our understanding of National Assembly and National Government workings and areas where savings can be made. Recent announcements made regarding a broad civil service and fiscal sector reforms will be of interest to devolution debates. As such we will seek to access and analyze relevant public policy proposals and implementation plans. Pockets of anticipated savings include ensuring a much leaner national cabinet perhaps stripped of Deputy Ministerial

portfolios and a National Assembly agenda rationalized in light of establishment of Provincial and Metropolitan Councils that meaningfully govern the affairs of the areas for which they are established. A rationalized national Assembly agenda has a bearing on representatives' visits to, seating at Harare, consorting with and empowering of national political elites at the expense of ordinary citizens.

TABLE 1: NUMBER OF PROVINCIAL AND METROPOLITAN COUNCILLORS AS PER CONSTITUTION (S268:1A TO H)

Policy Maker Category	Province										Totals
	Mash East	Mash West	Mash Central	Manicaland	Masvingo	Midlands	Mat South	Mat North	Harare	Bulawayo	
1. Senators	6	6	6	6	6	6	6	6	6	6	60
2. Senator Chiefs	2	2	2	2	2	2	2	2	0	0	16
3. President & Deputy Presidents of Chiefs ⁵⁰	0	0	0	0	1	0	0	1	0	0	2
4. Members of National Assembly	23	23	18	26	26	27	13	13	29	12	210
5. Women members of the National Assembly ⁵¹	6	6	6	6	6	6	6	6	6	6	60
6. Mayors and Chairpersons	10	14	10	10	9	14	10	9	5	1	92
7. Proportional Reps	10	10	10	10	10	10	10	10	10	10	100
8. Total Council Membership 2013-2023	57	61	52	60	60	65	47	47	56	35	540
9. Numbers after 2023	51	55	46	54	54	59	41	41	50	29	480

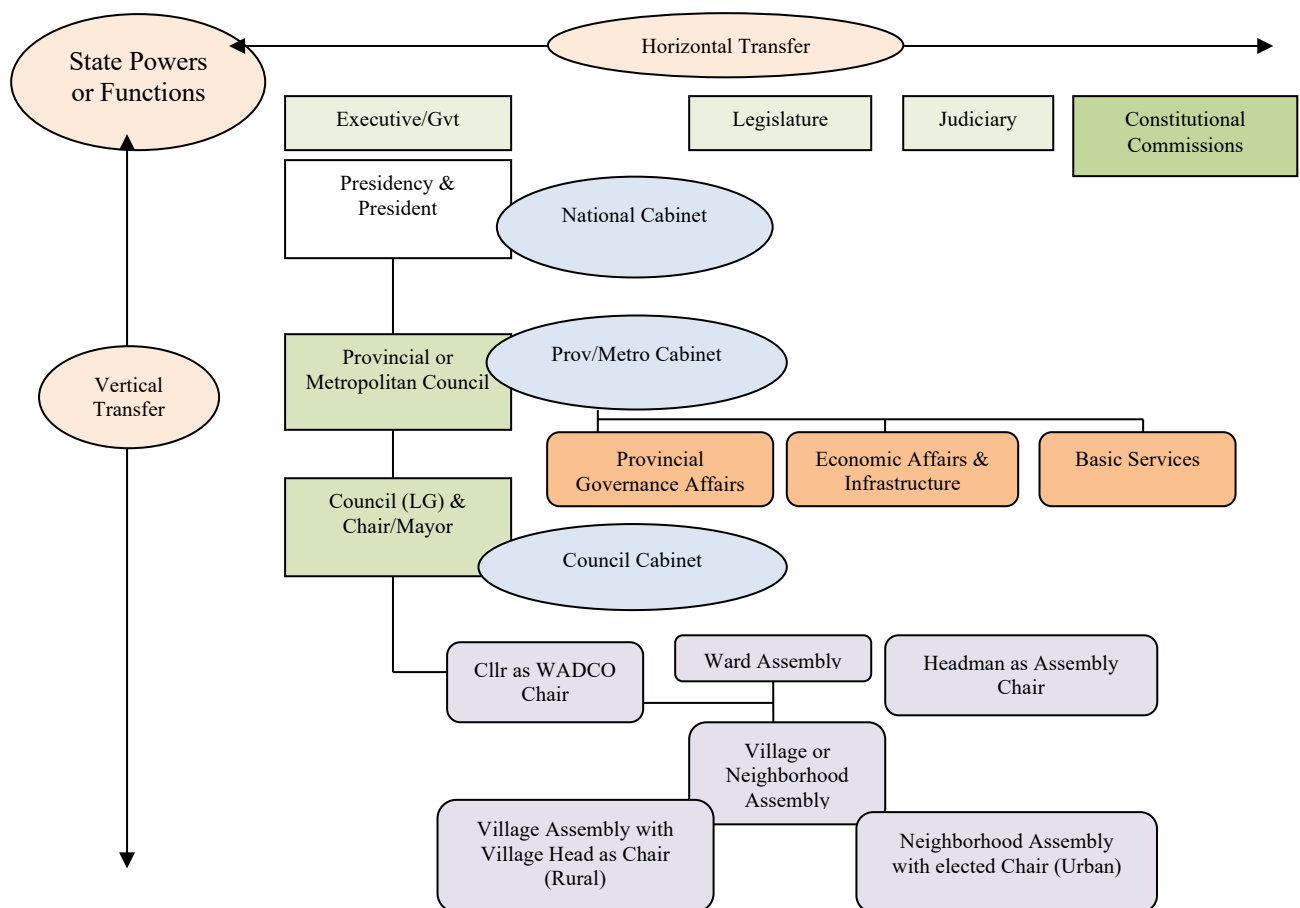
⁵⁰ This changes as the leadership of the National Council of Chiefs leadership changes (S285:4-7)

⁵¹ This will subsist for two terms i.e. up to 2023

3.3 PROPOSED STRUCTURE FOR THE COUNCILS

Figure 1 below proposes the structure and functioning of the Provincial and Metropolitan Councils. Each of the 10 Provincial and Metropolitan Councils will set up Committees in keeping with i) provincial-metropolitan development aspirations, ii) synergy with the National Assembly or iii) the structure of the Provincial and Metropolitan Executive. The Councils will be served by a three-member Executive forming a lean structure consisting of three clusters of i) Governance, ii) Economic Affairs and Infrastructure, and iii) Basic Services. The remit of their responsibilities and relations with local authority and national government will be consistent with the transferred powers and functions. Suffice to suggest the core functions of the Governance Cluster which will include i) capacity development of governance institutions, ii) stakeholder and citizen engagement, and iii) spatial and development planning management. National Ministries will not have middle and lower tier presence. The structure will provide a better coordination framework and ensure savings.

FIGURE 1: STRUCTURE OF PROVINCIAL AND METROPOLITAN COUNCILS



Source: Author, 2018

4.0 STAFFING AND FUNDING THE COUNCILS

A number of questions arise from the proposed structure. The first relates to the deployment and accountability of national government (deconcentrated) staff at provincial/metropolitan and local authority level. Often questions have been asked specifically about Provincial and District Administrators (PA's and DA's) within the Ministry responsible for local government. This is in keeping with the misconception that devolution implementation is by the Ministry responsible for local government but also because these offices have more acutely been accused of meddling the most in local authority affairs. Regarding PA's and DA's the suggestion is that they will fall under Cluster I and operate from Provincial or Metropolitan Offices. Any other administrative or support staff from their offices will be absorbed by local authorities. Senior staff of other Ministries will be absorbed at i) national, provincial/metropolitan and local levels within their sector, ii) in the Clusters most suited to their skills at provincial/metropolitan level, and iii) in alternative local authority units as appropriate. The Public Service Commission in coordination with Provincial and Metropolitan Councils and local authorities will implement staff restructuring processes.

A second strategic question relates to funding of the activities of the Provincial and Metropolitan Councils as well as their Executives. This arises from the experience that national government institutions are funded through the national government. Current outlays of up to 90% recurrent expenditure have created the impression that the budget is for national government only. At local authority level fiscal transparency has also been an issue resulting in citizens not featuring significantly in terms of budgeting (preparation and management). These two tiers have thus existed in such an opaque political culture that emboldens officials (appointed and elected) to appropriate all decision-making on public resources including discounting popular claims to access and demands to account for resource use.

This is seen in the reality that political and bureaucratic elites have been the first to ask where resources for devolution will come from. Consistent with the argument for comprehensive devolution implementation, a local and national fiscal framework going beyond S301 (allocating not less than 5% of national revenues raised in any financial year) is needed. This will involve structuring and processing the national budget in a manner that directly speaks to a three-tier government. Related is the fact that it will have to be informed by devolved programmes of national institutions, Provincial and Metropolitan Councils and local authorities. Further, national government pronouncements on economic devolution and local economic development also work better with devolved budgets.

The point is that poor political structures. Msipa (2015:185) observes that 'the people of Zimbabwe deserve better institutional arrangements than are currently on offer'. For Sachikonye (2012:7) 'It is when diversity is repressed that authoritarianism comes into play'. Given the famed weakness of Zimbabwe's governance institutions denying citizens a chance to restructure the state is politically unreasonable and developmentally reprehensible. It is denying the country a chance to effectively utilize existing resources and to generate more to

deliver on rights. It is therefore inappropriate for political and bureaucratic elites to block devolution implementation over resource scarcity in Zimbabwe.

The clustering of sectors at provincial and metropolitan level alongside allowing responsive local institutional designs has the potential of improving coordination of government business (breaking silos). It also allows streamlining of taxes and taxing authorities which of late had become too many as virtually all Ministries and some state-owned enterprises went beyond charging fees for the services they provide to actual tax collection. The use of local levies in health, education and other areas to support district and provincial level public expenditure is a case in point. Also the much maligned fines imposed for traffic offences by the Zimbabwe Republic Police (ZRP) increased the range of state taxes and taxing authorities. A collation of viable and legally enforceable taxes assigned to appropriate levels of government will create a more effective revenue raising, expenditure and accountability framework. This will be less of a *'Malaitsha'* system.

Regarding national institutions the example of the National Assembly is instructive. A devolved legislative programme is one where the commitments of legislators to the three levels of constituency, Provincial and Metropolitan Council meetings and National Assembly business are factored in and costed. Critically, this follows from a concise definition of the powers and functions that members of this body address at the three different levels. As discussed above legislators have neither represented their constituents nor their home provinces effectively. Questions have also been raised about their real effectiveness at national level given a national governance framework where law-making has recently been executive-led and accountability hard to exact.

All has occurred despite legislators drawing on national resources, unfortunately used unduly at national level and ineffectively so. Selected examples of parliamentary debates, which could be more realistically debated at sub-national levels to bring more synthesis to national issues will be sought and analyzed to demonstrate this point. One preliminary example relates to parliamentarian Joseph Chinotimba's repeated plea for assistance for his constituents to fend off marauding hyenas (human-wildlife conflict) in Buhera South. In bringing the matter to both the 8th and 9th (current) Parliaments Hon. Chinotimba has not articulated law making content but public safety and economic or livelihood risk issues. This suggests the matter could be dealt with locally and at province in the extreme.

5.0 CONCLUSION

Zimbabwe adopted an elaborate governance system in 2013 with clear founding values and principles. One of these values is 'the devolution and decentralization of governmental power and functions' (Government of Zimbabwe 2013: 22⁵²). Given more than a generation of socio-economic and political regression, devolution implementation was expected to usher in a new

⁵² Section 3(2-1)

dispensation well before the political transition of November 2017. Unfortunately the government that took state power post-July 2013 elections disappointed on this score. Devolution implementation has not been sufficiently visible in terms of policy debates, law reform and organisational arrangements. This has been put to inadequate political will on the part of ZANU PF which shed off the pressure and platform for reforms provided by the Government of National Unity (2009-2013).

The New Dispensation government that emerged through the November 2017 political transition and received a mandate to govern in July 2018⁵³ has provided some impetus for devolution implementation. Its emphasis has been on economic devolution. While progressive, some questions arise regarding how devolved economic management will proceed without a devolved political governance framework. An optimistic reading of this emphasis includes i) an attempt at depoliticizing devolution by seeking a more acceptable entry point, ii) a clearly genuine concern for people's plight given economic regression over the years, iii) consolidating or energizing devolution in place, and iv) that political structures are better informed by economic management challenges i.e. starting with politics ratchets unproductive contestations, which may result in self-serving governance structures.

Given Zimbabwe's recent political history this optimism only works where there is a clear devolution implementation framework from which the economic entry point is selected as a priority. Further, with the considerably inadequate clarity and consensus on the desirable and practically possible form and content of devolution galvanizing citizens can be a hard sell. Further, senior government officials are not sufficiently clear on devolution. A view often shared is that having a Provincial and Metropolitan Councils Act will give the needed clarity. However, there is no baseline clarity and actionable understanding of devolution as envisaged in the constitution to inform such policy and law reforms. As such, proceeding as already underway could lead to ineffective devolution implementation. This paper seeks to help government avoid such a scenario where it proceeds on the basis of 'asking to be trusted [by citizens] because we know what we are doing'. The paper envisages the creation of a Devolution Implementation Commission (or platform) so that national government let alone the Ministry responsible for local government does not lead on devolution implementation. The structure presented in this paper draws on current thinking and therefore does not preclude further debate and institutional modeling. This is because even some of the proposals in the paper are made conditional to further analysis.

⁵³ Our view is that the legitimacy questions and commentaries regarding these elections arise from the strategic frailties of Zimbabwe's state design and functionality. A change of ruling party, as happened in 1980 may not deliver democracy and development without redesigning the state

ANNEX 1: THIRTEEN (13) PRINCIPLES OF DECENTRALISATION

1. That decentralisation is necessary and desirable based on the clear understanding that it promotes and strengthens democracy and civic responsibility as citizens participate in their governance and development. It also helps in minimising bureaucracy by reducing levels of decision-making and thereby achieving greater efficiency of operations. However, it will not be taken as a strategy for dumping problems of sector ministries to the rural district councils.
2. That decentralisation be defined and understood to mean the legislated transfer of functions and authority from central government to local authorities such as the rural district councils on a permanent basis. Once provided for in law, such transfer of powers and functions can be reversed only on the basis of an amendment to the appropriate law.
3. That there is need for all Ministries to use the same local institutions for the implementation and management of decentralised functions and not to create parallel or separate institutions. Where parallel institutions exist, these should be harmonised.
4. That decentralisation is a process and not an event, as such, it should be implemented cautiously and progressively, having regard to the human, financial and material capacities of the local authorities to whom the transfers would be made.
5. That in respect of those activities and projects to be undertaken by local authorities, sector ministries retain the power and authority to set standards, monitor performance and consistency to national policies and standards, and intervene appropriately to ensure compliance. This means that local authorities will, in executing their legal powers and responsibilities, be required to comply with the requirements of national policies, laws and regulations.
6. That an inter-ministerial committee of Ministers to manage decentralisation and capacity building be established. In this regard, the existing inter-ministerial Capacity Building Co-ordinating Committee will report to a Working Party of Heads of Ministries, who in turn will report to Ministers on policy issues.
7. That central government, in implementing decentralisation, shall strengthen financial, human and material resource capacities of rural district councils so as to make them effective institutions in the provision of the social and infrastructural services needed for sustainable local development.
8. That central government will continue to be responsible for the provision of trunk services which impact upon more than one local authority area or are of a national character. This refers to all social, infrastructural and economic projects that impact upon more than one local authority and call for more resources than can be mobilised by one local authority.
 - a. For this purpose, line Ministries concerned will provide guidelines on which projects are to be undertaken by local authorities having regard to the social and economic impact of projects, the capital outlay required and the level of professional and technical expertise needed to execute the projects.
9. That the transfer of powers and functions by line ministries to rural district councils be done by the line ministry concerned and that the Ministry of Local Government, Rural and Urban Development will co-ordinate and facilitate this effort.
10. That all monies for recurrent and capital expenditure sourced by line ministries and are earmarked for rural district councils be disbursed to the rural district councils soon after the promulgation of the Appropriation Act. Such grants will not pass through the Ministry of Local Government, Rural and Urban Development.
11. That all loans to rural district councils should be channelled through the Ministry of Local Government, Rural and Urban Development except for those loans from the National Housing Fund administered by the Ministry of Public Construction and National Housing which will be disbursed direct to the councils by that ministry. The Ministry of Public Construction and National Housing will disburse the loans only after the local authority concerned has been granted borrowing powers by the Ministry of Local Government, Rural and Urban Development.
12. That in Zimbabwe there be only two levels, which collect taxes, levies, and other user charges namely central government and local authorities. Thus rural district councils should collect such taxes, levies, fees and user charges for those services they should provide in terms of any appropriate law, or regulation.
13. That the Public Service Commission will manage the transfer of personnel from central government to rural district councils where this happens as part of decentralisation.