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Legal Resources Foundation
WO 41/84

UNDERSTANDING THE DRAFT CONSTITUTION

*A series of leaflets to inform you of the contents of the
Final Draft Constitution*

No. 7

Local and Provincial Government [Chapter 14]

Introduction

The current Constitution of Zimbabwe does not contain detailed sections dealing with provincial and local government issues. The Draft Constitution provides for devolution of power to provincial and metropolitan councils and local authorities wherever appropriate.

The chapter starts with a preamble which explains devolution in a way that safeguards against divisionism and succession or break away. As such, the preamble puts emphasis on preservation of national unity, democratic participation of citizens and communities as well as equitable allocation of national resources, not necessarily self-rule.

It is assumed that, since provincial, metropolitan and local councils are closer to communities, they deliver services more effectiently and effectively.

Devolution of governmental powers and responsibilities

Whenever appropriate, governmental powers and responsibilities must be devolved to provincial and metropolitan councils and local authorities. The objectives of devolution of powers and responsibilities to lower tiers of Government are:

- to give powers of local governance to the people, enhance their participation and decision making;
- to promote democratic, effective, transparent, accountable and coherent government;
- to preserve and foster the peace, national unity and indivisibility of Zimbabwe;
- to recognise the right of communities to manage their own affairs and to further their development;
- to ensure the equitable sharing of local and national resources; and
- to transfer responsibilities and resources from the national Government to provincial and metropolitan councils and local authorities.

General principles of provincial and local government

These lower tiers of Government are to exercise their powers in a manner that promotes the above stated objectives of devolution. They may only assume those functions as given by the Constitution or an Act of Parliament. They must:

- ensure good governance;
- not encroach onto another tier of Government's jurisdiction;
- co-operate with one another by informing and consulting one another on matters of common interest;

Elections to local authorities

Elections of councillors to local authorities must be held concurrently with a general election of Members of Parliament and the President. Elected councillors then assume office on the day that the President assumes office, after being sworn in.

Tenure of seats of members of local authorities

The seat of a Mayor, Chairperson or Councillor of a local authority becomes vacant in the same circumstances as the seat of a Member of Parliament would become vacant.

An Act of Parliament may provide for the removal from office of Mayor, Chairpersons and Councillors, but any such removal must be by resolution passed by at least two-thirds of the total membership of the council concerned.

Some highlights

The new Draft Constitution:

- provides for provincial and local administration structures;
- provides for devolution of power 'whenever appropriate' but there are no detailed provisions on how the process will work;
- binds employees of provincial and local government to be apolitical and non-partisan and uphold human rights;
- abolishes Provincial Governors and replaces them with Provincial Chairperson who will not be Presidential appointed but will be elected by the Provincial Councils.

- if a resolution is passed by two thirds of the total membership of the provincial council.
- by an independent tribunal

Local Government

Urban local authorities

Urban local authorities shall represent and manage the affairs of people in urban areas throughout Zimbabwe. Urban local authorities are managed by councils composed of councillors elected from the urban areas concerned and presided over by elected mayors or chairpersons. Different classes of local authorities may be established for different urban areas and two or more different urban areas may be placed under the management of a single local authority.

Rural local authorities

Rural local councils shall represent and manage the affairs of people in rural areas. An Act of Parliament must provide for their establishment, elections of Councillors and Chairpersons. Different classes of local authorities may be established for different rural areas.

Functions of local authorities

A local authority has the right and power to govern the local affairs of the people within the area for which it has been established. An Act of Parliament may confer functions on local authorities, including power to make by-laws, regulations or rules for the effective administration of the areas for which they have been established and power to levy rates and taxes and generally to raise sufficient revenue.

- harmonise and co-ordinate their activities; and
- ensure the fair and equitable representation of people within their areas of jurisdiction.
- preserve the peace, national unity and indivisibility of Zimbabwe;
- secure the public welfare.

All members of local authorities must be elected by registered voters within their designated area.

Conduct of employees of provincial and local government

Employees of these tiers of Government must act in accordance with the Constitution and the law. They should be apolitical, non partisan and may not violate the fundamental rights and freedoms of any person.

Provincial and Metropolitan Councils

Provinces and districts of Zimbabwe

Zimbabwe is divided into 10 provinces, including the metropolitan provinces of Bulawayo and Harare.

Provincial councils

All the provinces, except the metropolitan provinces, shall be administered by provincial councils. Each provincial council shall consist of the Chairperson of the council, drawn from the province concerned:

- all the members of the National Assembly including women members of the National Assembly elected for the first two terms of Parliament by proportional representation, as

- provided for by the Constitution;
- the mayors and chairpersons of the urban and rural local authorities;
- the Senators elected from the province concerned;
- ten persons elected by a system of proportional representation, based on the votes in the general election for members of the National Assembly; and
- the President and Deputy President of the National Council of Chiefs, where their areas fall within the province concerned.

Metropolitan councils

For each of the metropolitan provinces there is a metropolitan council consisting of:

- in the case of Bulawayo, the Mayor of the Metropolitan City and in the case of Harare, both the Mayor of the Metropolitan City and the Mayor or Chairperson of the second-largest urban local authority within the province.
- From the metropolitan province concerned:
 - all the members of the National Assembly;
 - the women members of the National Assembly elected for the first two terms of Parliament by proportional representation as provided for by the Constitution;
 - the elected Senators; and
 - the Deputy Mayors and the Chairpersons and Deputy Chairpersons, of local authorities.

Functions of provincial and metropolitan councils

A provincial or metropolitan council is responsible for:

- the social and economic development activities of its province;
- co-ordinating and implementing governmental programmes;
- planning and implementing measures for the conservation, improvement and management of natural resources;
- promoting tourism and developing facilities for that purpose;
- monitoring and evaluating the use of resources in its province.
- exercising any other functions conferred by or under an Act of Parliament.

In carrying out their functions, members of a provincial or metropolitan council are accountable to the residents of their province and the national Government. Provincial and metropolitan councils may establish committees in order to better exercise their functions.

Chairpersons of Provincial and Metropolitan Councils

At its first sitting after every general election, a provincial council must elect a chairperson from a list of at least two qualified persons submitted by the political party in the National Assembly which gained the highest number of seats in the province concerned (or if there is no such party, the party which gained the highest number of votes cast in the province).

The Chairman of the provincial council can be removed from office: