

ZIMBABWE INSTITUTE

LOCAL GOVERNMENT: POLICY REVIEW

Zimbabwe Institute

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Purpose and Objectives of the Study

The main purpose of the report is to present a review of local government systems, policies, practices, and institutional relationships. The review sought to establish the current local government structures and policies and interrogate their appropriateness to meet current and future challenges. The project also sought to establish the extent of citizen participation in policy formulation and implementation. It recommends an alternative local government system for Zimbabwe.

The main objective of the policy review project is to contribute towards the process of creating a new local government system that is efficient, effective and responsive to needs and demands of the local citizenry. The guiding philosophy is that the local people can develop best when they are put in charge of their destiny. Local people should determine the nature and implementation of public policy and generally be involved in decision making over matters that affect their lives.

The Current Legal and Operational Framework

Local government refers to the provision and maintenance of public services and infrastructure at local levels utilising funds generated from the local community, in addition to grants and loans from central Government, and other sources. In essence, local government refers to the establishment of participatory and democratically elected structures that can identify with the needs of the people at grassroots level and ensure the translation of those needs into the actual programmes and projects and maintenance of essential services. Where a system of local government is efficient and effective, transparency and accountability are central to the decision-making process and the system is able to provide and maintain quality service and infrastructure.

The local government system in Zimbabwe is a legislative rather than a constitutional creature. In practical terms, what this means is that Local Government is not an independent sphere of government, but an appendage of central government which determines the birth, development and death of this important sphere of governance. The activities of local government units are co-ordinated by the Ministry of Local Government, Public Works and National Housing (MLGPW&NH). The ten provinces into which the country is divided are administrative rather than political provinces and do not have elective structures. As such, no really significant powers have been devolved upon Provincial Councils and Provincial Committees.

The juridical framework for local government is set out in several pieces of legislation. The principal Acts governing local authorities in Zimbabwe, the Urban Councils Act and the Rural District Councils Act set local authorities as separate and fairly autonomous legal corporate institutions. The main Acts for local governance purposes are the Urban Councils Act (Chapter 29:15), Urban Councils Amendment Act (Chapter 29:16), Rural District Councils Act (Chapter 29:13), Chiefs and Headmen Act (Chapter 29:01), Communal Land Act (Chapter 20:04), the Provincial Councils and Administration Act, the Customary Law and Local Courts Act (No. 2) of 1990 and the Traditional Leadership Act of 1998. In addition, there are a number of statutory instruments defining the legal parameters of local government.

Zimbabwe has two main types of local authorities, the Rural District Councils in rural areas, and the Urban Councils in the urban areas. The institutional framework for local government in the country can be better understood in terms of three universes; the Centre, the Urban universe and the Rural universe, with the latter two orbiting around the centre.

The Scenario at the Centre

At the centre of the local government policy is the Ministry of Local Government, Public Works and National Housing (MLGPW &NH) which is the lead agency. The Ministry provides the legislative and policy framework within which local government units operate. Functionally, the Ministry is supposed to provide an enabling or facilitative within which local government operates. In practice, however, the ministry of Local Government has increasingly played a controlling and directive role especially since the emergence of a formidable opposition (MDC) with a significant control over Local Government authorities in the urban areas. It was the Ministry's excessive interference, especially in Harare City Council, which finally led to the resignation of MDC councillors in August 2004.

The Ministry of Local Government administers all the Acts and Statutory Instruments promulgated in the local government area. The Minister retains a substantial supervisory role over all local government units (LGUs) and enjoys the ultimate power of intervention and suspension of any local council. In some sense, the LGUs in Zimbabwe operate at the behest

and suffering of the Minister. In fact, the main legal instruments of local government invest the President and the Minister of Local Government with the power to suspend or act in place of a local authority and the power to nullify some decisions of local authorities. For instance, in the RDC Act alone, there are more than 250 instances where the Minister can intervene in the day to day running of Rural District Councils. There is simply too much of the “Minister shall” concept in Zimbabwean local government and this has entrenched excessive central executive intervention. As Minister of Local Government, Public Works and National Housing, Ignatius Chombo has explained in the past: “local councils enjoyed delegated authority and thus should follow government, and by extension, ZANU PF policies.” (*The Daily Mirror*, 30.08.04.)

The overbearing role of the ministry in local governance is particularly evident when it comes to the implementation of the decentralisation programme, a pet project of the Government since independence. According to the *Thirteen Principles to Guide the Decentralisation Process* adopted by Cabinet in 1996, the transfer of powers and functions by line ministries to RDCs is done by the line ministry concerned but the Ministry of Local Government co-ordinates and facilitates the effort.

Another critical ministry in the day-to-day functions of local government is the Ministry of Finance, especially in the area of development planning and public finance for capital projects. For instance, Section 290 of the Urban Councils Act provides that urban councils may, with the consent of the minister responsible for local government and the minister responsible for finance, raise the necessary funds by issuing stock, bonds, debentures or bills, or from any other source not mentioned in the Urban Councils Act.

Another critically pivotal institution in local governance is the Presidency. Throughout the various pieces of local government legislation, the President is empowered to intervene in a variety of cases, the ultimate being the dissolution of a council and dismissal of councillors and Executive Mayors. Under the RDC Act, for instance, the President is empowered to declare, name, alter or abolish a district.

The fourth important national institution is the Local Government Board (LGB) established under the Urban Councils Act. This is six-member Board appointed by the central government to oversee the operations of local authorities but its visibility and authority is felt mainly in the appointment or dismissal of senior council employees. It provides guidance on the organisation, administration and personnel issues in local government and the minister may direct the LGB to institute investigations on any matter relating to local government administration. For avoidance of confusion, it must be clarified that local government staff are *recruited* by local authorities themselves and have the power to discipline and dismiss staff but the LGB *must approve* the appointments and dismissals of *senior* staff in *urban* authorities. For senior staff in the RDCs, the Ministry plays this role. To ensure some sense of fairness in the composition of the LGB, it has two public service commissioners (from the Public Service Commission – central staff agency); a representative from the Association of Rural District Council (ARDC); two representatives from councils; and one representative from the workers.

Also involved in staffing matters at the national level is the Public Service Commission. According to the 13th Principle to guide the decentralisation process, “the Public Service Commission will manage the transfer of personnel from central government to rural district councils where this happens as part of decentralisation.” In practice, the PSC has largely been invisible in the operations of local authorities and to this extent; its role has remained largely theoretical.

Another important national institution at the operational level is the District Development Fund (DDF). This is not strictly speaking a part of local government, but it is a institution created by

central government to assist in the provision of infrastructure and is one of the main sources of public finance for the development of rural areas, especially the communal lands. Though the agency scored some resounding successes in the early 1980s, it has since suffered from goal displacement and has become a vehicle for massive mismanagement of resources and corruption by both the local and national political elite. At one time the Association of Rural District Councils (ARDC) called for the DDF to be put under the direct supervision of local authorities and for a Commission of Inquiry to be set up to investigate its nefarious activities. At the biennial conference of ARDC held in August 2004, DDF came under heavy criticism for not consulting local authorities, who are the planning authorities, on its activities, resulting in the duplication of roles. (*The Herald* 24 August 2004).

Equally important, though not always visible, is the Council of Chiefs consisting of representatives of various communal lands. The Council of Chiefs is provided for in the Constitution of Zimbabwe and under the Traditional Leaders Act. Members of the Council of Chiefs are chosen by a Provincial Assembly of Chiefs and the Council in turn elects ten of its members to sit in the Zimbabwe Parliament as non-constituency MPs.

Other institutions provided for in the Rural District Council and Urban Council Acts are the two associations representing these areas: the Association of Rural District Councils (ARDC) and Urban Council Association of Zimbabwe (UCAZ). They have been very actively involved in research, training and advocacy with a view to strengthening local governance. They, for instance, made useful submissions about reforming the local government sector during the Presidential Constitutional Commission with both in strong favour of “constitutionalising” local government in Zimbabwe. UCAZ has established a committee that meets reportedly regularly with the Minister for Local Government to discuss matters of mutual concern. Unlike UCAZ, the ARDC is said to meet with the ministry on an ad hoc basis.

Yet another important national structure is the Portfolio Committee on Local Government, Public Works and National Housing. The local government portfolio committee exercises surveillance over the entire local government domain. It, like other committees, holds public discussions on pertinent issues that have arisen or are of public concern and report their findings and recommendations to the whole House.

Centre-Local Relations

Though local governments are body corporate, they owe their existence to the statutes and central government that define their powers responsibilities and functions. Through its control of the legislature, central government is able to effect any amendments to the structures and functions of local governments. Local governments in Zimbabwe, as is the practice elsewhere in the region except South Africa, have no constitutional standing. The SADC Forum of Local Government Ministers has already recognised the necessity of enshrining local government in the constitution and is committed to its achievement.

Closely related to the constitutional issue is the doctrine of *ultra vires*. The doctrine of *Ultra Vires* (Beyond the sanctioned powers) is very important and affects the relationship between central and local government in Zimbabwe. The principle implies that local authorities, unlike natural persons and the state that can do anything as long as it is not against the law, may only confine their operations to what is stipulated in the statutes. It follows that a local authority that does anything not specifically permitted by statutes will be acting *ultra vires*, that is, beyond their powers.

The relationship between central government and local authorities in Zimbabwe is also influenced by whether the local authorities are urban or rural; if urban, their status becomes a potent factor. Urban Councils enjoy greater autonomy and status than rural counterparts. Cities and municipalities share the same powers and functions.

The fifty-eight Rural District Councils differ considerably from their urban counterparts in terms of relationship with the centre and their capacity to fulfil their mandate. Unlike their urban counterparts, Rural District Councils enjoy less autonomy in real terms as they “compete’ with central government agencies in the delivery of services and provision of infrastructure. While they are not categorised, as their urban counterparts, the capacities of Rural District Councils are largely influenced by the land categories, i.e., the presence or absence of mining concerns, and the geographical regions in which the local authority is located.

Parliament is ultimately accountable for the effective and efficient application of all public funds including grants given to local authorities. There is also a conscious effort on the part of government to prevent local authorities from pursuing financial and expenditure policies contrary to those of exchequer. Wishful and in cases persistent failure to obtain best value for money becomes a legitimate cause for central government interest and possible intervention. Central government control is also predicated on the need to protect ratepayers against possible financial mismanagement by local authorities, by means of government loan sanction and audit.

Local government infrastructure has been largely financed by central government through the PSIP. This central budgetary mechanism, provides loans at below market rates, has allowed government to control and account for local government capital. However, as government in the 1990s pursued a policy of reducing expenditures as part of the structural adjustment programme, the funding available through the PSIP has been severely curtailed. Given the limited resource available under PSIP, most local authorities are willing and even invite central government control and direction if that results in them getting the necessary financial support.

The issue of Local Government Elections and Politics is important in defining the relationship between local and central government. In terms of section 54 of the Urban Councils Act, the President may require an Executive Mayor to vacate his office if the Executive Mayor has been guilty of any conduct that renders him unsuitable as Executive Mayor or is mentally or physically incapable of efficiently carrying out the functions of the office of mayor. The responsible Minister may suspend an Executive Mayor whom he suspects on reasonable grounds of having been guilty of misconduct or against whom criminal proceedings have been instituted for any offence in respect of which a sentence of imprisonment without option of a fine may be imposed. The drastic measures of suspending or firing Executive Mayors and councillors have been a favourite course to deal with local authority problems.

National political parties also have a definite influence on local elections and political organisation of local authorities. Election of council members into office is usually along political party lines with a majority of candidates being sponsored by national political parties. National political parties have become an established feature of local political systems. It is a common and accepted practice that members of a council who belong to the same political party can caucus to predetermine how to debate and vote on major issues to be discussed in councils. Sanctions are imposed on members who renege from an agreed party position. It follows that all national political parties will attempt to push for their policies. It is when the ruling party pushes for implementation of its policies by an opposition-controlled council that challenges arise. The opposition in council insists that they have a mandate to generate and implement policy at that level for so long as it is not against national policy.

Failures by local authorities have also been important in defining the relationship between central and local governments. Failure can generally be described as inability to perform to a predetermined standard. Not all failures should attract external intervention, as that would seriously compromise local democracy and the whole concept of representative governments at the local level.

Failure is normally of two types, of substance and of process. The failure of substance concerns non-fulfilment or achievement of set standards and targets. The failure of process refers to the non-adherence to procedures that are necessary or prescribed for efficient delivery of service and general good governance. Local authorities would be charged with failure as evidenced by:

- Unit costs persistently high in relation to other local authorities in similar circumstances.
- Deterioration of service standards against specified standards.
- Inability to meet specified national standards.

However, government has not maintained records of failures and intransigent behaviours by local authorities. As a result, the Ministry of Local Government, Public Works and National Housing has not always been consistent and fair in its approach, being too harsh or too lenient on same type of failures without offering adequate explanation for such inconsistencies.

Central government also has a desire to protect local authority staff against unfair/ and arbitrary dismissal by the often-partisan councillors. On a number of occasions, the Minister of Local Government, Public Works has reinstated council staff who, in his opinion would have been dismissed unfairly.

Government in Zimbabwe has also generally intervened in local authority affairs in the following manner;

- Simple reminders to local authorities.
- Informal discussions and meetings
- Issuing of guiding circulars
- Instructions, including instructing local authorities to rescind some of their resolutions.
- Stringent reporting conditions.
- Warnings, suspension of councillors and actual dismissals

The Urban Scenario

Of the two main types of local authorities, one comprises Urban Councils of which there are four sub-types: Local Boards, Town Councils, Municipalities and City Councils in ascending order of status, power, authority and resources. Urban councils enjoy a greater zone of autonomy than Rural District Councils and are administered under the Urban Councils Act. Urban councils are categorised according to a hierarchy of status, structure and capacities. In total there are now 27 urban councils and of these, four are local boards, seven town councils, nine municipalities and seven city councils.

Both cities and municipalities are headed by elected Executive Mayors and currently there are 16 such mayors. This has been the case since the amendment to the Urban Councils Act in 1997, which introduced the executive mayor system.

All cities and municipalities also have town clerks and chamber secretaries and both positions are appointive. Town clerks and chamber secretaries work on a day-to-day basis with the executive mayor and are his chief advisors on council affairs.

A critical and mandatory administrative structure in all cities and municipalities is the Executive Committee. This comprises the mayor, his deputy and the chairpersons of the other compulsory committees specified in the UC Act. It is noteworthy that the chairpersons of committees are elected by the other councillors and not chosen by the mayor and does not have the power to do so. UCAZ views this as a major weakness in the Act and preferred a situation whereby the Mayors have the power to appoint their own “cabinet” and these councillors would then chair the committees.

In Town Councils and Town Boards, there is no provision for mayoral position. On the contrary, the councillors elect one among themselves to be chairperson and this is a part-time position. In the former, the public elects the councils while in the latter, the membership to the local boards is all or part appointed by the minister. In both town councils and local boards, the state continues to administer the land in their areas of jurisdiction thus also limiting their capacity to raise revenue. In addition, though their duties are the same as for any other urban local authority, their powers, especially with regard to borrowing, are more circumscribed than for municipalities and cities.

Metropolitan Governor

A newly introduced structure in Zimbabwe's urban governance system is that of Metropolitan Governor and Resident Minister. This applies to the two metropolitan provinces of Harare and Bulawayo. Part of this “innovation” is the creation of similarly hitherto unavailable positions of Provincial Administrator and various District Administrators for the two cities. Observers and critics saw this move as designed to neutralise the unwanted presence of the opposition MDC party that controlled the two cities having overwhelmingly won local council elections.

The Rural Scenario

Rural local authorities have always been different from urban councils. From 1980, Rural District Councils were not treated as autonomous units to deliver to the community. In 1980, government removed the District Commissioner, (DC) from being President of council but made the DA the Chief Executive Officer of the District Council. The DA effectively became chief advisor to council, chief implementer, government regulator and monitor. The local communities were reduced to spectators to state and donor funded operations in their area of jurisdiction. Rural people have generally felt powerless as they have little input in decisions affecting their lives. The Rural District Councils have remained an appendage of central government which enjoy no meaningful decentralised functions.

The rural scenario is dominated by two legally defined institutions, Rural District Councils and traditional leaders and these are provided for under the RDC Act and the Traditional Leadership Act. Other key players are political parties - particularly the ruling Zanu-PF, non-governmental organisations (NGOs), community-based organisations (CBOs) and the structures provided for under the decentralisation programme.

The Rural District Council is a directly elected body led by a chairperson elected by the council. All rural councillors are part-time. There are five mandatory committees: finance, roads, rural district development, natural resource conservation, and ward development and village development committees. The council may create other committees as the need arises. Though burdened with many of the responsibilities shouldered by their urban counterparts, RDCs enjoy far limited powers

especially in the area of revenue raising and borrowing. For example, RDCs can borrow only from central government unlike municipalities and cities that can borrow from many other sources, including the money market.

In terms of institutional and human actors, the rural scene is a much crowded arena. Under the PM Directive, which was formalised in the Provincial Councils and Administration Act, decentralised co-ordinating development structures were put in place from village to provincial level. The lowest structure in the local government system was the village development assembly above, which was the ward development committee both with elected members. The latter are chaired by the councillor for the ward. Above the ward in the hierarchy is the RDC. Before the operationalisation of the 1998 Traditional Leadership Act from 2000, traditional leaders were virtually unrecognised in the formal local government structure. The functions of the Vidcos were:

- Identification and articulation of village needs;
- Co-ordination and forwarding of village needs to the Wadco;
- Co-ordination and co-operating with government extension workers in the operations of development planning;
- Co-ordinating and supervision of all activities relating to production and general development of the village area; and
- Organising the people to undertake projects that require a considerable workforce.

WadcOs – which group six Vidcos – were expected to be central planning authorities in the ward, overseeing and co-ordinating development plans in their area of jurisdiction. However, in practice, the role of Vidcos appears to be that of receiving information and directives from above (i.e., from central government and from Zanu-PF party officials), rather than that of acting as a channel for bottom-up initiatives.

It should be noted that though these grassroots structures were meant to facilitate decentralised planning through grassroots participation, they were created with little or no consultations. In fact, these structures were in a large sense, successor structures to those established by Zanla forces during the liberation war in the rural areas they controlled. These were underground village liaison and mobilisation structures controlled by Zanla fighters, the military wing of Zanu-PF.

All local authorities used to run their own elections but this was amended in the mid-1990s when the relevant Acts were amended and the authority to run elections was transferred to and centralised in the Registrar General's Office. However, the costs for running the elections are still born by the local authority in question. The centralisation of the administration and running of the elections has created a lot of discontent and controversy given that even prior to this transfer, the Registrar General's was accused of gross inefficiency, incompetence and impartiality in the conduct of national-level elections.

Local authorities are required by law to inform the public and central government on proposed activities in a range of areas, for instance, on matters relating to budgets or estimates of income and expenditure of revenue and capital accounts. After the council has approved council estimates, the council "shall ensure that copies of such estimates are forthwith made available for inspection by the public free of charge at the council offices" [section 121 (5) a i) of the RDC Act]. The same applies to a range of other issues including the use of borrowing powers.

Under Section 82 of the RDC Act, local authorities can enter into co-operation agreements with the state, another local authority or any other entity or person "for the better or more economic carrying out --- of any matter which the council may by law perform and in which the contracting

parties are mutually interested”. The Minister may also enter into such agreements with other parties on behalf of the council. The public input is also provided for under provisions for making by-laws. Section 88 (4) of the RDC Act says:

After passing a resolution for the making of any by-law, a council shall cause a copy of the proposed by-law to be deposited at the offices of the council or at any other place where notices of the council are usually displayed or published, there to be open to inspection by any person for a period of fourteen days during the normal office hours of the council.

The deteriorating macro economic situation has severely compromised decentralisation programmes. Local authorities are failing to collect enough revenue from the poor ratepayers. Borrowing costs from the private sector is prohibitively high. Their revenue base is small and continuously shrinking. There are serious shortages of adequately qualified and experienced staff in the technical and accounting departments of councils. In the absence of adequate resources, service delivery by local authorities has further deteriorated and this has affected the local authority’s ability to take on additional decentralized functions.

Provincial Councils and Administration

Provincial Governors are public offices but do not form part of the Public Service. These Governors, appointed by the President, become *ex officio* Members of Parliament by virtue of their offices as Governors. They thus cease to be Members of Parliament if they cease to hold office as Governors.

Provincial Governors chair Provincial Councils in their provinces. These Councils are not directly elective assemblies but are composed of the following:

- ❖ The Governor of the province concerned;
- ❖ the mayor of each town and municipal council in the province together with one councillor appointed by each such town and municipal council,
- ❖ the chairman of each rural district council plus one other councillor appointed by each rural district council;
- ❖ one chief representing Provincial Assembly of Chiefs in the province concerned; and,
- ❖ three persons appointed by the President – one representing women in the province, one representing the youth in the province and one with special skills in political affairs.

In addition to the above, senior members of the Zimbabwe Republic Police (ZRP), Central Intelligence Organisation (CIO), and the Zimbabwe National Army (ZNA) attend all full meetings of the PCs though they are not members of the Council.

According to the Provincial Councils and Administration Act [Section 10 (b)], Governors are supposed “to foster and promote the activities of the various ministries and organs of central Government in implementing development plans prepared by Provincial Councils”

The Act enjoins the Governors to carry out this developmental function “by a process of consultation, suggestion and advice.” The Councils themselves have the function of promoting development and to formulate policies necessary to effect such development. To this extent, each Council must prepare an annual development plan and evaluate the success of its implementation.

Provincial Councils can be said to be the political organs at the provincial level, analogous to the Cabinet at the central government level. The administrative or technical organ at the provincial level is the Provincial Development Committee. This comprises:

- ❖ town clerks, principal officers, secretaries and senior council officers of all municipal, town, rural district councils and boards;
- ❖ senior officers of the ZRP, ZNA, and CIO;
- ❖ provincial heads of ministries; and
- ❖ members representing commerce, industry and other organisations and interests that the Minister of Local Government may appoint on the recommendations of the Provincial Governor.

The major function of the PDC is to produce annual provincial development plans which must co-ordinate projects which are proposed by communities with those that are initiated by the central government. There is, however, very little representation of the beneficiaries in all this, i.e., in terms of democratically-elected representatives.

The Provincial Committees and Provincial Development Committees are required to hold joint meetings chaired by the Provincial Governor whose purpose is to discuss provincial development plans and harmonise district development plans within the province.

Local Leadership

Most religious leaders have been accessing and working with communities through NGOs that are locally registered and often receive foreign sponsorship. The NGOs are of a varied kind; some are local, some regional yet a large number have international links. Most NGOs work directly with communities and individuals and this has often set them on a collision course with the central government which is afraid of having its authority undermined.

Local leadership has also been instrumental in setting vibrant civil society organisations like farmers unions, trade unions, residents associations, religious fellowships and consumer associations. Such organisations have managed to police the activities of the local authorities and central government agencies, pointing out any transgressions and excesses. Some civil society organisations have facilitated the forming of opinions and influenced the common citizen's interest in public affairs. Civil society has also been instrumental in creating and providing vital information that the local needs to participate in decision making in any significant manner. The civil society groupings like farmers' clubs have been able to lobby government and private sector for better commercial deals. Furthermore, civil society organisations enhance participation by improving trust among group members, reducing transaction costs and thereby facilitating the flow of vital information.

However, in some cases local leadership has assumed responsibility over issues beyond its jurisdiction. For example, during the land invasions the leadership of the the Zimbabwe National Liberation War Veteran Association (ZNLWVA) literally took over the implementation of the 2000 Fast Track Land Reform Programme. It was the war veterans' leaders who principally determined the target farms and the potential beneficiaries. This they did with little and often no reference or input from the communities and local developmental structures. There was also no formal channel for holding the war veterans accountable for their actions. If unchecked, local leadership, especially if backed by a politically powerful constituency, can actually inhibit public participation and accountability in formulation and implementation of local government policy through the creation of parallel structures competing with and/or undermining those of local authorities.

Traditional Leadership

The Zimbabwe governance system like in most African countries is characterised by existence of hereditary chieftainship in an otherwise proclaimed republic. Traditional leadership is active at all levels of governance in Zimbabwe from the national level to the village level. The institution is recognised by the constitution, unlike local government that is created by statutes of Parliament. There are conflicting claims to legitimacy and uneasy co-existence between traditional and elected leadership. Traditional leadership and local government officials occasionally trade accusations of abuse of power, non-compliance with laws; customs and traditions, especially regarding allocation and management of scarce resources such as land.

It is at the local government level that there are serious relational problems between traditional leaders and the modern public administration systems. Rural local government is the level most affected by traditional rulers, as it is where they exercise their judicial, administrative and legislative functions. Successive governments since 1890 have been concerned with reconciling the powers and functions of traditional authorities with those of elected local government officials.

During colonialism, traditional leadership occupied a difficult position as the highest-ranking representative of their people in the traditional system, and the lowest-ranking representatives of the new colonial administrative system. The colonial administration took over from the local communities the right to approve new chiefs. The chiefs were also paid small salaries for the judicial and tax collection services they provided. From the 1960s, chiefs were also given increased rights over allocation of communal land.

At independence in 1980, chieftainship was retained as a symbol of traditional values but the chiefs themselves were stripped of all their administrative and judicial functions. The chiefs and headman even lost their tax collecting functions. District Councils assumed the administrative functions previously performed by traditional rulers whilst community courts took over the judicial functions.

The repeal of the Chiefs and Headmen Act and enactment of the Traditional Leaders Act (1998) empowered traditional leaders to deal with problems of land and natural resources conservation and management in their areas, preserve and maintain rural family life, punish crimes like livestock theft and misuse of natural resources. The Act also recognised in legislation the village head (*sabhuku*), as previously there was dual leadership at village level with Village Development Committee (VIDCO) chairmen and headmen sharing power. The village head is now the sole leader in all the traditional, cultural, judicial and developmental programmes at village level. This arrangement sought to put an end to the existence of two leaders at village level with conflictual claims to legitimacy. The village head is the chairman of the Village Assembly that effectively superintends over the VIDCO structures. The powers of chiefs were extended to include administrative, judiciary, planning and development co-ordination, traditional, cultural and policing powers.

The Headman assumes functions similar to those of the Chief on a delegated basis but he also chairs Ward Assembly meetings. Since the Village Head chairs both the VIDCO and Village Assembly, the VIDCOs are surviving at the pleasure of the Village Head and in a number of cases the VIDCOs no longer operating with all VIDCO functions being performed by the Village Head.

Concluding Remarks

The above-mentioned institutions and structures can be said to constitute the core of the local government policy community, a sort of *sub-government* of this policy community. All the above institutions have a *national* character and geographical spread.

The local government system and its related legislation provide for a relatively autonomous and representative local government system. The laws provide for regular and scheduled elections. There is also a requirement for local authorities to consult citizens whenever they are coming up with new legislation and budgets. Residents are free and encouraged to inspect all public council records. The government has also put in place sound decentralisation and capacity building policies.

However, the practice in Zimbabwe has been very inconsistent with the spirit of the law leading to serious shortcomings in the administration of local government. The same Acts that give local authorities wide ranging powers also provide for the interference of government through the Minister for Local Government, Public Works and National Housing. The involvement of the Minister in local authority business has reduced local authorities to appendages of central government. There is simply too much interference of central government in Zimbabwe's local government.

Elections, the only viable weapon available to local government residents, has been rendered useless as government can, with impunity, remove the elected officers and deny the electorate an opportunity to replace the dismissed policy makers. There are also increasing and worrying tendencies by central government to centralise certain functions previously undertaken by local authorities. For instance, central Government has now taken over the provision of water to Harare City Council and neighbouring councils of Chitungwiza, Norton, Ruwa and Epworth.

An Alternative Local Government Policy

Given the shortcomings of the current policies, there is an imperative need for an alternative local government policy based among others on the following principles:

- Autonomy
- Decentralisation, ensuring that all functions should be performed at the lowest possible level unless there are extenuating circumstances that should be argued, discussed and agreed by all parties involved.
- Participatory decision-making by ordinary citizens on all matters that affect them.
- Accountability of all stakeholders, especially the elected, in public life.
- Gender sensitivity, including mainstreaming of gender in letter and spirit.

Constitutionality of Local Government

Local government in Zimbabwe, unlike in other modern democratic states, has no constitutional backing. The constitution of Zimbabwe is silent on the establishment of local government save for section 111 of the Constitution of Zimbabwe that recognises the existence of Provincial Governors and Chiefs as sub national levels of government. Yet, the Zimbabwe Constitution, in its preamble, states that the “constitution is the supreme law of Zimbabwe and if any other law is inconsistent with this constitution that other law shall, to the extent of the inconsistency, be void”. Zimbabwean constitutional law thus regards the Constitution as being supreme and superior even to the Legislature. In that regard, the administrative and political culture in Zimbabwe highly regards those matters enshrined in the Constitution, which cannot be changed before careful review, consultation and defensible justification.

Having no constitutional standing, local authorities are basically a creation of Parliament and central government which both create and define the parameters of their organisation and functions. Under the RDC Act, for instance, the President is empowered to declare, name, alter or abolish a district. In a way, the powers and functions of local authorities are determined or controlled by the President and the political party in government. There is, however, no guarantee that central government will take the various and often-divergent views of local authorities when generating policy and law. This situation is untenable, especially in situations where the policies of the party in control of central government are completely divergent to those of parties in control of various local governments. As long as local government remains under the control of parliament and central government, it remains a threatened level and system of governance vulnerable to the dictates of central government.

Among the SADC countries it is only South Africa that has enshrined local government in its constitution. South Africa provides some best practices in the area of enshrining local governments in the constitution. Section 7 of the South African Constitution provides for the establishment of local authorities, their objects, composition and powers. *South African local authorities are as a result not subject to direct, unexplained discipline and dismissal action by central government. Within the SADC framework, which provides an avenue for sharing resources, best practices and challenges within the region, it has already been agreed to enshrine local government in the national constitutions of member countries. The move will ensure that sustenance and continuation of local authorities is guaranteed.*

Specifically, the Constitution should:

- *establish local authorities as a free standing level of government at sub national level, specifically the district and provincial levels for Metropolitan Provinces;*
- *spell out the various responsibilities and functions of the different levels of government;*
- *state the major objects and responsibilities of local governments;*
- *state the revenue sharing mechanisms among the various levels of government;*

The Constitution should also specifically indicate that the district and local authority levels have to get an allocation from the central fiscus. The advantage is that allocations to finance basic functions of local authorities will not be subject to whims of Parliament during budgetary allocations as the constitution will provide sufficient guidelines. However, it should be noted that any issue being enshrined in the constitution does not necessarily guarantee prominence. There is need for complementary government policies to support constitutionally protected matters.

Central government at all levels from national to sub district will retain the monitoring, regulatory and support role and would not have right to interfere with local authority business. As the Constitution will establish the local authorities, central government will have no automatic right to suspend and dismiss local authorities and its elected representatives. Making local government a constitutional creation will also do away with the restrictive *ultra vires* doctrine.

Decentralisation and Local Government

Though the principal Acts give local authorities some autonomy, central government, through the Minister of Local Government, Public Works and National Housing has continued to get involved in day to day local authority administration.

The alternative local government policy will endeavour to *create participatory and decision making structures at all levels of governance from provincial to village level*. These decentralized structures would have the autonomy and necessary resources to undertake their mandates. All functions and responsibilities should in principle be undertaken at the lowest possible level. Local authorities will have:

- *the mandate to deliver services at the district level, ranging from infrastructure to social services.*
- *overall authority over discharge of service only subject to nationally set standard and laws of the land.*

Decentralisation of functions should not be limited to giving additional functions to local authorities. Indeed, local authorities themselves should, where appropriate, hand over functions and responsibilities to communities and Community Based Organisations (CBOs) and other sub-district institutions. The sub district level will have considerable autonomy to initiate and implement projects of a local nature like small irrigation schemes, subject to national policy and guidelines provided by the establishing RDC. Initially the sub national structures like Ward and Village Assemblies will not be bodies corporate. The new decentralisation programmes can be effectively carried if they were part of nationally agreed strategy that also receives international backing. The decentralisation programme should to a very large extent be locally funded to minimize the effects of the start-stop scenarios that characterised the Zimbabwe programme following massive donor withdrawal. Line ministries have to be transformed from deliverers of services to communities into facilitators and regulators.

There should be a clear division of responsibilities among all spheres of government, that is, central, provincial, local and community. *Central government should not have the power to dissolve, suspend or dismiss elected councils. In dealing with local authorities, central government should endeavour to*

develop and consistently follow a guiding matrix on local authorities' failures that normally attract central government intervention. The matrix should state all known and possible failures and the appropriate actions to be taken on each failure. With a guiding matrix government behaviour becomes more predictable and fair. Though it is not possible to cover all the possible types of failures, the matrix will force both local authorities and central government to systematically appraise performance.

The Executive Mayoral System

The current system of Executive Mayor is a poor hybrid of the traditional British style Mayor and the American Strong Mayor. Before amendments to the Urban Councils Act in 1996 the Mayor was the first among equals chosen from among the councillors. The 1996 amendment introduced the Executive Mayor who was to be elected directly and be full time member of council. Unlike in the pre-1997 period, Executive Mayors are now employed full-time (unlike all other councillors who work part-time) and their tenure is four years. However, unlike the American Strong Mayors who are executives with appointing and dismissing powers and veto powers, the Zimbabwe Executive Mayor is accountable to full council. *In real terms, the Executive Mayor gained no executive authority. Attempts by Executive Mayors to assume executive functions have often led to clashes between the Mayor and Town Clerks. Another legal oddity is that though residents and ratepayers directly elect Executive Mayors, the President on the advice of the Minister can easily remove them even when the electorate that elected him and the councillors with whom he works still wants him/her.* This has happened in Harare where the Minister first suspended the executive Mayor and a year later dismissed him. This very anomalous situation needs to be remedied.

To this end, the MDC will:

- ❖ *retain the elective Executive Mayoral system but clearly lay down the political and administrative functions and powers of such executives;*
- ❖ *adopt a clear system of checks and balances to prevent the abuse of executive powers;*
- ❖ *introduce principles of accountability such as the recall or an impeachment procedure;*
- ❖ *close the big gap between the Executive Mayor and his other elected councillors, both in terms of powers and the attendant perquisites, by clearly delineating the roles of the political and administrative officials. This will ensure that Executive Mayors will not interfere unduly in the functions of appointed administrators.*

The virtues of the elective mayoral system will depend on the constitutionalisation of the local government system as envisaged in the above. Under this system, no Minister of government will have the right to directly interfere with local authority affairs. Added to this is the advantage that direct election of the mayor will promote citizen interest and participation in public affairs and generally providing a platform to make mayors accountable.

Metropolitan Governor

The introduction of Metropolitan Provincial Governors has complicated the running and management of the two cities as there does not appear to be a legal framework governing their existence and operation in an entirely urban context. They are not provided for in the Urban Councils Act though they are provided for in the Constitution which states that “for the better administration of Zimbabwe, an Act of Parliament may provide for the appointment by the President of Governors for any areas within Zimbabwe” {Section 111 A (1) of the Constitution}. Pursuant to this, the legislature enacted in 1985 the Provincial Councils and Administration Act. The confusion and complication arises from the unclear and unspecified division of labour between the Executive Mayor and the Provincial Governor, the former representing and speaking for the electorate, the latter representing the President and speaking for him. The problem is clearly exacerbated in situations where the Executive Mayor and the Governor belong to two different

parties subscribing to different philosophies and approaches towards urban governance. This position should be done away with.

Local Authorities Management Systems –Committee System

Currently, the management of all local authorities in Zimbabwe, except for Provincial Councils, revolves around an elected body that acts as legislature and an appointed executive that implements policy. The councils operate using a system of committees. A committee can only make decisions as delegated by council and the full council will have the obligation to ratify committee decisions and consider committee recommendations. A department composed of executives services a committee. Normally a committee would be responsible for the output of a department under its charge. The departmental heads are accountable for the output of their departments and work closely with the committees they service. There are six main types of committees, namely statutory, permissive, standing, special, joint and joint boards.

The Executive Mayor chairs the Executive Committee and is an ex officio member of all other committees of council. The executive staffs are employees of council who serve it without worrying about political complexion. The executive provides the expertise and continuity of service through the four years of local governments. The executive advises on policy and implements council resolutions. The Town Clerk/ Secretary or Chief Executive Officer heads the paid service with authority over other Heads of departments.

Each local authority is responsible for the appointment and setting up of conditions of service for its staff. However, *the appointment of senior officials of Urban Councils has to be approved or disapproved by the Local Government Board. On the other hand, the Local Government Board itself is a creation of the same Act under the direct control and instigation of the Minister of Local Government in terms of appointment, dismissal, functions and financing. By extension, therefore, the Minister of Local Government indirectly manages the staff appointments and dismissal of senior staff of local authorities. The involvement of Ministry in personnel issues of councils undermines the authority of councils.*

One further problem is that the *Town Clerks are not real Chief Executive Officers of Council as they are merely chief advisors. The Town Clerks also have no appointing or dismissal powers that limit their ability to take a lead role in the creation of a vision and strategy for the organisation.*

The head of appointed executive is expected to develop a rapport with both the leader of council and the opposition political party members in councils without being seen as personally committed to the policies of any political party.

The structures that exist at provincial level are more or less replicated at the district level. Thus we have both Rural District Councils (RDCs) and District Development Councils (DDCs). However, unlike the Provincial Committees that are not directly elected, members of the RDCs are directly elected by their electorates known as wards. In addition, there are appointed councillors representing special interests, not exceeding one-quarter of the number of elected councillors, as the Minister may fix. Its functions include the following:

- ❖ examining and approving the development plans for the district which are prepared by the DDC;
- ❖ reviewing and monitoring the implementation of development plans prepared and executed by the other ministries and departments or agencies of government; and
- ❖ implementing the district council's own plans, programmes and projects once they have been approved at the national level.

The RDC and the DDC also hold joint meetings from time to time and the chairman of the RDC chairs these. The joint meetings are meant to ensure that elected councillors are given appropriate advice and information by the civil servants who comprise the DDC. The DDC itself has basically the same functions and powers as the PDC in their respective jurisdictions.

On the legislative front, the national government has unrestricted powers to pass laws that apply to any part of the country and without reference to the lower tier. It can act unilaterally as it deems fit. This derives from the non-federal character of the Zimbabwean political system. In Zimbabwe central government can make and unmake local government.

Local Government Finance

The RDC Act mandates Rural District Councils to provide various social and infrastructural services such as the construction and maintenance of sewage works, roads and dams. The sources of revenue to finance their operations include:

- grants from central government for the general administration costs, including paying for recurrent expenditure like salaries and wages;
- loans received under the Public Sector Investment Programme for infrastructure development;
- levies, rates, and rents paid to council for services rendered by government such as refuse collection, sewerage and water;
- interest earned on moneys invested by council in any investment instrument as provided for in the Act;
- revenue received from any activity engaged in by council. A council may engage in any commercial, industrial, agricultural or any other activity for the purpose of raising revenue for the council; and
- taxes on land owners, mining locations, licensed dealers and permit holders.

The above sources of revenue are generally inadequate to finance council operations and recently the government, under increasing financial obligations, has drastically slashed its subsidies to local authorities. For instance while in 1998 the government's grant to the 58 RDCs was \$17, 5 million but was slashed by 65% to \$6 million in 2000. In the 2003 budget year, local authorities were allocated less than 10% of the money under the Ministry's vote.

It must be stated that there is no criteria that governs the distribution of national revenue among local authorities according to need. There is no formula for sharing the fiscus between the centre and the local spheres. Everything depends on the centre. *With a reduction in government grants and dwindling own resources, local authorities are struggling to provide services to their constituencies. Consequently, capital development funds are often diverted to cater for recurrent expenditures. In other cases, even donor funds are illegally viremented to pay for running expenses.*

By and large, for most RDCs, locally generated income accounts for less than 70% of their administrative costs and government grants fill the administrative expenditure gap. This excludes the capital expenditures; these are invariably donor funded or the government either extends loans or intervenes in the form of direct or indirect investments.

Most RDCs suffer from debilitating weaknesses. First is the capacity of the local economy to generate revenue. This is demonstrated in a very thin tax base which in some cases contributes not more than 1% of local revenue. Relatedly, there is the lack of commercial or industrial rates base especially for most RDCs and then the high poverty levels in RDC communities.

The other weakness is the capacity of RDCs to collect, administer and allocate revenue. Constraining barriers in this regard range from central government control, weak technical skills at this level, lack of legal instruments to back up their efforts etc.

Central government grants to councils come in two types; *block grants* and *tied grants*. Block grants are unconditional in that central government does not specify the use to which they are to be put except that the councils have to account for the use to central government. These grants are an important source of finance for implementing projects identified by the villages and wards in the district. However, tied grants, as the name suggests, come with strings attached in that they have to be spent for specific services indicated by central government or its agencies. These grants are an important source of funds to finance services like education, health, roads and administration. Capacity to absorb these funds and to comply with central government criteria is important variables determining future disbursements. In fact, there is vicious circle at play best articulated by Harris just after independence with respect to centre-local relations:

Their (local authorities) limited funds make it impossible for them to improve their administrative capacity. And their limited administrative capacity discourages the allocation of new functions, for fear that they will not be able to carry them out effectively or use the funds given them efficiently. Finally, their limited administrative capacity greatly hinders their ability to levy and collect taxes or mobilise their own sources of revenue.

Local governments also suffer from ministerial intervention in the area of spending and revenue raising. According to the RDC Act, section 125, a council can obtain advances from any commercial bank in the form of overdrafts. However, the Minister of Local Government with the consent of the Minister of Finance should approve the amounts to be so obtained and the conditions on the basis of which such funds are obtained. The Ministry of Local Government also sets ceilings on the proportion of the budget that can be spent on certain budget items notably, on salaries. This is certainly so for urban councils.

Urban local councils are more self-reliant with regard to finances as they have much wider tax and rates bases. Consequently, they raise about 90% of the revenue locally compared to less than 50% for rural district councils. According to the Urban Councils Act, councils are allowed to mobilise resources on their own, have statutory powers to levy ratepayers, charge user fees but the tariff increases are controlled by central government as is the case with health fees that are set by the Ministry of Health. Previously urban local authorities also got capital finance from central fiscus through the Public Sector Investment Programme (PSIP). However, the PSIP allocations have drastically decreased over the years. In place of PSIP, the Reserve Bank of Zimbabwe has made available a window for local authorities to access fairly cheap “Productive Sector Finance”. Local authorities have to meet very stringent conditions to qualify. Such conditions include having up-to-date budgets and appropriate corporate governance policy and management structures.

In most local authorities, especially but not only RDCs, the total revenue raised is barely adequate to meet the cost of performing existing functions. The main reasons for that situation are:

- Local authorities have limited revenue-raising powers as central government monopolises the high yielding tax factors.
- Most of the internal revenue raising powers are subject to central government control and direction. The powers to vary the rate of taxation between different types of residences is subject to ministerial approval; ministerial consent is required in order to borrow from external sources, the evaluation of property in urban areas is subject to

scrutiny of valuation boards, which are appointed by the Minister; and the raising and utilisation of revenue from natural resources is subject to stringent conditions imposed by the Department of National Parks and Wildlife Management.

- Since the introduction of Structural Adjustment Programmes, grants from central government have gradually decreased and their conditional nature severely compromised the financial flexibility of local authorities.
- Local authorities are also severely affected by the adverse macro economic conditions. The high rate of inflation, high interest rates compromises the local authorities ability to come up and operate a balanced budget. It has increasingly become prohibitively expensive for local authorities to borrow from the commercial sector.
- Though the financial management capacity of local authorities varies greatly, in many cases it is less than adequate. Many local authorities do not produce realistic budgets and they lack the political will to collect all budgeted revenues. Furthermore they often do not use revenue collected in line with budgeted purposes. Overall, local authorities have limited ability both to collect revenue and to manage the insufficient financial resources, which they do acquire.

Recommendations:

An alternative policy will have to promote largely financially self-sufficient local authorities.

- Own source revenue base (i.e. unit taxes, service charges, rates): Local authorities should be allowed to charge (and account for charging system) for the services and rates within their areas of jurisdiction subject to broad policy and guidelines provided by central government. There should be a very clear and transparent revenue sharing mechanism between the state and sub national levels of governments. Such a revenue sharing formula should pay special attention to the need for equity between different regions. The new policy will ensure adherence to the old tradition where local government had a monopoly over property tax while government concentrates on more mobile taxable factors like income and value added tax. The property tax will be used for provision of infrastructure and the general protection of environment and property. Goods and services of a private nature will be provided on a cost recovery basis. Where necessary, subsidies especially in areas of health and education, will be provided through a well-articulated social welfare strategy.
- Transfers from the national treasury: The new policy will imply that inter-governmental fiscal transfers will come direct to local authorities instead of passing through sector ministries, as is the situation currently. There will not be need for government guarantees when local authorities borrow from the private sector. The advantage of that situation is that government will reduce its overall debt burden, especially on local borrowings. In that regard, there will be established independent Municipal Bond markets that will source and provide credit rating for local authorities. The South African bond market once gain provides best practice in this regard. From the South African experience, it is important to have independent and professionally respected credit rating systems if the bond market is to remain attractive to the private sector. The local authorities themselves also need to have good corporate governance policies and be transparent if they are to remain viable investment destinations.
- Local authorities are expected to provide all the necessary services and infrastructure to the people within their respective areas of jurisdiction. These include housing, education, health services, water, sewerage, roads, dams etc. In addition, local governments should create the environment conducive to local income generation and other economic activities and for this, they are empowered to enact by-laws to raise local revenue, regulate various activities and implement necessary capital projects within their territorial

units of rule. However, these by-laws have to be in conformity with the principal or primary legislation.

- Capital funding from commercial enterprises, borrowing from the open market without sovereign guarantees and grant funding from bilateral aid. On this fiscal front, the MDC will ensure that fiscal transfers from the centre to local government units are established in law, a measure that presently is not provided for. For capital funding, the party proposes a credit rating system that is used to assess suitability for receiving sector specific funds like the Road Fund, Water Resources Fund, Natural Resources Fund etc.
- The 'own source' revenue of local authorities can be further expanded by including revenue from land and natural resources. This will require amendments to the legislation governing these areas, e.g. the Communal Forestry Produce Act and the Mines and Minerals Act. The former makes illegal to collect wild fruit for commercial purposes while the latter Act does not provide for the payment of royalties to RDCs by the mining companies whereas most of the mining is done in areas controlled by RDCs. The new policy will provide for three main sources of revenue, mainly local taxes, shared and non-tax revenue. The specific details would be as follows:

Local Taxes

Property tax (rates),
License plate tax of using vehicles and ships
Real estate tax of cities
Tax on slaughtering animals, tax on animal trade
Tax on country fair trade, tax on urban maintenance and construction
Income tax of local state-owned enterprises
Adjustment tax of local state-owned enterprises

Shared Taxes

Building tax
Income tax of individuals, bonus tax
Tax on industrial and commercial integration
Income tax of joint-venture enterprises
Income tax of foreign enterprises

Non-Tax Revenue

Revenue from monopoly
Revenue from benefit fee from projects
Revenue from penalty and compensation
Revenue from a set quota
Revenue from trust and management
Revenue from assets
Revenue from contribution
Revenue from assistance
Revenue from bonds and credits

The material resources at the disposal of a local authority affect its autonomy and independence in decision-making. Inadequate own resources lead to weaker authorities that are unable to deliver their mandate. Poorly resourced councils unduly rely on government and private sector thereby compromising their regulatory roles. There is need to maximise revenue for local authorities and also identify new sources of revenue. There should be a reduction of areas with taxation that overlaps with central government. There should be constant, independent reviews

of rates and tax bases because in many instances, the obsolescence of rates has significantly depleted financial resources.

Provincial Structures

Previously, the party has taken the position that the structures created under the Provincial Councils and Administration Act are ineffective and do not necessarily add value to issues at national or sub-national level. It has been suggested that this Act will be repealed and its structures dismantled. Instead, the position of Provincial Administrator will be elevated above those of other provincial heads of sector ministries but that s/he will be answerable to the Minister of Local Government.

This arrangement will only complicate matters where you have an officer (no matter how senior) of a line ministry controlling and overseeing the activities and operations of other line ministries. From an organisational and functional standpoint it makes little sense to locate a co-ordinative and overseer role and function to a post housed in line ministry.

Recommendations:

The ideal situation is to locate such a post in staff or central agency, an obvious candidate being the new Ministry for Policy Implementation. Also, once you have such an elevated position, with a comprehensive mandate over a wide spectrum of policy fields, then the post should be removed from the regular local government structures. The 'overseer' must stand over and above other sector ministries.

The present provincial structures, i.e., Provincial Governors, Provincial Councils and Provincial Development Committees should be expunged from the Local Government System and be entirely coordinative, monitoring and regulatory structures that are part of Central Government and not part of the local government regime. They would be housed in a ministry like the new Ministry of Policy Implementation where they would more appropriately act as the "eyes, ears, and mouth" of the central government. Nowhere in the PC&A Act is it mentioned or suggested that the Act is meant to facilitate local government operations. The Resident Minister and his Office will be expected to play an oversight and supervisory role vis-à-vis *all* sector ministries in the province, *including* that responsible for Local Government. The Provincial Administrator would be like any other provincial officer of central government ministries.

One option of organising the sub national level would be to establish special administrative districts whenever deemed necessary. The special administrative district can be established for any service from education to mosquito abatement. The United States of America and China offer some useful experiences in the establishment of special districts. In 1982 the Chinese Constitution wrote that the state would set up special administrative districts whenever deemed necessary. On 1 July 1997, China resumed exercising sovereignty over Hong Kong and set up the special administrative district of Hong Kong. The special administrative district was the product of the concept of "one country-two systems", which means that mainland China carried out a socialist system and Hong Kong, Macao and Taiwan a capitalist system. The challenges of the special district are that they necessarily focus on specific issues when sustainable development requires a holistic approach. The USA experience indicates that the special districts can grow too powerful at the expense of regular local authorities. There could also be unproductive competition between regular councils and special districts as their interests are necessarily cross cutting.

Participation and Accountability

Accountability refers to the ability to call public officials to account, requiring that they be answerable for their policies actions and use of funds. Accountability can be the ultimate measure of participation, for successful and meaningful participation should invariably lead to accountability of the leadership to the electors. Accountability can be regarded as being in three dimensions: that of government workers to elected officials; local authority workers to elected officials; and that of elected officials to the citizens who elect them. Regular, scheduled, free and fair elections are arguably the most common and powerful form of accountability. Zimbabwe has managed to religiously follow the official elections calendar. Local authority elections have been conducted at scheduled times. However, there are serious shortcomings in the current electoral laws.

Participation is aimed at creating space for people to debate issues and participate directly or indirectly in local and national priority setting, budget formation and delivery of services. Participatory decision-making is not always harmonious and may be contested, so conflict resolution mechanisms need to be in place to manage disagreements. The current practice is that though local authorities are required by law to consult citizens on a number of issues like budget formation and borrowing.

Currently, councils are legally obliged to publish proposed by-laws in a newspaper and among other things, inviting persons who have objections to the proposals to lodge their objections, in writing. The council is required to reconsider its proposals in the light of the objections. Further, every meeting of councils are open to the public except when the council is meeting in committee and the minutes of the meetings of proceedings of a council and its committees shall be open to inspection by any inhabitant to the council area or creditor of the council except in cases where the proceedings were done when council met in committee (sections 50 and 51 of the RDC Act). In theory, the public can make any input in the business of the council, particularly at the policy development and formulation stages. There are, however, no adequate mechanisms to promote wider citizens' participation in government through democratic processes and structures or law to enforce the consultation and participation by communities.

Recommendations:

- Local government policies should establish rules and regulations that make budget consultations mandatory. It is necessary for the citizens to require the elected to account for previous revenues as a basis for justifying any financial obligations on citizens. The citizens could also take the budget process as an opportunity to approve, amend, rearrange or reject priorities as set by the local authorities. Going through the six monthly budget performance reviews at both community and district level can also enhance accountability.
- There should be minimum electoral qualifications for councillors, which should include, among others, the mandatory obligation for councillors to reside in the areas they represent. This would ensure more informed and knowledge-based discussions and debates in council chambers and will do away with the phenomenon of 'non-resident' councillors that has the effect of defeating the very purpose of local governance. The councillor must be self-reliant and "should not look to being a councillor as a formal job with a salary". Council work must be understood as part-time and as principally and primarily community service rather than a source of remuneration. If one cannot fend for himself/herself then one has no business and basis for leading others.

- The electoral laws should also provide for early recall of leaders where citizens are dissatisfied with the performance of elected leaders. Further, the recall procedure will be enshrined in law and given the very rampant tendency of absentee or non-performing councillors, this is a laudable innovation. However, it will be used judiciously to ensure that it does not destabilise local representation. Effective representation must be balanced with stability. Coupled with this will be that those who enter council chambers on a partisan ticket must not be allowed to cross the floor without seeking a new mandate from the electorate.
- In the absence of any legal requirement for leaders to consult and report back to electors, there is a constant danger of the leadership taking over all decision-making and priorities setting. It is recommended that through cooperation between central government, RDCs, traditional leaders and civil society there be established a Code of Conduct for local leaders (both elected and traditional). The Code of Conduct will enforce accountability, transparency and need for community involvement in decision-making and priority setting.
- The previously proposed restructuring of local government to restrict voting rights for local government elections to ratepayers only is a retrogressive position for it reverts to the old colonial qualified franchise that disenfranchised the majority of residents especially in the urban areas. Such a franchise system would produce results which very poorly reflect the diverse socio-economic makeup of the areas in question. In the past, the role of local government was traditionally restricted to servicing property by providing and maintaining such services as roads, sewers, bridges etc (sometimes called “hard services”) and thus it made sense to restrict the franchise to property owners only. *This particular position is clearly untenable in the current situation where the majority of the urban residents are not property owners.* Local governments, especially in the era of decentralisation, are also now involved in much more than servicing property. They now also provide social welfare, health (particularly public health) and education services, day-care, public housing. So, in addition to the traditional hard services, local authorities now deliver social or “soft services”, the reasoning being that those local governments are closer to the people. In short, local governments should now service both property and people and this calls for the enhancement rather than restriction of public participation in local government affairs.

Wards and Village/Neighbourhood Structures

Grassroots local government structures should be strengthened with enhanced powers, authority and resources and capacities to plan, design and implement their programmes and projects within their areas of jurisdiction subject to the legislative parameters and the policy framework of the relevant local government unit. Traditional leaders must be completely *non-partisan* in both spirit and actual conduct and should be able to play the role of unifying forces in the ward or village.

Cross Cutting Issues of Gender and Women, HIV and AIDS

The alternative system of local government will enhance the participation of women in local government in all three essential areas, as voters, policy makers and management. This will be achieved through deliberate and transparent affirmative actions. Among others, the policies would require a certain quota of women in the council.

The policy will also involve empowering communities and districts to develop strategies that combine: -

- The empowerment of communities, women and orphans to develop prevention and impact mitigation strategies with,
- Access to basic services such as health care, education, water, agricultural extension and income generation.

Capacity Building Programmes

Empowered communities have high expectations and demands from the systems and institutions. It is therefore prudent that any local government community empowerment policy has an element of capacity building of all stakeholders to ensure that viable and sustainable links between the demand and supply side are effective.

The alternative policy will include a capacity building programme in policy formulation and implementation for the major political parties. This is necessary if their contributions are to be informed. The policy will insist that councillors and traditional leaders be trained on the value and importance of shared leadership and general qualities of a good and effective leader.

Local Governance for Poverty Reduction

Local government must not only be a vehicle for community participation in governance issues that affect their lives; it must also be an instrument for a concerted assault on the scourge of poverty. In present Zimbabwe where recorded poverty levels are in many places well over 80%, poverty reduction must be one of the strategic objectives of local government units. This must be in partnership with the local communities, civil society and the private sector and with a combined focus on job creation, advancement of women and the protection and regeneration of the environment. This is consistent with the now universally agreed UNDP paradigm of sustainable human development. The proposed local government policy envisages new dynamic partnerships that link local government with community groups and the private sector to ensure efficient service delivery and enhanced public accountability.

Traditional Leadership

The areas of conflict between traditional leaders, councillors and central government officials mainly revolve around the issues of access to power and authority over the distribution of scarce resources like land and welfare benefits. There are four main sources of conflict between elected and appointed leadership that are:

- relationship problems
- information problems
- value differences;
- and competing interests.

Relationship problems are often a result of strong emotions, prejudices and stereotyping and in some cases misinformation. In Zimbabwe traditional leadership has always been courted by regimes in legitimacy crises. With notable exceptions, Chiefs were widely denounced as collaborators with the colonial regime during the liberation struggle and a number of stakeholders still view them with suspicion. Legally, Chiefs are not supposed to be actively involved in politics but their open support of the ruling ZANU (PF) has caused conflicts especially in areas where the opposition party has made inroads.

Another source of conflict is the perceived unfair allocation of scarce resources. Traditional leaders and councillors receive allowances as a token of appreciation for the services they render to communities. However, one problematic issue has been the differences between the amounts given to chiefs and councillors. As of February 2005, chiefs received a non-taxable allowances of \$3 million per month and headmen got \$1,5 million over and above these allowances. Chiefs also benefit under the rural electrification programmes when their homesteads are electrified and access to a grossly subsidized car loan scheme. The allowances for traditional leaders are relatively high compared to the \$60 000 to \$200 000 per month given to councillors. Since the implementation of the Traditional Leaders Act in 2000, the emoluments and allowances for these leaders (and paid by central government) are now way ahead of any allowances paid to elected councillors. So, in terms of status and material rewards, traditional leaders now tower well above the democratically elected leaders.

The modern political and the traditional structures also collide at the level of community leadership. Vidcos and Wadcocs derive their power, authority and mandate from the people expressed via the electoral procedure while the traditional leaders derive their authority from customary law. Vidcos and Wadcocs are formally recognised and receive backing from central government while traditional leaders were not, until recently, accommodated in these planning units either as observers or as full members. So, the Vidco and Wadco chairpersons would clash with the village head, the headman and the chief in various policy sectors like conservation of natural resources, allocation of land, and the collection of development levies. The local community itself is vulnerable to competing loyalties and allegiances in this confused arena, especially when you have two different structures of power running parallel to each other.

By the early 1990s, the Government seemed to have identified the debilitating effects of the unhealthy relationship between the modern and traditional political structures. Thus, in 1994, the Minister of Local Government decided to encourage village heads to play a more active role in the planning and implementation of development, in consultation with Vidcos and Wadcocs. This was followed by changes in the Traditional Leadership Act, which in effect restored power to traditional leaders and reduced those of elected ones. Under the Act, chiefs, headmen and village heads now have the powers to, among other things

- Co-ordinate development;
- Allocate land as agents of the RDC;
- Manage natural resources;
- Preserve and maintain family life and culture;
- Keep population records;
- Try a range of crimes;
- Maintain a good standard of health and education; and
- Collect all levies and taxes payable to the council

The Traditional Leadership Act created other structures at the grassroots level and these are *village assemblies* and *ward assemblies*. The village assembly is made up of all adults in the village and is chaired by the village head and in this set up, the Vidco becomes a sub-committee of the Village Assembly and has elected leaders. A ward assembly is made up of all the village heads and the ward councillor and is chaired by the headman. Both assemblies meet quarterly and chiefs supervise the village heads and headmen under their jurisdiction and are the final authority in that area. Higher up in the hierarchy is the provincial assembly that is chaired by a chief elected by other chiefs and deals with issues of provincial and national interest. It meets twice yearly. These chiefs also elect Council of Chiefs.

However, local communities have very little faith and trust in both the ‘democratically elected’ RDCs and the traditional structures. According to the results of previously undertaken research, citizens expressed the following uncomplimentary sentiments:

- “These councillors do not represent the community. They represent the ruling party, and their own personal interests”
- “We have never been involved in local government and we have never been consulted”.
- “There is absolutely no co-operation between communities and councils, and therefore no achievements”
- “These structures are not functioning properly. We never attend meetings, or get any benefits from local authorities. Decisions in our area are made by one person and we do not even see him”.
- “Local government in our area is not good at all. It is not democratic. It has its own powers and it forces matters. It does not work with people, it oppresses them”.

Though the Vidcos and Wadcos were sensible innovations, with the exception of a very few, these structures have everywhere become mere empty shells.

Most rural inhabitants are not comfortable with the enhancement of the powers and authority of traditional leaders. Clearly, there is presently a disconnection between the modern and the traditional structures of authority and attempts to harmonise the two have not been successful.

In a bid to find a more lasting solution to these conflictual tendencies, the Association of Rural District Councils has endorsed the following recommendations, based on a study of Southern Africa by a parliamentary delegation:

- ✓ A quota system of traditional leaders to make up 10% of all local government institutions;
- ✓ Traditional leaders should stay out of party politics, and that assemblies, if introduced, should be consultative rather than decision making bodies;
- ✓ An independent body be set up, the *Traditional Leaders and Elected Representative Services Commission*, to harmonise remuneration and conditions of service and elected leaders.

Recommendations:

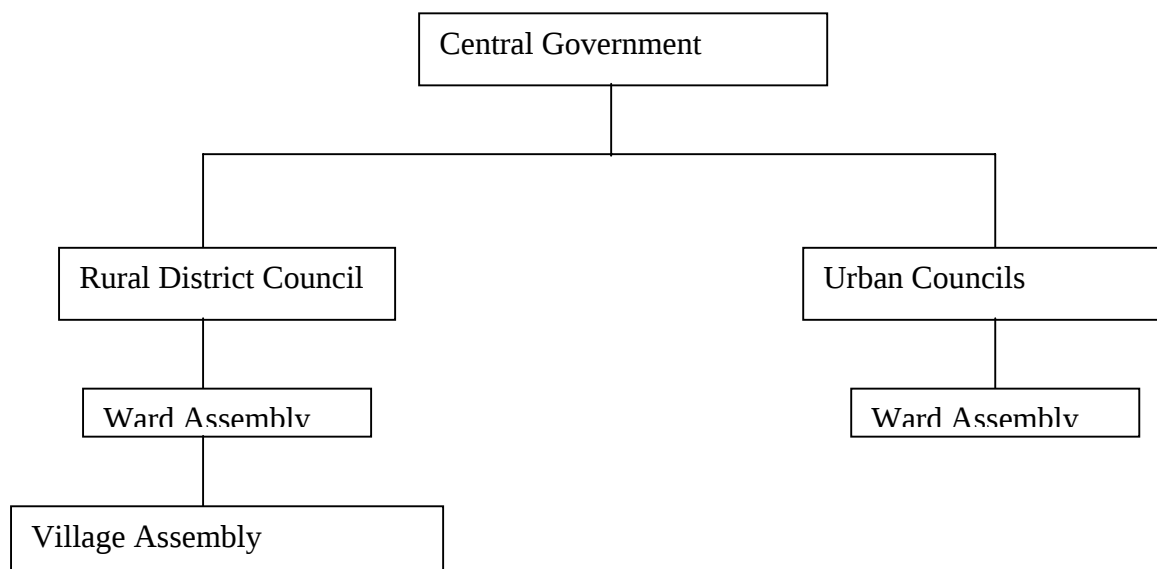
- The aspects of the Traditional Leaders Act that relate to the role of traditional leaders in local government should be expunged from the Act and incorporated into the Rural District Councils Act. The TL Act would then confine itself to issues strictly to do with the traditional functions and roles of the chiefs, headmen and village heads. In short, it is proposed that the traditional leaders be treated *not* as part of the local government regime but that their roles within the local government structures be articulated and specified in the relevant legislation relating to this sector.
- The RDC Act should specify that Ward Assemblies and Village Assemblies shall have traditional leaders as *ex officio* members that bring to the democratic structures issues that emanate from their traditional realm. Local government must be understood to mean *local democratic governance* while traditional structures must be understood to refer to *local hereditary governance*.
- Central government should clarify the terms of reference for traditional leadership at local level. The current situation is that the appointment and dismissal, and conditions of service are dictated by the Executive President on the advice of the Minister of Local Government, Public Works and National Housing.

- Traditional leaders need to be trained or familiarised with some basic knowledge about the country's jurisprudence. Currently, traditional leaders' lack of legal knowledge was affecting the delivery of justice in their areas of jurisdiction. As a result, higher courts overturned most of the chief's rulings because of mis-application of law.
- In light of the serious compromising of the position of traditional leadership that has occurred over the past, the authority and status of traditional leaders must be insulated from mainstream party politics. The protection of traditional leaders will be achieved through establishment of a Traditional Leadership Commission that will be responsible for recommending appointments, dismissals and other conditions of service.
- The new local government policy therefore needs to detoxify the institution of traditional leadership of any partisan tendencies and alliances. However, should traditional leaders desire to be political players in the partisan sense, they must be allowed to join partisan politics but outside the arena of traditional leaders just as public servants are required to resign their posts should they want to contest in elections. It is manifestly unethical for traditional leaders to engage in partisan politics while drawing money and benefits from the public purse while as pretending to be representing "their" people.
- The new policy on traditional leadership will entail a review of the relationship between the centre and traditional leadership and elective institutions. The review will result in rationalisation of benefits.

The Structure and Organisation of Local Government

The proposed structure is based on the premise that Zimbabwe is a unitary and not a federal state. However, it is deemed desirable and possible that the local government regime be enshrined in the envisaged new national constitution. The present arrangement whereby local authorities are subject to directives of and control exercised by the central government, almost willy-nilly, is totally satisfactory. One prefers a scenario similar to that of South Africa where Subsection 154 (1) of Act 108 of 1996 provides that national government (and provincial governments) "must, by legislative and other measures, support and strengthen the capacity of municipalities to manage their own affairs, to strengthen their powers and to perform their functions". It goes without saying that local authorities be dominated by central government but that their legislative, governmental and administrative institutions must be allowed to function with adequate autonomy and without undue interference.

Figure 1: Proposed Political Hierarchy



7.16 *The Role of the Private Sector and Civil Society*

There is now universal agreement that governing entails a triangular relationship, that is, the State, the private sector and civil society. What goes by the term “good governance” is where there is a harmonious, symbiotic and productive synergy among these three partners. Everyone benefits; it is a positive-sum game.

In the Zimbabwe case and at a national level, it is common cause that at present and since the formation of the MDC, there is considerable distrust and mutual suspicion among the three especially between the Government and its other two partners. Zanu-PF and its government suspect active collaboration between key sections of the both the private sector and civil society on the one hand and the opposition party on the other. They see something resembling an ‘axis of evil’ of sorts and that needs to be dismantled. The proposed NGO Act must be read and understood in this light.

While Zanu-PF and the government are distrustful, suspicious, watchful of the private sector and civil society, the MDC enthusiastically embraces both as partners in national and local level development. The MDC, once it gets into power will carve a large role for them.

It is granted that a modern polity and its governance are complex matters and that government – whether central, provincial or local – cannot go it alone. The private sector has significant and vital role to contribute, so does civil society.

Concluding Remarks

The policy review on local government in Zimbabwe concludes that though the laws establishing local authorities provide for much autonomy, the same laws permit central government to intervene in local authority affairs.

Zimbabwe has consistently held local government elections on scheduled dates. However, the elections are increasingly becoming less meaningful to the electorate as the Minister can dismiss councillors without any reference to the electors.

The government has a very clear decentralisation policy, which aims at empowering local authorities and local communities. Due to a number of reasons, notably, resistance from public servants, lack of political will, limited resources and challenged capacities of sub district structures, it has not been possible to make any significant progress in implementing the decentralisation policy.

Local authorities are generally resource constrained and have to rely on transfers from the centre. This applies to all types of local authorities, with bigger urban local authorities requiring externally generated resources for their major capital projects whilst Rural District Councils require external support even for the day to day administration costs like meeting salary costs.

There are serious shortcomings in the form and implementation of the current local government policy in Zimbabwe. There is so much inconsistency between the policy and actual practice. The study concluded that there is need to generate a local government policy for 'all seasons'. The local government policy for all seasons should be immune to political whims of those in power. The alternative system of local government should have local government enshrined in the constitution in order to guarantee its sustenance. Local authorities should be established as a free standing and fairly autonomous level of government. The system would have decentralised structures that allow for community participation in all decisions that affect them.

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Appendices

Appendix A: Terms of Reference

The consultants Eldred Masunungure & Mr. Norbert Musekiwa agree to develop a comprehensive policy document on Local Government on behalf of the Zimbabwe Institute, which has specific and detailed recommendations on how the current system of local government can be restructured to improve efficiency and delivery. The specific objective of the project is to help develop the current system of local government in a way that both institutionalizes participatory decision-making and gives ordinary people and their communities more power to determine their future.

Project Outline

The research output should specifically seek to:

- (a) Review the current local government policies of both the incumbent government and the main opposition MDC, in terms of their functionality, structure and effectiveness
- (b) Critically assess the various aspects of the current central and local government policies, with a view to identify strengths, gaps and discrepancies (especially with regard to the roles and functions of the offices of the Resident Minister/Governor, Provincial Administrator, District Administrator, Council Executive Officer and Executive Mayor)
- (c) Explore ways of decentralizing power and decision-making at local government and community levels. Here, there is need to discuss:
 - (i) how the devolution of power to the provinces, the districts and the people can be achieved
 - (ii) the kind of structures needed for decentralization
 - (iii) the distribution of powers to provinces, districts, town and village councils
 - (iv) ways of harmonizing conflicting interests of provinces, districts and villages
- (d) Assess the powers of local government and the relationship between central and local government, in terms of:
 - (i) control over local institutions and infrastructure, local resources, taxation and royalties from local businesses
 - (ii) the nature and aspects of devolution of power
- (e) Discuss strategies for increasing public participation in decision-making in local government, specifically in terms of:
 - (i) involvement in the formulation and implementation of both local and national policies
 - (ii) participation in the selection/appointment of local government authorities
 - (iii) access to local government officials
 - (iv) strengthening the structures of accountability
- (f) Review the functions of traditional authorities (chiefs and headmen) in the current structures of local government, evaluating the electoral framework which currently governs their functions and appointment into office (as set out in the Traditional Leaders Act), and suggesting the necessary modifications
- (g) Discuss ways through which traditional and other forms of local authority and power in both rural and urban areas (chiefs and headmen, spiritual leaders, local church elders and other community leaders) can be involved in local administration

Output

An original and comprehensive policy document on Local Government in Zimbabwe is the key output of this research.

The first draft will be given to the ZI within 6 weeks of the date of signing of this contract. The Institute will review the document and advise the consultant, in writing on any editing to be carried out in writing. The consultant will return the final and edited copy to ZI within 4 weeks.

Appendix B: Zimbabwe's Thirteen Principles on 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 local authorities.
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 which 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 Permanent Secretaries, 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 local authorities 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. 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 local authorities be done by the line ministry concerned and that the Ministry of Local Government, Public Works and National Housing will co-ordinate and facilitate this effort.
10. That all monies for recurrent and capital expenditure sourced by line ministries and are earmarked for local authorities be disbursed to the local authorities soon after the promulgation of the /Appropriation Act. Such grants will not pass through the Ministry of Local Government, Public Works and National Housing.
11. That all loans to local authorities should be channelled through the Ministry of Local Government, Public Works and National Housing.
12. That in Zimbabwe there be only two levels that collect taxes, levies, and other user charges namely central government and local authorities. Thus local authorities 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 local authorities where this happens as part of decentralisation.