

Implementation of the 2013 Constitution of Zimbabwe: provincial and local governments

‘Talking’ Governance
by

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Background

- New Constitution
 - Provides a platform for the development of our 'own' governance structures and processes
 - Need to develop a statutory and institutional framework that complies with the new constitutional demands
 - We may have to change some of the 'old' practice, culture and attitudes
- Parliament, civic movement and citizens have a key role to play

2013 Constitution- strives to advance democracy, development and other goals

- Preamble of the Constitution
- Expansive Bill of Rights
- Preamble of Chapter 14
 - Citizen participation, democratic representation, local accountability, transparency

Provincial and metropolitan councils

- Establishment- **enactment of the relevant piece of legislation- S 270(2)**
 - Criteria to be followed when establishing provincial and metropolitan councils?
- Composition-
 - indirectly elected, directly elected + appointed officials- S 268(1) and S 269
 - **Democratic gain?** Yes- provides a foundation upon which democratic representation can be built at provincial level

Contie....

- Election of chairpersons
 - Elected by members of the provincial council- S 272(1) - **democratic gain**
 - Mayor is the chairperson in case of metropolitan provinces-S 269(1)(b)
- Removal of chairpersons- S 272(6)
 - resignation, disqualification, removal by the provincial council, the tribunal
 - Enactment of the relevant Act providing for the role of the independent tribunal- S 272(7)- **democratic gain**

Internal structures

- Provincial and metropolitan councils may establish committees- S 271
 - Committees in provincial councils are to be presided by directly elected officials- S 268(1)(h)- **democratic gain**
 - Committees in metropolitan council are to be chaired by persons appointed in terms of **269(1)(h)**- such a provision does not exist in the Constitution
 - Rather, committees should be chaired by mayors and chairpersons or their deputies- S 269(1)(f)

Administrative arm

- An Act of Parliament to provide for the establishment, structure and staff of provincial and metropolitan councils- S 270(2)
 - Two options
 - 1. Secondment of staff from the national government to provincial governments?
 - 2. Giving provincial and metropolitan councils power over personnel establishment
 - Option 2- a government has power over its administrative arm

Establishment and abolishment of local authorities

- While recognising the role of local authorities, the Constitution does not provide for the manner in which each local authority is to be established-
See S 5, S 274 and S 275
 - Who is involved?, What criteria is used?
 - Role of citizens? Rationale for independent bodies
 - Colonial tripartite (now dual) system of local government?

Composition of councils

- Directly elected councillors- S 265(2)
 - No room for appointed persons
 - **Democratic gain** but effective representation is required
- Qualifications of councillors
 - No educational qualifications- in the 2013 Constitution
 - Impact on **quality of councillors**, therefore of councils?
 - Prescribe minimum level of education

Disciplinary procedures

- Develop a national code of conduct for councillors
 - Enforced by the public
 - Enforced by the national government.
- Suspension and dismissal
 - Necessary if justifiable on clearly written rules + Respect for local democracy
 - Role of independent body in terms of S 278 applauded- **democratic gain**

Committees of the council

- Local authorities now have ‘all’ the powers necessary to govern- S 276(1)
- This arguably includes the power to set up committees
 - Discretion to set up committees
 - Variation in nature of committees between urban and rural local authorities justifiable or its just a ‘colonial legacy’?
 - National framework for the establishment and responsibilities of committees is vital

Supervise

Administrative arm

- Important arm of implementing policies
 - The administrative arm of a local authority should be accountable to the council- **Role of the Local Government Board**
 - Assign to local authorities powers over personnel issues, including appointment of senior officials- **‘all’ the powers necessary to govern- S 276(1)**
 - Establish a national framework comprising minimum level of qualifications and experience required for recruitment + code of conduct- **Supervise**

The institution of traditional leadership

- Important institution in rural local governance
- Role recognised in chapter 15
 - Clarification of **jurisdictions** and **competencies** between traditional leaders and rural local authorities
 - Role in council
 - Relationship with councillors- **incomparable remuneration packages** between councillors and chiefs?



Way forward

- New Constitution has laid the necessary foundation and provided us with an opportunity to develop a strong and responsive system of local government
 - The national government (including Parliament) is in control and will determine the outcome. (but citizens have a stake in this)
 - Lets make use of this opportunity to develop the 'right' kind of legislation, institutions and relationships

Thank You

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