

Review

Urban local authorities in Zimbabwe and the new constitution

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Urban areas have always attracted the attention of political parties due to their dense demographic compositions, hence their popularity as battle grounds among political parties. This has resulted in amendments and consolidation of local government legislation to ensure that urban local authorities enjoy only delegated powers and remain accountable to the central administration. Consequently local authorities remained creatures of statute. This tended to hamstring the operations of local authorities, as their autonomy was limited. However, with the coming in of the new constitutional dispensation in 2013, local government, for the first time, has enjoyed constitutional status. This paper seeks to unpack the content and practice of the law governing urban local authorities and the potential of this constitutional provision to promote good local governance.

Key words: Amalgamation, political parties, local authorities, local government.

INTRODUCTION

The Zimbabwean local governance regime can be traced back to the colonial days where a plethora of pieces of legislations existed, making it cumbersome for deliver services to the populace. Of note was the Urban Council Act which provided the basis for all local government operations and attendant institutions both before and after independence. Community participation was limited as most decision-making processes emanated from the Centre. Community participation is one of the hallmarks of democracy, with the recently concept of devolution having been constitutionalised, abandoning centralisation. There are several sections of the Constitution of Zimbabwe that seek to promote democratic governance in local governance in Zimbabwe. These include Section 5; Section 264; Section 274 and Section 301. Section 5

of the Constitution establishes the three tiers of Government with each tier having well-defined powers and functions. Section 264 sets the principles of devolution to local authorities and the modalities of how provinces will function under a devolved arrangement. Section 274 prescribes how urban local authorities will function and operate while Section 301 provides for fiscal transfers. Of the various constitutional provisions, Section 264 has been one of the much-talked about due to the fact that most provinces are excited about managing their own affairs, most importantly how they will utilize available resources within their areas of jurisdiction for the benefit of their communities.

This paper seeks to provide an interpretation of the provisions of the Section 274 and their implementation.

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An assessment of the utility of the section to local governance as well as the impact emanating from the delay in the re-alignment of laws within the new constitution are also discussed. This paper posits that the provisions of Section 274 of the Zimbabwean Constitution are, in principle, appropriate for good governance, despite a few weak points. The discussion bemoans the lack of political will by the government to re-align the appropriate legislations with the constitution. It further explores the repercussions of that delay.

The onset of the new constitution in 2013 ushered in some democratic prospects in local governance with Section 274 (1) of the constitution providing for management of the affairs of people in urban areas. Under section 274 (2), details and modalities in urban management is given, including the role of councilors elected by registered voters living in the urban areas concerned. The Lancaster House Constitution was duly discarded and substituted by the Constitution of Zimbabwe Amendment (No. 20) whose section 274 is the subject of this discussion. This section of the constitution on devolution has courted a lot of controversy and speculation with some pundits insinuating that it would be a recipe for secessionism with the propensity of fermenting tribalism. Although the Urban Councils Act provided for the administration and management of urban areas, but power was centralized and local authorities were mere implementers of Central Government policies through exercising of delegated powers. With Central Government remaining accountable. Under the current constitutional dispensation, local authorities have the latitude to exercise power and authority in compliance with relevant constitutional provisions.

LOCAL GOVERNMENT IN ZIMBABWE

Local governance in Zimbabwe has a chequered history, having been a creature of statute since colonial days. One of the enduring legacies of local government in Zimbabwe has been deep politicization of this sphere of government. Given that it is a sphere nearest to communities, the ZANU PF dispensation has, over the years, manipulated this vicinity to project and promote their political agenda. Various pieces of legislation governing local governance in Zimbabwe have failed to decentralise power and functions away from the centre as the governing party has deliberately refused to decentralise power to local communities. This paper seeks to unpack the constitutional provisions under section 274 in the current constitution, which provide guidelines of the role and functions of urban local authorities. An attempt is made to establish the extent to which local communities have been empowered by this constitutional provision.

What should be noted is that it is currently one of the most interesting and much-talked about constitutional provisions as people would want to see how urban

councils and well as metropolitans would be governed, given the high levels of poverty, unemployment and poor service delivery. Over the years, urban areas have been the economic hubs of the country, creating employment opportunities and better service delivery. What further makes this constitutional provision of the governance of provincial and metropolitan councils is the fact that the necessary infrastructure by way of provinces and metropolitan cities has always been in place for centuries. However, the fact that the country is still a unitary state raises questions as to how Central Government, notable for its commandist approach to governance, and having earned notoriety for not wanting to cede any measure of power, is going to deal with the dictates of section 274.

UNPACKING CHAPTER 14 SECTION 274: URBAN LOCAL AUTHORITIES

Unlike in the past when Local Governance in Zimbabwe was governed by a plethora of pieces of legislation, the constitutionalisation of Local Governance has brought about transformation. While Rural and Urban Councils Acts were the primary guidelines for local government administration, administered through delegated powers from Central Government, recent constitutional developments have provided a constitutional framework through Section 274, for the administration of provinces and metropolitans.

Section 274 mandates the urban local authorities to superintend over the governance of areas within their jurisdiction. The urban local authorities need to, according to Sub-section 1, represent the people within their areas of influence. In essence, they need to advance the aspirations of the people. "Representing" implies acting in compliance with the directives or aspirations of the people. This implies rule by the people, for the people, with the people. Sub-section 2 of this section bestows powers to the registered voters of a particular urban area to choose the councilors who would preside over the developmental programmes of the area.

There is no provision for non-elected officials to carry out the mandate and proffer decisions within the urban local authority, serve for the civil servants provided for in Sections 199, 200 and 266. The election of councilors is set out in the Electoral Act. The provisions of this subsection are in agreement with the dictates of Article 21 of the Universal Declaration of Human Rights (United Nations, 1948) as well as Article 13 (2) of the African Charter on Human and People's Rights which state that everyone "has the right to take part in the government of his country, directly or through freely chosen representatives". This declaration also stresses that the "will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent

free voting procedures". The election of councilors is prescribed in the Electoral Act 2:13 as referred to in Section 274 (4) of the constitution. The Electoral Act states that for one to be eligible to stand as a Councilor he/she ought to be at least 21 years of age, be a resident of the ward they wish to represent and must be a registered voter. The Act is silent on academic or professional qualifications, probably in respect of equality and non-discrimination as enshrined in Section 56 (3).

According to subsection 5, Parliament may determine the executive status of a mayor or chairperson of a local authority. The local authorities may also be placed into various categories depending on specific standards. Thus, a local authority can be accorded a city, municipality, town or local board status. This will be dependent on population size, industrial capacity or prospects, catchment area, social amenities and other infrastructure. However, the term "may" provides a possibility for the non-conferment of executive powers on mayors or chairpersons. Thus, the operations of local authorities may rely on the jurisprudence of central government. It implies that if the mayors and chairpersons, who are the elected officials, are not conferred with executive powers they will be mere ceremonial officials, thus rendering them ineffective. This would, in effect, give executive powers to non-elected central government appointees like town clerks or chief executive officers. Subsection 3 also provides for the placement of more than one urban areas under a single local authority. Again, the determination lies with the central government since no specifications have been laid bare to make it a straitjacket procedure.

The provisions of this Section 274 are in tandem with the principles of decentralization, and devolution in particular. Devolution is a form of decentralization which involves the transfer of considerable powers from the central government to the locally elected authorities. According to Rondinelli (1983), it exists where powers are transferred to autonomous units governed independently and separately without the direct control of central government. Section 274 of the 2013 Constitution marks a clear departure from the Urban Councils Act 29:15 which, according to Mapuva (2015), gave extra-ordinary powers to the Minister of Local Government, Rural and Urban Development. The local governments' powers were also usurped by the non-elected special interest councilors who were appointed by the Minister of Local Government and ended up acting as surrogates of the central government. Mapuva (2014) contends that the appointment of the special interest councilors was both unnecessary and inconsistent with democratic urban governance. The emphasis of the current constitution, and section 274 (1) and (2) in particular, is on the aspect of the representational nature of the elected officials, which implies their accountability to the residents. The provisions of section 274 are in sync with Chakaipa's (2010) conceptualization of the local government. He stated that a local government is a "decentralized level of

government; democratically established; established to provide services; legal entity with defined powers; territorial in nature and has jurisdiction over a particular area within the limits set by national legislation; largely self-financing".

THE PRACTICALITIES OF IMPLEMENTING SECTION 274

This constitutional provision has five sub-sections, which are briefly discussed herein. Section 274(1)

(1) *There are urban local authorities to represent and manage the affairs of people in urban areas throughout Zimbabwe.*

While it holds true that both rural and urban areas have and are managed by local authorities, the crux of the matter is in the management style of most of these, with corruption and financial mismanagement being common characteristics. This is on the backdrop of appalling service delivery. The recent auditor general's report on the management of local authorities have exposed most of these of corruption and operating without key personal, among other issues. Given this exposure, it is hoped that remedies will be founded and managed will. Political interference has also been rife in local authorities. It is therefore my conviction that the new dispensation will seek to rectify all such anomalies.

(2) *Urban local authorities are managed by councils composed of councillors elected by registered voters in the urban areas concerned and presided over by elected mayors or chairpersons, by whatever name called.*

The election of councillors has had a very enduring impact on Local Government and operations of urban councils. History has shown that ZANU PF has a penchant for political manipulation. One such manipulation was the amendment and subsequent enactment of Section 4A of the Urban Councils' Act, which empowered the ruling party to appoint additional special interest councils. Even on the face of defeat in council elections, ZANU PF would always have its way. The appointment of these additional councillors was on the pretext that they would bring expertise to council, yet it was a way to counter the MDC majority.¹ This was after realisation that the opposition MDC had in most cases a majority in the respective councils. This provided a threat to ZANU PF hegemony, a liberation movement that had taken it upon itself to preside over local authorities in perpetuity. The most memorable episodes of local council power grab has been repeated and nationwide dismissal of elected councillors by the Executive, with Ministers Dr

¹See De Visser J and Mapuva J (2013). "Special Interest Councillors in Zimbabwe – Reviewing Law and Practice in terms of the 2013 Constitution" *Law, Democracy and Development Journal* (University of the Western Cape), No. 17 Issue 2, December 2013.

Ignatious Chombo and Hon. Kasukuwere having earned notoriety in this regard. The audacity of these former Ministers of Local Government is very surprising in that they have the courage to dismiss elected councilors chosen by the people. Therefore if history is anything to go by, there are fears that ZANU PF might repeat its same old trick of conjuring a majority, especially in urban councils. It therefore remains to be seen whether the new dispensation would show more commitment and political will to provide oversight to a transparent and accountable crop of urban councils.

(3) *Different classes of local authorities may be established for different urban areas, and two or more different urban areas may be placed under the management of a single local authority.*

In the current context of local council administration, local councils are designated according to their size and type and the prerequisite administration structure is put in place. Smaller local councils may be run by boards, while medium-sized local councils may have municipalities, while bigger cities and metropolitans are administered by councils.

(4) The qualifications and procedure for the election of persons referred to in subsection (2) must be set out in the Electoral Law.

(5) *An Act of Parliament may confer executive powers on the mayor or chairperson of an urban local authority, but any mayor or chairperson on whom such powers are conferred must be elected directly by registered voters in the area for which the local authority has been established.*

In this case of mayoral conferment s/appointment/ election, Zimbabwe has earned notoriety for politicizing this portfolio or political mileage. Towards the close of the 1990s, there was talk of appointing Executive Mayors, which was done along political party lines. The rising popularity of the then opposition Movement for Democratic Change saw the then ruling ZANU PF party being defeated in the mayoral elections. ZANU PF, being in control of the reins of power, made hasty legislative retreat on the Executive mayoral portfolio, which resulted in its abolishment through a legislative amendment. Since then such mayoral portfolio has died a natural death. However, it remains to be seen whether the new dispensation, political child born out of *Operation Restore Legacy* will bear fruit in so far as liberalizing the Local Government landscape without political interference.

AN ASSESSMENT OF THE LEVELS OF COMPLIANCE TO SECTION 274

The situation on the ground is, to a lesser extent, reflective of the provisions of section 274. Urban local authorities have been established in Zimbabwe. Harare and Bulawayo were accorded a metropolitan status.

Zimbabwe currently has cities, municipalities, towns and local boards. All city and municipal authorities are presided over by mayors while all towns and local there are boards which are presided over by chairpersons.

The Electoral Law 2:13, being referred to in Section 274 (4) clearly stipulates the election of councilors, mayors and chairpersons. The Constitution of Zimbabwe (Section 239) mandates the Zimbabwe Electoral Commission (ZEC) to conduct elections efficiently, freely, fairly, transparently and in accordance with the law. Section 11(2) of the Electoral Act requires all Election Officers to maintain strict impartiality in the exercise of their functions. The Electoral Law stipulates the basic requirements of the prospective councilors as well as the nomination process. It further provides instruction on the duties and responsibilities of Presiding Officers and other Electoral Officers and on the relevant legal provisions governing the polling processes and procedures that must be followed.

However, the period immediately after the 2018 elections saw the appointment of caretaker commissions in major cities who superintended over the city affairs before the swearing in of the elected officials. This was against the dictates of the constitution and it attracted an outcry from the residents (Newsday, 21 August 2018). The caretaker commissions' appointments were based on Section 80 of the Urban Councils Act which has since been rendered redundant by the new provisions that are enshrined in Section 274 (2) of Chapter 14 of the 2013 Zimbabwean Constitution. The alarm was raised by the Community Water Alliance Trust, Combined Harare Residents' Association and Chitungwiza and Manyame Residents' Association who filed an urgent High Court application to compel the government to immediately swear in the elected councilors and disband the caretaker commissions.

The adoption of the 2013 constitution compels the Minister of Local Government and National Housing to cease gross interference in the internal affairs of urban councils. However, a report presented to parliament by the Portfolio Committee on Local Government, Urban and Rural Development (Kunene, 2016), bemoaned the delay by the Minister of Local Government to approve the City of Bulawayo's budget proposal. According to the report, the response to reject the proposal only came after seven months and after amendments it took three more months for the budget to be approved (ibid). This expressly shows that the local authorities are yet to exercise full control of programmes within their jurisdictions. The involvement of central government fuels unnecessary bureaucracy that stalls efficiency in the operations of the urban local authorities. In 2013, before the ink of the new constitution had dried, the central government unilaterally issued a directive for debt cancellation for ratepayers in all local authorities. This move affected the financial capacities of local authorities as exemplified by the Hwange Local Board whose revenue base was grossly

streamlined to the detriment of service delivery (Portfolio Committee on Local Government, Rural and Urban Development, 2016).

The strategic roles of a town clerk or chief executive officer vis-à-vis that of a mayor or council chairperson remains duped in obscurity until a law is enacted to clear the matter. Currently, the town clerk is considered to be chief executive officer and is accountable for the administration of the municipal councils. The town clerks have been acting as conduits of central government and the local authorities and seem to be wielding more powers than the elected officials. Thus, the election of councilors, mayors and chairpersons can be explained as a window-dressing act to attain credibility since they play a ceremonial role with the town clerks wielding delegated executive powers from the central government. This scenario is contrary to the spirit enunciated in Section 274 (1 and 2) where the elected councilors are expected to “manage” the affairs of the local authorities.

THE UTILITY OF SECTION 274 TO LOCAL GOVERNANCE

The ideal local governance is based on the democratic ideals and are observable where the levels of development are appreciably high. According to the UNDP (2001) development “is to lead long and healthy lives, to be knowledgeable, to have access to the resources needed for a decent standard of living and to be able to participate in the life of the community”. Therefore development is empowerment and a state in which the local people take control of their own lives, expressing their own demands and finding their own solutions to their problems. Sen (2006)’s conception of development considers the strengthening of autonomy and substantive freedoms, which allow individuals to fully participate in economic life. He subscribes to the two principles of capability and functions to which the World Bank (1994) complemented with an important aspect of “entitlements”. It is clear that the implementation in letter and spirit of Section 274 of the Zimbabwean constitution can lead to huge strides in the standards of local governance in urban areas.

The representation of the people in council by their own creates a sense of ownership within the residents. Their aspirations will be fully represented and given priority. This is especially so considering the fact that the councilors will be vested with “all the powers” to govern as provided for in section 276 (1). The participatory development approach instills a culture of stewardship and belonging among the residents which will lessen the cases of vandalism and abuse of infrastructure, thereby improving service delivery (Makumbe, 1996). This would ultimately work in sync with the provisions of Article 21 (2) of the Universal Declaration for Human Rights (United Nations, 1948) as well as Article 13 (2) of the African

Charter on Human and People’s Rights that “everyone has the right of equal access to public service in his country”.

Section 274 (3) which provides for the classification of urban local authorities is necessary to ensure that each is treated in a special way that suits its status. A Local Board is obviously too weak to stand on its own as it lacks the capacity to do so. Therefore there will be need to ensure that those within the town or local board status are weaned to next levels after satisfying the pre-conditions necessary for the upholding of the residents’ basic needs. The Portfolio Committee on Local Government, Rural and Urban Development (2016) bemoaned the accordance of the town status to Lupane which was still using blair toilets. The decision was done prematurely since Lupane still lacked the capacity.

However, the Electoral Law being referred to in section 274 (4) is not adequate in addressing the current challenges that are confronting urban areas. Since the world is becoming increasingly integrated there is need for the election of people with requisite technical expertise to address problems associated with road carnages, ballooning urbanization, climate changes, global warming, industrialization, cybercrimes, intellectual properties and many more. to that effect, there is always need to consider those with expertise in fields like civil engineering, health, information and technology, economics, accounting, law, environmental management, sociology, psychology, education, sport and many more. The only stipulations in the Electoral Act are those of age and voter registration status which are not enough for a country like Zimbabwe whose education system is envied by many on the African continent. The Portfolio Committee on Local Government, Rural and Urban Development (2016) highlighted the need for competent and qualified town planners for Chitungwiza. This was premised on the council’s allocation of wetlands for residential stands. Although this was in reference to the administrative aspect, it can also apply to the councillors whose decisions are binding if devolution is to be fully adopted. Dewa et al. (2014) contended that some councilors’ analysis of legislation and the budget is very poor. It is noteworthy that some of them do not know the basics of drafting a project proposal, that is if they are literate.

The implementation of section 274 may create problems associated with political shenanigans that have a detrimental effect on government operations. It was noted by Mapuva (2014) that the partisan nature of local governance in Zimbabwe undermines the effectiveness of councilors as they pass decisions to outwit each other at the expense of service delivery. The former mayor of Harare, Benard Manyenyeni, once expressed his reservations over the calibre of some Harare councilors whom he accused of lacking essential skills and reasonable educational qualifications to effectively superintend over the council affairs (Newsday, 13 and 14

April, 2018). Some of such councilors are career politician and therefore become so obsessed with political decisions at the detriment of technical imperatives. The government may also encounter a dilemma in cases where an urban authority lacks the capacity (intellectual, professional, financial or technical) to administer good local governance and be tempted to directly intervene. Intervention in such cases may be misconstrued as violation of the constitution, while remaining aloof maybe interpreted as negligence or incompetence.

Fears have also been allayed by some scholars over the likelihood of the devolution being taken to imply or usher sovereignty (Mapuva, 2015). In that respect it is expected that some groups within Matabeleland, for instance, may take it as an ideal opportunity to secede and establish their perceived Mthwakazi State. That move is then likely to be an extreme notion of development which falls from the radar of good local governance. Thus, the success of the implementation of section 274 depends on the good will of the people to take this form of decentralization responsibly without prejudicing the core motive.

ALIGNMENT OF LOCAL GOVERNMENT LEGISLATION TO THE CONSTITUTION

The introduction of the 2013 Constitution of Zimbabwe was not immediately followed by an attendant alignment of the various pieces of local government. Despite the fact that alignment was eventually done, but the delay to align legislation had an adverse impact on service delivery. Mapuva (2015) summed it all by saying that the delay in the alignment of laws to the provisions of the new constitution has “caused confusion, contradictions, overlap and duplication of tasks”. This delay has stalled progress in the justice delivery and developmental programmes. Paragraph 4 of section 2 of the Sixth Schedule of the Constitution duly repealed the former Constitution in its entirety from the 22nd of August 2013 following its gazzeting. Therefore all laws that were founded on the 1979 Lancaster House Constitution, which are not in line with the 2013 Constitution, were accordingly rendered unconstitutional. The failure to immediately re-align the pieces of legislation detaches our local governance with the provisions of Articles 21 and 13 of the Universal Declaration of Human Rights and the African Charter of Human and People’s Rights respectively (African Union, 2005). The results manifest in form of inefficiency, ineffectiveness and unaccountability in local governance. According to Chikerema (2013) citizens need to participate fully in local democratic process for the democratic processes to yield fruitful results.

The delay in the re-alignment of various pieces of legislation may be a blessing in disguise to some people. Jonga (2012) explains what he called “political banditry”

that has been left to mature within the local authorities in Zimbabwe and has resulted in the capture of urban communities by political bandits who are bent on serving selfish interests. He cites cases of patronage in which some powerful politicians derive benefits from priceless concessions accorded to them by virtue of belonging to a particular political clique. It is possible that some land barons are reaping from the poor local governance system currently anchored by the conflicting pieces of legislation. This practice prejudices local authority in aspects like revenue and full participation in programmes that affect them. It can therefore be argued that such political bandits may throw spanners in any ways possible in order to maintain the status quo.

The delay may also beget a serious consequence of lack of constitutionalism and rule of law in the country. The delay can be perceived as lack of political will on the part of the government to institute constitutional democracy. The concept of devolution which is enshrined in Chapter 14 of the constitution is yet to see the light and the councilors who were elected in 2013 had to see their terms lapsing in 2018 without referencing their roles to the new constitution. Those who were earmarked to sit in the Provincial Council did not have an opportunity to do so. The provincial councilors deriving from the 2018 harmonized elections are yet to be inaugurated and chances are that they may encounter the same fate as their 2013 counterparts. Moreover, it remains unclear how devolution is going to be administered considering that structures of the old constitution are still in place. This is a likelihood of duplication of roles among the Chairman of the Provincial Council, the Provincial Administrator and the Resident Minister. The working frameworks of these officers remain very unclear

It has also been noted that the delay in the re-alignment of the laws with the constitution has created a pile up of constitutional cases at the constitutional court. The court cases calling for the expedient implementation of devolution are cited by Mapuva (2015) and they involve Paul Siwela of the Mthwakazi and Paul Sipepa Nkomo of the Movement for Democratic Change. In Manicaland, though no case has been filed, the clarion call within the public realm for devolution is also very loud and clear and is premised on the bewilderment over the lack of development emanating from, especially, the diamond proceeds from Chiadzwa. Therefore, some of the statutes currently being applied with regards to local governance are not constitutional. Section 2.1 of the constitution clearly states that the “constitution is the supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency”. Thus, the implementation of Section 266 is overdue and that can only transpire after the various pieces of legislation are aligned.

The government ministers are usually entangled in unnecessary dilemmas when it comes to the execution of their duties. Unaligned laws are proving to be an albatross

around their works. A good example is that of the then Minister of Local Government, Savior Kasukuwere, who, on 13 August 2015, fired the Gweru Mayor, Hamutendi Kombayi, his deputy and 14 councilors on the grounds of misconduct, incompetence and mismanagement of council funds and affairs. He cited Section 114 of the Urban Councils Act Chapter 29:15. This was despite a provision within the current constitution Section 278 (2) which makes it clear that the elected councilors can only be dismissed after investigations by an independent tribunal. This clearly implies that the minister no longer had powers to wantonly dismiss the councilors. As expected, the dismissals were, in October 2015, rescinded by the courts leading to the re-instatement of the fired councilors. Thus, it is clear that there is a paradigm shift from the old governance system to the one ushered by the new constitution. Chapter 14 of the 2013 Constitution attempts to enhance local democracy which, according to Chikerema (2013), implies rule by the people, giving people a say in decisions that have a bearing on their lives and being accorded entitlements to their resources.

The delay is likely to instigate a spate of ethnicism, regionalism and xenophobia, with indications already showing in Bulawayo where the Ndebele were demonstrating against the employment of the Shona in their region (Kunene, 2016). This is emanating from the feeling, among the Ndebele, that the Shona are extortionists who are reaping Matabeleland for the benefit of their home areas. Such instability has a negative impact as it portrays Zimbabwe as a poor investment destination. Thus, the prospective investors are scared off which leads to less investments and retarded development. The non-completion of the Matabeleland-Zambezi water project is partly attributable to the implementation of devolution. The project constitutes one of the priority areas of the Matabeleland region so much that if given the mandate to administer their own welfare, those in that region would have done better than the present scenario.

One of the most conspicuous challenges that has bedeviled democratic urban governance has been the imposition of councilors by all political parties and the quality of councilors. The qualification threshold for councilors through an Act of Parliament would help strengthen the quality of debate and subsequent implementation of policies. The deployment of political party functionaries has not helped in addressing service delivery issues, given that most issues became politicized. For example, since year 2000, most urban councils were opposition-led and this affected the quality of councilors who were party functionaries and received instruction from their parties to the detriment of effective service delivery. Local authorities are yet to have total control of the levers of their mandates. The revenue bases are yet to be regulated in accordance with the spirit of devolution. The local authorities are therefore

incapacitated to deal with outbreaks of diseases like cholera and the efficient provision of basic needs like health, education, clean water and housing. The overarching roles of national institutions which are centrally managed continue to plunge local governments in a state of incapacitation thereby compromising their self-determination.

Parastatals, state enterprises, government departments and commissions continue to report to the central government. Examples include ZIMRA, ZINARA, CMED, ZINWA, NRZ, ZESA, TelOne, NetOne, EMA, Liquor Licensing Board and many more. These institutions operate on the basis of de-concentration and not devolution, thus their revenues and remittances are channeled to the national treasury with local authorities realizing nothing. Thus, such institutions are technically running parallel systems to those of local authorities. ZINWA continues to manage water in some Local Boards like Hwange (Portfolio Committee on Local Government, Rural and Urban Development, 2016). Ironically, Hwange Local Board has been paying \$3000 per quarter as fine to EMA for contaminating nearby streams with sewer effluent yet ZINWA administers the water and sewer services (ibid).

Since local governance permeates into the household and family affairs there is also need for the regularization of legislations that address marriages. The persistence of contradictions that were contained in the previous constitution would have been cleared had the various pieces of legislation been aligned. A good example is that of Section 26 which addresses the issue of marriage. Families are in disarray due to the inconsistencies that existed in the previous legislations, that is, Chapter 5:11 (formerly Chapter 37); Chapter: 7 (formerly Chapter 238) and the customary law. The re-alignment would institute equality between boys and girls in terms of the minimum age for marriage. It would also help stop child and forced marriages.

The delay in the re-alignment of laws has also led to the polarization currently characterizing the Zimbabwean politics, which affects the operations of local authorities. One of the contentious issues is the involvement of traditional chiefs in partisan politics which was cited by the opposition MDC Alliance in its Con-Court challenge against Mnangagwa's victory. The leader of the chief's council, Fortune Charumbira, reportedly said that the chiefs work with the ruling ZANU PF and categorically stated that they were ZANU PF (Newsday, 18 January 2018). This was against the provisions of Chapter 15 section 281(2) which states that "Traditional leaders must not (a) be members of any political party or in any way participate in partisan politics; (b) act in a partisan manner; (c) further the interests of any political party or cause; or (d) violate the fundamental rights and freedoms of any person". The conduct of the employees of local government is addressed in Section 266 and if proper legislations are aligned it would enhance professionalism,

efficiency and accountability in rural and urban local authorities.

CONCLUSION

The sought to unpack provisions of the Section 274 of the Zimbabwean constitution. It was noted that the section promotes good local governance although it is not explicit on some highlighted aspects, which makes it prone to manipulation. The paper explained how the situation obtaining on the ground remains very different from the dictates of the current constitution. This was observed during the first days due to the failure by the government to expeditiously align the various pieces of legislation to the 2013 Constitution of Zimbabwe. The obvious consequence of that delay is poor service delivery by the local authorities. Although it is still too early to assess the propensity of Section 274, promote efficient and effective administration of provincial and metropolitans, but the fact that these local government entities are governed by constitutional provisions is very promising. The clarity of the provisions will eliminate personal discretion, confusion and arbitrary abuse of office. Corruption is likely to be curbed or at least monitored. It also remains to be seen whether political will be exhibited by those mandated to execute and implement this section of local government law and practice. It is the conviction of the authors of this paper that challenges that have so far been experienced in the implementation of this section of the constitution, including other sections should be addressed through an appropriate Act of Parliament. However, it should be noted that the new constitution has made a spirited attempt to address most of challenges such as corruption, politicization of local governance issues as well as fiscal administration.

CONFLICT OF INTERESTS

The authors have not declared any conflict of interests.

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