

Central-local Government Relations: Implications on the Autonomy and Discretion of Zimbabwe's Local Government

Chakunda Vincent S*

Department of Local Governance Studies, Midlands State University, 9055, Zimbabwe

Abstract

The study of central-local government relations presents a dynamic discourse into understanding political and administrative power dimensions and distribution between central government and local government. Central-local government relations reflects the horizontal and vertical power dynamics between central and local government and related consequences on autonomy and the degree of discretion that local government enjoy from central government control and direction. Zimbabwe being a unitary state have one source of state authority underpinned by a local government system decentralized (devolution in particular) to provide affordable services to a heterogeneous citizenry in geographically defined and demarcated areas of jurisdiction. Local authorities are creatures of statutes/Acts of parliament and therefore operate within the legislative framework enacted and promulgated by central government (legislature) as the primary legislative authority section 32 (1) of the Constitution of Zimbabwe, but also enjoy subsidiary or secondary legislative authority as provided in section 32 (2) of the constitution of Zimbabwe, section 228 of the Urban Councils Act, Chapter 29.15 for urban local authorities and section 88 of the Rural District Councils Act, Chapter 29.13. Local governance in Zimbabwe is a much contested discipline bringing diversity and controversy and the conduct of central government in dealing with local authorities have of late been shrouded by criticism from the independent media houses. Independent media houses and the opposition political parties blamed the minister of Local Government, Rural and Urban Development (MLGRUD) and central government's intervention, legally though, as interference with local authorities' affairs to the detriment of good governance in the latter institutions. This paper attempts therefore to evaluate the objectivity and rationality of such interventions.

Keywords: Local government; Central-local government relations; Autonomy; Local government discretion

Statement of the Problem

Differences in political ideologies and the perceived subjectivity to particular political party philosophies in Zimbabwe have led to a subjective and speculative perception over the objectivity of central government intervention in local government affairs on the one hand and the capability of local authorities to manage local affairs effectively with minimal central government supervision on the other hand. This have culminated into tensions between local government and central government with the latter considering central government intervention approaches, legally though, as too much to the detriment of good governance in local authorities. This paper therefore explores the legislative framework for local government in Zimbabwe, particularly central government coordination, supervision, control and direction of local government affairs and evaluates the implications of this inter-governmental relationship on the efficiency of local authorities.

The Theory of Pluralism

The pluralist approach to the study of politics and power, according to Connolly [1], contends that society is a struggle of competing groups within an arena refereed by the state and advocated for the separation of governmental power through segregation of responsibilities in the system. The theory posits that politics and decision making are located mostly in a framework of government, with a multiplicity of actors who must bargain over how power and influence is distributed in a political process. The theory, according to Barzilai [2] further propounds that power is decentralized, widely shared, diffused and fragmented and that the multitudes of these players are conflicting partners balanced by the state. The groups are equally influential in their impact on governmental policy and major institutions. The assumption of natural balance of power among various groups which is perceived through bargaining and compromise, win some and lose some, give and take and thus equilibrium is reached in group struggle. The theory has however been criticized for being over simplistic, ignoring the complexities

of the relationship between the state and other various government actors. Personal and political ideological differences for example can erode the objectivity on the state with its agencies working to fulfill political party agendas and not the general good of the people. Political conflicts between Patriotic Front, Zimbabwe African People's Union (PF ZAPU) and the Zimbabwe African National Union Patriotic Front (ZANU PF) before 1987 and ZANU PF and Movement for Democratic Change (MDC) post 2000 classically represents how state apparatus can be used to thwart descending voices and maintain political hegemony for the ruling elites.

Background to the Zimbabwe Local Government Framework

The post-independence Zimbabwe after the 1980 elections adopted a unitary system of government. The most distinctive feature of this system of government is that there is only one source of state authority allowing a higher possibility for the uniform application of laws and policies to all parts of the country. Kurebwa J [3] pointed out that in unitary systems, although it is often necessary for the effective local expression of state power to have an administration at the local level, such local governments exist only as mere agents of the central authority. The centre in this paper refers to central government which is made up of three arms namely, the judiciary, legislature and the executive.

*Corresponding author: Chakunda Vincent S, Department of Local Governance Studies, Midlands State University, 9055, Zimbabwe, Tel: 2638677000234; E-mail: chakundav@msu.ac.zw

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This unitary system of government in Zimbabwe is underpinned by local authorities as lower tiers of government responsible for providing services at the local levels. Jordan grouped the services provided by local authorities into four categories- obligatory, optional, the amenities and the regulatory services. The local government system in Zimbabwe is dualistic in nature, distinguished into urban local authorities (31 urban councils) which comprises of local boards, town councils, municipalities and city councils as provided for in the Urban Councils Act, Chapter 29.15 and rural local authorities (61 Rural District Councils (RDCs)) as provided for in the Rural District Councils, Chapter 29.13. In his opening remarks at the workshop organized by the Community Law Center, cited by De Visser [4], the minister of Local Government, Rural and Urban Development, Dr. Chombo stressed that, the local government system in Zimbabwe is underpinned and predicated on a decentralized mode of governance premised on the virtues of the principle of subsidiarity. He however contested that the extent to which the system is decentralized is controversial and subject to debate as decentralization is a process and not an event. In attempting to evaluate the extent to which the system is decentralized, Chatizain de Visser [4], submitted that political power processes and distributions and the shifting of central-local relations is evident in the contradiction between the concepts of local affairs or needs and locally elected decision makers on the one hand and division of functions between central government and local government as well as the notion of transfer of functions inherent in the decentralization of functions on the other. Thus in Chatiza's analogy, central-local government relationship reflects a vacillation between devolution thus (administration of local affairs by locally elected officials) and a delegation one (performing tasks transferred from or assigned by central government). The distinction and sharing of power, functions and resources have always been a centre of controversy with central government trying to maintain its control over local government and the later demanding more space to perform its functions with minimal influence and control of the centre. It is also important to note that different governments have different political purposes and motives for introducing decentralization and these intentions are embodied in the structure and form of decentralization or, more subtly, are revealed in how the system functions after it is introduced. This power sharing dynamics made Crook [5] to conclude that, 'the politics of central-local relations explains what interests might gain or lose from any set of institutional opportunities, policy initiatives and resource allocations and relates these factors to the political purposes of decentralization.'

Having navigated the stormy waters of decentralization, it is perhaps critical to note that there is nevertheless need for interdependency, diversity and a dynamic interaction between central government and local government so that both layers of government realize their objectives and as well to ensure that the process of decentralization indeed becomes a success. Chombo again cited by de Visser, reiterated the above observation when he noted that, '*central government must of necessity nurture a conducive environment that enables local authorities to optimally tap into the local resources, material, capital and human.*' He further contested that, the relationship between central government and local government often remains inadequately defined while the language of the decentralization policies alludes to the real devolution of powers, in law and in practice local authorities largely remain local agents of central government without much space to manoeuvre.

Conceptualization of Central-local Government Relations

The study, conceptualization, theorization and analysis of central-

local government relationship have proved to be a challenging assignment and expectation among various government officials, scholars and political analysts. Chatiza cited by de Visser [4] have preferred to stereotype the relationship as "vexing" considering the differences in political and socio-economic ideologies between central government on the one end and local government on the other end. In the same context, an analysis of British contemporary central-local relations by Ogborn [6] may well be considered as a synthesis of the above argument. Ogborn challenged the orthodox dualistic analysis of central-local government relationship presented in the nineteenth century and argued that local power does not rest within conceptions of communities or in the ideology of local possessive pluralism characteristic of ratepayer democracies but in the administrative structure of spatial state apparatus. Although the above arguments may have some stereotype ideals, it is important however to rationalize that decentralization is a creature of state governments who retains the prerogative of determining the quality and quantity of authority to devolve to local governments. Whilst it has been the general supposition that the state exist for the general good of its people which among other efforts may involve the decentralization of sufficient authority to local authorities for the efficient provision of services to citizens, this may be contradicted as an overstatement and oversimplification as some bureaucracies have attempted to concentrate power at national levels leaving local governments as mere extensions of central government authority. It therefore becomes contestable whether decentralization as summed in government policy theory has enhanced local autonomy or whether there is an increased propensity towards recentralization. Crook [7] in his attempt to critique decentralization as a mechanism of vertical and horizontal power diffusion from central government to its various agencies noted that, "*Different governments have different political purposes and motives for introducing decentralization. These intentions are embodied in the structure and form of decentralization or, more subtly, are revealed in how the system functions after it is introduced. But political variables determine decentralization outcomes (in terms of greater responsiveness and poverty reduction), not only because of variations in formal structure or technical failures of implementation, but also because decentralization is essentially about distribution of power and resources, both among different levels and territorial areas of the state and among different interests in their relationship to ruling elites. The politics of central-local relations explains what interests might gain or lose from any set of institutional opportunities, policy initiatives and resource allocations and relates these factors to the political purposes of decentralization*".

However, the submission by Boone [8] can make an interesting analogy to Crook's observations when he posited that similar decentralization reforms could have diametrically opposed purposes according to whether they aim to reinforce vested interests in existing patterns of patronage and central-local linkage, or involve challenges to local elites from groups using decentralized institutions to 'draw down' central resources to bolster local power struggles. In the African context, the politics of ethno-regional conflict is particularly important in shaping the structure of decentralization and indeed the extent to which it is accepted at all by the ruling elite. Smoke in analyzing horizontal integration between central government and local government in the decentralized systems of Kenya, Zimbabwe and Nigeria submitted that the first two are examples of systems devoted to sustaining the power of the governing party at the local level, whilst Nigerian local government has been used since 1983 as an instrument by successive military regimes to create loyal local 'bosses' and agencies for the distribution of central patronage which by-pass the federal states. It is difficult to find any positive assessments of these countries

in the research literature. In pursuit of Smoke's submissions, the views of Ogborn may have to be analysed at this juncture. Ogborn opined that, the understanding of central-local government relations as part of a modern states government extension of surveillance across its territory is elucidated and substantiated through an analysis of the form of these relationships particularly the rationality and yields. Vincent-Jones complimented this argument when he posited that the legitimacy of the state's regulatory objectives and the manner of their determination should be confronted as part of a broader evaluative task on government practice including, but not confined to, the technical assessment of regulatory effectiveness.

Analytical Framework and Delimitation

This paper explores the conceptual framework of decentralization as the basis of understanding the Zimbabwean government's policy [9] commitment to decentralized governance. The paper contextualized the Zimbabwean central-local government relations within the broader framework of the pluralist theory which emphasized on interdependency, diversity and the dynamic interaction of relatively independent layers of government. To streamline the focus of the paper, the following analytical framework was used:

- 7.1) Legislative framework for local government in Zimbabwe
- 7.2) Organizational arrangement of central government and local government from a personnel perspective
- 7.3) Financial resources-the common resource base problem
- 7.4) Coordination, integration and co-existence of local authorities and central government
- 7.5) Supervision and control systems and mechanisms
- 7.6) Administration of ultra vires conduct

The Legislative framework for local government in Zimbabwe

The local government system in Zimbabwe is a legislative rather than a constitutional creature. Machingauta noted that, although they are body corporates, local authorities remained creatures of statutes with no constitutional recognition of their existence. In essence this implies that local government in Zimbabwe is a decentralised (devolved) level of governance which authority is derived from Acts of Parliament and not enshrined in the constitution. Local authorities in Zimbabwe are administered through panoply of Acts of Parliament enacted by the Zimbabwean legislature. The various legislative instruments inter alia the Urban Councils Act, chapter 29.15, RDC Act, Chapter 29.13, Regional, Town and Country Planning Act, Chapter 29.12 provides the regulatory framework that defines the establishment, powers, functions and responsibilities of local authorities, mandate for passing secondary legislation among other regulations. The Ministry of Local Government administers all the Acts and Statutory Instruments promulgated in the local government area. The minister is supposedly considered to be acting in the best interest of the citizens. This presumably implies that the intervention approaches and mechanisms in the legislation are designed to give the minister an unrestricted access to council process, procedures and systems so that he/she inputs, advices and influence good governance in local authorities for example as provided in section 91 of the urban councils Act, chapter 29.15 which gives the minister the 'right of access to records of council'. In March 2012, the minister appointed a resuscitation team for the Municipality of Chitungwiza after the dismissal of key council staff including the town clerk on grounds of corruption and abuse of office. Indeed the allegations levelled against the council officials pointed to irregularities in financial management,

allocation of stands and violation of employment procedures.

Organisational arrangement of central and local government from a personnel perspective

The organisational and structural arrangement of local government presents an important dichotomy in understanding the manifestations of power and responsibility allocation and distribution between the parent ministry and local authorities. The minister retains the overall supervisory, coordination and control authority on the behaviour of local authorities. However, local authorities at provincial and district levels are accountable to the minister via the Provincial Administrator (P.A) and District Administrator (D.A) respectively. One of the key result areas of D.As and P.As is to supervise and monitor local authorities and as such they are ex-officio members of full council and committees of council. While local authorities have the power to employ non-director employees, the appointment of directors is subject to approval by the local government board in terms of section 115 -130 of the Urban Councils Act chapter 29.15. Members of this board are appointed by the minister and therefore hold office at his discretion an issue that have raised eyebrows and controversy over the transparency of this statutory board which have been blamed of rubber stamping the whims of the minister.

Financing of local government functions-the common resource base problem

Central government through Acts of parliament determines and delimits the sources from which local authorities can raise revenue for their day to day functionality. Local government revenue sources include but are not limited to service charges, rates, property tax, and grants from central government, rent on property leased, and borrowing subject to approval by the minister. At the same time central government gets income from sources including PAYE, import and export duties, and royalties on mineral resources. It therefore appears that central government income sources are easier to collect relative to those of local authorities. However, before implementing their budgets, local authorities must seek the approval of their tariffs and income from the minister who have the veto to reject a council budget where he feels the tariffs are beyond the affordability of citizens or where he feels the expenditure is not justifiable. In addition to this, the common resource problem has reduced the capacity of citizens to honour both central government dues on the one hand and local authority tariffs on the other hand

Supervision and control systems and mechanisms

The decentralization of functions to local authorities also came with the institutionalization of a package of control systems and supervisory mechanisms by central government to ensure that local authorities behaves within the parameters set in the relevant Acts of Parliament. As thus, the president and minister of local government are empowered by the legislation to intervene where local authorities' fails to provide some or all the services as provided for in the Acts. Inter-governmental relations from this angle reflect the politics of the horizontal power dynamics between local authorities and central government. Goldsmith [10] identified three ways by which central government can exercise control over local governments. The first one is the control of local government income and expenditure. In income terms, central government may decide which taxes local governments can access or to set tax rates or to decide the form of inter-governmental transfers. In expenditure terms, central government may seek to control local government access to borrowing for capital

purposes and to set limits to current expenditure levels or prohibit certain expenditures or to require localities to meet a greater or lesser proportion of the costs of certain services out of their own resources. Secondly, there is control through a process of administrative regulation or prescription about the ways in which particular local functions or services be provided. The third dimension is control over the access permitted to local governments collectively and individually to central state decision making. Machingauta also identified four dimensions of central government supervision on local authorities almost similar to Goldsmith and he argued that, *'the hierarchical nature of the relationship between central and local government allows central government to supervise local government with a view to bringing it into harmony with national policies. Supervision enables the supervising authorities to prevent the unlawful use of the funds and other property of local authorities, to prevent corruption, or to improve the performance of local authorities, among others'*. The four dimensions of supervision of local governments by the centre he identified are the establishment of local government institutions and regulating their institutional framework. Secondly, national governments' regulatory role in streamlining local government functions through the laws that establish local government and others that have a functional relationship with local government. The third manner of supervision is the continuous monitoring of local government functions through requests for information and access to local government records as well as investigations into allegations of corruption and other forms of improper conduct. In this regard, supervision may involve the suspension and or dismissal of elected councillors for improper conduct or poor performance. Lastly, is the intervention of central government by appointing administrators, commissioners or caretakers to act as council pending investigations (section 80 of the Urban Councils Act Chapter 29.15). In his view of central government's supervisory power on local government, Machingauta presented an overview of central government's supervision powers in Zimbabwe, ranging from investigations and direct intervention into specific decisions. He submitted that, *'the structure and practice of supervision of local government in Zimbabwe is a function of the current legal context in which local government is a creature of statutes and exercise delegated authority only'*. However, the question is whether such tight strictures on the functioning of local authorities will enable those local authorities to realize their potential to facilitate development and sustain democracy. The scope of innovation and responsiveness to local needs is directly to the measure of local discretion offered by the legal framework.' The powers of the president and the minister have been challenged as too much to the detriment of good governance in Zimbabwean local authorities. Various scholarly articles and newspapers have challenged what they termed 'interference' in the good governance of local areas. This can be noted from the submission of the Daily Mirror 30/08/04 which bemoaned that, 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. The Daily Mirror [11] noted that, *'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'*. Whilst the Zimbabwean government has vehemently denied acknowledging such alleged excesses of control on local government, it is important to note for instance, that 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, according to Machingauta, *'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 that, "local councils enjoyed delegated authority and thus should follow government, and by extension, ZANU PF policies." Machingauta further contested that, the supervisory mechanisms granted central government what he contextualised as 'unfettered discretion' and pointed to several instances where that discretion was abused. The era post 1999 which coincided with the rise of the Movement of Democratic Change (MDC) heralded the advent of what Makumbe preferred to call a formidable opposition movement in Zimbabwe since independence. This period evidenced a massive dissolution and dismissal of MDC led councils. A case in point is the Harare 'Mudzuri' led council that was dissolved in 2005 on grounds of corruption, incompetence and ultra vires conduct. This council was dissolved and replaced with the 'Makwavarara' led commission appointed in terms of section 80 of the Urban Councils Act, Chapter 29.15. Other councils dissolved included the Mutare's 'Kagurabadza' led council. Other local authorities affected included Bindura, Chinhoyi, Karoi to mention just but a few.

Administration of misconduct

The Acts of parliament stipulates how central government handles ultra vires conduct by local authorities. These include inter alia the suspension and dismissal of councillors and mayors, appointment of investigating teams, appointment of caretakers and resuscitation teams. However, the exercise of these functions have generated an outcry among local authorities especially those under the Movement of Democratic Change (MDC) as they complained that the local government framework absurdly invests too much power in the minister who have abused this mandate for his personal benefit. Section 54(2) of the Urban Councils Act, 29.15, for example provides that the minister may suspend a mayor "whom he suspects on reasonable grounds" of having for example been guilty of conduct that renders him unsuitable as mayor. The contextual framework of the 'reasonable grounds' has been criticised as successive dismissals of democratically elected mayors especially after 2005 mainly from opposition ushered the view that the minister was driven by a voracious appetite to fulfil his political ideology at the expense of good governance in local authorities.

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