

Challenges to Urban Democratic Governance in Zimbabwe

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in Zimbabwe:
The Case of the Appointment of Special Interest
Councillors in Urban Local Councils

By

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P U B L I S H I N G

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The dedication to the Almighty God surpasses whatever dedication is contained in this book.

I also dedicate this piece of work to my late father, Josiah Mapuva, my mother Sarah Mapuva, my Wife Loveness Muyengwa-Mapuva, my children and siblings. To King Emmanuel II, I once again say this is the book that you have always been talking about.

I also want to dedicate the book to all those who work towards the creation of improved service delivery in urban areas in the country, in particular and in Africa and the globe.

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LIST OF ACRONYMS

ACDEG	African Union Charter on Democracy, Elections and Governance
AMCOD	African Ministerial Conference on Democracy
BSAC	British South Africa Company
CHRA	Combined Harare Residents Association
COPAC	Zimbabwe Parliamentary Select Committee
CPPDT	Charter for Popular Participation in Development and Transformation
GNU	Government of National Unity
GPA	Global Political Agreement
IULA	International United Local Authorities
MDC	Movement for Democratic Change
MISA	Media Institute for Southern Africa
MLGRUD	Minister of Local Government, Rural and Urban Development
UCA	Urban Councils' Act
UCLG	United Cities and Local Government
UDHR	Universal Declaration of Human Rights
UGI	Urban Governance Index
ULCGA	United Cities and Local Governments of Africa
UNESCAP	United Nations Economic Commission for Asia and the Pacific
ZANU PF	Zimbabwe African Union Patriotic Front
ZEA	Zimbabwe Electoral Act
ZEC	Zimbabwe Electoral Commission

EXECUTIVE SUMMARY

Local government is the nearest sphere of government to local communities and as such is very important as a conduit through which national/central government implements policies and provides services to communities. Given that central government cannot directly administer all communities, it utilizes local authorities as a conduit to reach out to individual communities. Such local authorities are manned by elected and appointed officials. These officials include technocrats whose expertise in the interpretation of statutes and bylaws is necessary in the administration of local authorities as they seek to enhance service delivery to local communities. In addition to technocrats, there are those officials who are elected by the local people to represent local community interests in councils. The existence of elected officials (herein called 'councillors') enables local communities to keep informed of events in local councils and to participate in the business of local councils. The existence of such elected councillors is common in both federal and unitary local government systems. However, the relationship between central government and local government is different in federal and unitary systems of government. Federal and unitary governments have different forms of local authorities and the devolution of powers is more visible in federal governments than in unitary governments. In unitary forms of government, central government seeks to usurp and amass or even retain most decision-making powers of local authorities while in federal forms of governments, central government spreads decision-making powers to regions or provinces and only retains important portfolios, such as those pertaining to national security, which cannot be handled at local or regional levels. Although the relationship between central government and local government is different in federal and unitary systems of government, the major functions of local government in either of the two systems of government remain that of implementing central government policies. However, the difference is in the level of community participation. Although it might seem as though the administration of local councils is a straight forward practice, it is inundated by a myriad of challenges ranging from the politicization of local governance in favour of the ruling elites, lack or little consultation of local communities in decision-making processes, and the visible hand of central government in the affairs of local

councils. The major challenges to local government in Africa have remained that of political interference by the ruling elites, as well as the scarcity of resources with which to deliver good quality services to local communities. This has resulted in the disintegration of local government structures in most urban areas, and the near destitution of residents in sprawling informal settlements as local authorities fail to meet the demand for housing as a result of increased urbanization. As in most African countries with unitary systems of central government, local government has had its own share of challenges. The most notable of Zimbabwe's challenges in local governance has been the acutely partisan nature of local governance, manifesting itself in the plethora of legislation that determines local governance. With the Minister responsible for local government wielding enormous executive powers, there has been a notable disruption of operations in most local councils as the Minister has sought to settle political scores with locally elected councillors. With the advent of a new amendment to the Urban Councils Act (2008) – section 4A, the Minister has been empowered to appoint special interest councillors which, I argue, is a waste of resources and ratepayers' hard-earned money. Local governance bench marks and best practice have, as shown by the legislative instruments discussed in this book, proved that the appointment of special interest councillors is not only unnecessary, but is not consistent with democratic urban governance.

PREAMBLE

Through this book, the author seeks to establish the extent to which local government in Zimbabwe has lived up to its general mandate: that of promoting local democracy through community participation in local governance processes. It is generally acknowledged that through local government structures, central government and local communities interact at the same level. But most importantly, local government should provide a conduit through which local communities can influence public policy formulation and implementation. As such, this book seeks to establish whether through legislation central government has been able to create an enabling environment for local communities to influence policy. A plethora of local government, as well as international and regional, legislative instruments have shown that Zimbabwe has lived up to the common trends in unitary state systems: central government hordes power, with no trickle-down effect to local communities. The nature of local government legislation seems to confirm the fact that the Minister of Local Government is not a servant of the people but is some kind of colossal demagogue, lording it over local governance and thereby defeating the essence of the institution of local government.

To put theory into practice, the author embarks on an expansive exploration of 20 urban local councils in Zimbabwe to establish the extent to which legislation and the practice of democratic urban governance is realized. In this regard, the author explores one piece of local government legislation, namely section 4A of the Urban Councils Act (2008) which empowers the Minister of Local Government, Rural and Urban Development (MLGRUD) to make additional appointments of 'special interest' councillors to all urban local councils. The appointees are 'special' in that they are personally accountable to the person of the Minister and, I suggest, 'dance to his tune'. In exploring the different legislative instruments on democratic governance, the author looks at to whom the appointees are expected to be accountable, the place of local communities in the appointment process and whether the appointments bring any added value to service delivery to the local communities. The practice of appointing special interest councillors does not resonate with democratic local governance, especially given that the local communities that should ideally benefit from the activities of the appointed incumbents

are not consulted at all, nor is their participation in the process of making the appointment guaranteed or sought. However, one cannot necessarily judge the level of democracy (or lack of it) in such appointments. Therefore, the author explores the provisions and dictates of various international and regional legislative instruments to come up with a normative framework on democratic and representative urban governance. These legislative instruments enable the author to establish whether local government law and practice in the case of the appointment of special interest councillors complies or resonates with the democratic benchmarks and the best practices of democratic urban governance.

CHAPTER OUTLINES

This book is made up of five chapters. Chapter one provides a general overview of local government in federal and unitary states and compares local governance in the two systems of government. Chapter two provides the key aspects contained in the book, notably the controversy emanating from the appointment of special interest councillors as well as public reaction to such appointments. In addition, the chapter presents the methodology for establishing the extent to which the practice of appointing special interest councillors complies with democratic urban governance.

Chapter three provides a normative framework for local democratic and representative governance. This chapter explores and analyses selected legislative and regulatory frameworks that provide for representative democratic governance. From the cited frameworks and instruments, the author extrapolates elements of representative governance. In addition, from the Constitutional Parliamentary Committee (COPAC) Constitution, the author will extrapolate critical features of democratic local governance. The normative frameworks for best practices and benchmarks in representative governance will be drawn from the Universal Declaration of Human Rights (UDHR), UN-Habitat-Urban Governance Index; European Charter of Local Self-Government; African Charter on Human and Peoples' Rights; United Cities and Local Government of Africa model; the Kigali Declaration; and the Victoria Falls Declaration.

Chapter four provides a discussion of local government structures and institutions in Zimbabwe and the appointment of special interest councillors. The legal framework and policy rationale of appointing special interest councillors in urban councils by the MLGRUD provides the focus for this chapter. The chapter begins by presenting the history of local government in Zimbabwe and characteristics and compositions of local government institutions in the country. The author then presents a brief discussion of the genesis of the appointment of special interest councillors. The discussion focuses on the practice of appointing special interest councillors in the country's local government institutions, a practice which had initially started in rural councils in terms of section 60 of the District and Rural Councils Act and was later adopted in urban

councils through the enactment of section 4A of the Urban Councils' Act of 2008. The thrust will then be directed to the content of section 4A of the Urban Councils Act, highlighting the role of the Minister in appointing special interest councillors and the accountability structure of the provision.

Chapter four involves a comparative discussion of the practice of appointing special interest councillors and the representative democratic normative framework drawn from international instruments and the COPAC Constitution. In this chapter the author tests section 4A of the Urban Councils Act (UCA) against elements of representative democratic local governance drawn from the COPAC Constitution as well as from international instruments. The focus is on the ways in which ministerial powers appoint special interest councillors and whether such appointments are acceptable practice in a representative democracy and, in addition, what impact this practice has on service delivery and local councils' decision-making processes. This chapter tests and compares the provisions of section 4A of the UCA to the critical features of representative democratic local governance drawn from the COPAC Constitution and other international and regional instruments.

Chapter five provides a conclusion based on the comparative analysis of section 4A of the UCA against international instruments and the COPAC Constitution. The comparative analysis will seek to test the extent to which section 4A of the UCA complies with elements of representative democracy drawn from international instruments and the COPAC Constitution. In highlighting the shortfalls of section 4A of the UCA and local governance elements of COPAC, I try to indicate how this document might be bettered with a view to improving the structures and institutions of local governance. Recommendations on how to improve the Zimbabwean local government system and enhance urban democratic governance are presented after identifying gaps in the implementation of section 4A of the Urban Councils Act of 2008.

CHAPTER ONE

INTRODUCTION

This book traces the root cause of the controversial issue of appointing special interest councillors in urban areas at a time when poverty levels had risen sharply among the urban population, in part, as a consequence of the appalling state of public services. The appointment of special interest councillors has been viewed as presenting an additional financial burden as it is from the local councils' coffers that such appointees are paid. This explains the reason why the appointment of such councillors has encountered a lot of resistance, especially among urban residents who have expressed the view that elected councillors are sufficient to deal with the needs of local communities and that Ministers therefore do not need to add unelected councillors, particularly against a backdrop of dwindling financial resources that exists in most urban councils. In addition, the issue of appointing special interest councillors came at a time when the fight for dominance of urban local councils had reached fever pitch as different political parties, especially ZANU PF and the MDC-T, tussled for political hegemony in urban areas where the vote is used as a barometer to determine a political party's popularity. As a result, cut-throat competition and contestation for the dominance of urban councils has ensued, resulting in the enactment of section 4A of the Urban Councils' Act which enabled the MLGRUD to make additional appointments in all local councils, both in urban and rural areas. This book looks at the impact of the appointment of such councillors in urban areas where the electorate in particular and the residents in general have contested such appointments. To be able to establish the essence behind the appointment of such councillors and to prove or disprove the notion that such councillors have been used by the MLGRUD as a political ploy to increase the number of ZANU PF councillors in most urban councils, the author undertook a survey of 20 urban councils. The objectives of the survey of the 20 urban councils were to establish the composition of the appointees, the expertise or skills that each appointee would bring to the local council, and whether the practice of appointing special interest councillors, especially in urban areas, has

been used to democratize local governance by incorporating more than one political party.

Appointment of Special Interest Councillors in Zimbabwe and the Democratic Discourse

Democratic discourse and practice entails among other things the election of political leaders through regular elections, transparency in the implementation of policy, responsiveness on the part of political leaders and institutions, the existence of the rule of law, inclusiveness as well as accountability to the electorate/communities/residents (Raftopoulos, 2009; Makumbe, 2010; Sachikonye, 2011; Masunungure, 2010). It is on this basis that the law and practice of appointing special interest councillors is viewed.

The appointment of special interest councillors in terms of section 4A of the Urban Councils Act has encountered much opposition from residents in many urban areas.¹ These appointments have also attracted public attention, especially in the media which has highlighted the plight of urban councils, most of which have failed to contend with additional unelected personnel on their payrolls. There has also been a claim that the process of appointing special interest councillors may be or is being abused.² What has further exacerbated this situation is the fact that there is no legal provision to check the powers of the Minister, leaving room for the manipulation of the powers to appoint.³ Since the enactment of section 4A of the Urban Councils Act (UCA) in April 2008, numerous elected councillors and mayors belonging to the MDC-T have been dismissed, or summarily suspended pending dismissal so as to justify the appointment of special interest councillors over and above elected councillors. One case of simmering discontent and disagreements between residents and the MLGRUD is cited in a media article, entitled *Special interest councillors dismissed*,⁴ which highlights the fact that such appointments have the propensity to create anarchy and despondency in some localities. The dismissal and suspension of MDC-T (the MDC faction led by Mr Morgan

¹ Sibanda A 'Bulawayo residents and Chombo to clash over special interest councillors' *Bulawayo24*, 16 May 2012.

² Harare Residents Trust. 'Chitungwiza Residents raise concerns with Minister Chombo' *SW Africa Radio*, 13 February 2012.

³ 'Bulawayo: Chombo tries (again) to impose "Special Interest Councillors"' *Zimbabwe Metro* 24 April 2012.

⁴ Ndlovu N 'Zimbabwe: Special Interest Councillors Dismissed' *The Standard*, 14 April 2012.

Tsvangirai) councillors and mayors and the dissolving of urban councils have led to allegations that the Minister seeks to weaken MDC power in urban local councils through the of special interest councillors. By highlighting and examining the implications of these appointments on urban governance and the general functioning of urban local councils, the author will critically evaluate the seemingly undemocratic practice of appointing special interest councillors in Zimbabwe.

Significance of the Problem of Appointing Special Interest Councillors

This section explains the significance of the controversy surrounding the appointment of special interest councillors in urban councils as cited above. Most urban local councils argue that the appointment of special interest councillors has become a financial burden on the councils' fiscus, since the appointees are paid by the councils that appoint them.⁵ The print media has also highlighted the controversy of the appointment of special interest councillors in terms of section 4A of the Urban Councils Act. A cross section of media reports has presented the appointment of special interest councillors as a controversial practice that has led to the deterioration of relations between the MLGRUD and most urban councils⁶ as well as between residents and the MLGRUD.⁷ Both residents and elected councillors have been angered by the fact that while many elected councillors have either been suspended and/or dismissed,⁸ no such action has been taken against appointed special interest councillors. The media reports have also noted that most local councils view the appointment of such councillors by the MLGRUD as an abuse of power by the Minister, with some threatening to take legal action⁹. Other media reports have

⁵ S 4A (2), Urban Councils' Act (2008).

⁶ "Chombo Risks Lawsuit" in *Zimbabwe Daily News*, May 23, 2010; CHRA, 2012 'Brian James Suspension Exposes Urgent Need for Local Government Reform!'.
⁷ Sibanda A 'Bulawayo residents and Chombo to clash over special interest councillors' *Bulawayo24*, 19 May 2012.

⁸ Chombo has of January 2012 suspended a total of four MDC councillors in Harare for corruption: five in Rusape; one in Nyaminyami Rural District Council; two in Zvimba Rural District Council; and two in Harare Municipality, Councillors Warship Dumba and Casper Takura who opened a council probe on the minister regarding the way in which he had acquired so many properties in Harare, Brian James becomes the latest victim.

⁹ Staff Reporter 'Chombo Risks Lawsuit' in *Zimbabwe Daily News*, 23 May 2010.

expressed the view that the Minister's powers should be reduced.¹⁰ Precious Shumba of the Harare Residents' Trust has acknowledged that while special interest councillors may help to enrich debates in local councils, these should be appointed with the concurrence of local residents. In addition, Precious Shumba has also noted that currently special interest councillors are a liability to most local councils, most of which do not have adequate financial resources to accommodate such appointments.¹¹ The Combined Harare Residents' Association (CHRA) has expressed the need for local government reforms¹² as a way of strengthening local democracy, while the Harare Residents' Trust has equally expressed concerns with the way the Minister has been making these appointments.¹³ All the media reports have expressed criticism of ministerial powers to appoint special interest councillors, with the Media Institute of Southern Africa (MISA) suggesting that the Minister's 'wings be clipped'.¹⁴ The overarching objective of this book seeks to provide a critical analysis of such appointments, given that most media reports have gone as far as expressing opposition to such appointments without providing a critical analysis of the practice.

Guiding Questions and Objectives of the Exploration

In the exploration of legislation governing the appointment of special interest councillors, the author questions the criteria employed by the MLGRUD to make such appointments for urban areas and the implication of such appointments on local democracy. A survey of international and comparative legislative and regulatory frameworks as well as the Zimbabwe Parliamentary Select Committee Constitution (herein COPAC Constitution) will be undertaken to establish the democratic elements of local governance. From the normative framework, the author extrapolates elements of representative democratic local governance that will be used to establish the extent to which section 4A of the Urban Councils Act

¹⁰ MISA "Residents wants Chombo's powers clipped" Human Rights – *The Zimbabwean*, 18 September 2010.

¹¹ Shumba P 'Special Interest councillors ideal but not necessary' *SW Africa Radio*, 17 SW Africa Radio, 26 March 2012.

¹² CHRA 'Brian James Suspension Exposes Urgent Need for Local Government Reform!'.
¹³ Harare Residents Trust. 'Chitungwiza Residents raise concerns with Minister Chombo' *SW Africa Radio*, 13 February 2012.

¹⁴ MISA 'Residents wants Chombo's powers clipped' *The Zimbabwean*, 18 September 2010.

complies with international best practices and the local governance provisions of the COPAC Constitution. The COPAC Constitution was instituted as a result of inter-political party deliberations and public consultations on a new constitution for Zimbabwe to replace the Lancaster House Constitution of 1979. As a result, the author intends to establish the extent to which the COPAC Constitution provides for representative local governance. Subsequently, the author investigates the extent to which the appointment of special interest councillors under section 4A of the Urban Councils Act complies with the principles of representative democracy as set out by various international instruments, as well as the COPAC Constitution¹⁵.

As such, the author seeks to:

- (i) Extrapolate elements of representative governance from selected international and regional instruments as well as from the COPAC Constitution.
- (ii) Assess the impact of the appointment of special interest councillors on the relationship between local authorities, residents and central government.
- (iii) Test the extent to which the appointment of special interest councillors under section 4A encroaches on local democracy.
- (iv) Test the practice of appointing special interest councillors under section 4A against international standards and COPAC Constitution provisions on representative governance.
- (v) Provide recommendations for improving local democracy in local councils.

Raging Debates about Appointment of Councillors

Literature on federal and unitary state systems and the forms of local government structures expected in them has been explored above. However, the gap in the literature on the two state systems exists in relation to the role of central government, specifically regarding the

¹⁵ S 14 of the COPAC draft provides for Provincial, Metropolitan and Local council structures and institutions as well as the election of local council office bearers.

Minister's own role in relation to the operations of local councils. It is therefore the purpose of this section of the book to explore the literature - or concerns raised by similar studies - on Ministerial power in relation to appointments in local councils, and the extent to which, in making such appointments, the Minister is required to consult with local communities. The book also seeks to establish whether the appointment of councillors by the Minister resonates with representative democracy as provided by existing legislative local governance instruments.

While much concern has been expressed in the field about Ministerial powers in the operations of local councils (both in rural and urban areas), there is no critical analysis of the practice of appointing special interest councillors. Most of the people who have written about the appointment of special interest councillors have concentrated on the MLGRUD's general powers over the affairs of local councillors, without focusing specifically on section 4A of the Urban Councils Act that empowers the Minister to make such appointments. While Chakaipa¹⁶ has written about special interest councillors, the author only mentions these appointed officials in light of electoral processes, as well as the introduction of such a portfolio in urban areas, but does not say anything about the operation or impact of such appointed councillors on urban governance. Additionally, the major part of Chakaipa's discussion is confined to elected councillors and local government electoral processes. Mushamba¹⁷ discusses special interest councillors in relation to the decentralisation of power from central to local authorities but does not discuss their appointment or the role of the Minister in making these appointments. Media houses in Zimbabwe have 'flip-flopped' over the issue of the appointment of special interest councillors. Although the Media Institute for Southern Africa (MISA) has argued about the need to amend the Urban Councils Act in order to reduce the powers of the MLGRUD in general, it has not provided a detailed critique of the appointment of special interest councillors *per se*. Machingauta¹⁸ has come closer to addressing the issue of special interest councillors but the author tends to confine himself to "the appointment of

¹⁶ Chakaipa S 'Local government institutions and elections' in De Visser J; Steytler N & Machingauta N (eds) *Local Government Reform in Zimbabwe: A policy dialogue* (2010) 31-68.

¹⁷ Mushamba S 'The powers and functions of local government authorities' De Visser J; Steytler N & Machingauta N (eds) *Local Government Reform in Zimbabwe: A policy dialogue* (2010) 101-120.

¹⁸ Machingauta N *A legal analysis of the appointment of caretakers to act as council in terms of Zimbabwe's section 80 of the Urban Councils Act* (unpublished LLM thesis, University of the Western Cape, 2010)

caretakers to act as councils” in terms of section 80 of the Urban Councils Act of Zimbabwe. Again, Machingauta’s discussion of special interest councillors addresses the broader caretaker framework in which caretakers may be appointed to act as full council in certain circumstances, but does not specifically refer to section 4A of the Urban Councils Act. In her thesis, Madzivanyika¹⁹ provides a generic catalogue of legislative weaknesses in the Urban Councils Act that impact on an efficient and effective service delivery. However, the thesis by Madzivanyika does not discuss the issue of special interest councillors in detail, in part because it was not the focus of her study. However, most importantly this book will draw from the recently published Zimbabwe Parliamentary Select Committee (COPAC)²⁰ constitution which passed through the referendum on 16 March 2013, thereby making it the new law for the country. The COPAC Constitution is vital because it is the first attempt by Zimbabwe to incorporate local government into the national constitution. The author will analyse section 14 of the COPAC Constitution which provides for local government structures and institutions as well as the election of local council officials.

Methodology

This book is based on both a review of secondary sources, such as legislation and regulatory frameworks to test the compliance of section 4A of the Urban Councils Act, with regards representative governance, as well as a survey of 20 urban local councils. With regards the latter, the author has conducted a relatively random survey of twenty (20) urban local councils to establish the composition of their special interest councillors. The basic criterion that was used to select the councils was that these should be functional urban local councils and that they should have appointed special interest councillors or at least have attempted to impose these appointments on the councils. In order to acquire information on special interest councillors for the selected local councils, the author reviewed documents pertaining to each council, including minutes of local council meetings as well as council websites.

¹⁹ Madzivanyika L *The impact of weaknesses in the Urban Councils Act on efficient and effective service delivery in urban local councils in Zimbabwe* (unpublished LLM Research paper, University of the Western Cape, 2011).

²⁰ The Parliamentary Select Committee (COPAC) is an inter-party committee of parliamentarians that was tasked by the Unity Government in Zimbabwe to make public consultations for a new constitution. The Draft will be taken to a referendum either late 2012 or early 2013 before it can be adopted as the new Constitution of Zimbabwe.

During the survey, the author sought information, from appointed special interest councillors, in selected local authorities, about their principal expertise. Again, local councils were selected at random, irrespective of their city/town status. From the special interest councillors, the author sought information about the appointees' relevant working experience as well as their political alignment and gender.

CHAPTER TWO

LOCAL GOVERNANCE: A GENERAL OVERVIEW

The central argument of this book is based on the premise that citizens have the right to participate in governance processes within their geographical boundaries, as enshrined in different international and regional instruments. Of more importance in this regard are the provisions of Article 21 of the Universal Declaration of Human and People's Rights and Article 13 of the African Charter of Human and People's Rights, both of which concur that:

Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law

This same is applied to the practice of appointing special interest councillors in terms of local government legislation, notably section 4A of the Urban Councils Act.

Local government is the sphere of government that deals with local affairs and involves elected officials, usually as councillors, in addition to other technocrats appointed on the basis of their expertise in different areas. This is applicable in both federal and unitary state systems. Local government operates under the auspices of national government with the ruling political party dictating the pace and policy framework that is supposed to be implemented. This means that each political party that comes to power ensures that it implements local government policies that benefit that very party. Local government can therefore be used as a political tool to endear political parties to local communities. In an effort to effectively handle communities, national governments subdivide the country into smaller and manageable geographical areas that are easy to manage (Mhlahlo, 2007:109). Hence, Mamadou (1996) has consented that local government is “an administrative body for a small geographic area, such as a city, town, county, or state”.

Relationship between Central Government and Local Government

A central government can be defined as the government of a nation-state. Central government is usually more typically a characteristic of a unitary state whose powers reside with the centre and where there is little or no power for local government. In a unitary state, the central government has the power to make laws for the whole country, in contrast with local governments where local councils and communities influence the making of national laws, in addition to making their own laws as in the federal system. The federal form of government may have distinct powers at various levels authorized or delegated to it by its member states, though the adjective 'central' is sometimes used to describe it (Watts, 1990).¹ The structure of central governments varies, ranging from quasi-decentralised to totally centralized systems of governance. Many countries have created autonomous regions by delegating powers from the central government to governmental institutions at subnational level, such as a regional, local, or state level. Based on a broad definition of the existing political dispensation in a designated territorial area, there are two or more levels (tiers/spheres) of government that exist within an established territory and govern through common institutions with overlapping or shared powers, as prescribed by a constitution or other law (Madhekeni A & Zhou, 2012). It would be practically impossible for central government to reach out to various parts of the country other than through local government institutions such as rural councils and urban councils. Usually the constitution of the concerned country allows for the demarcation of the country into constituencies or towns/cities and rural sub-divisions which are in turn administered by local councils. A local government will typically only have control over their specific geographical region, and cannot pass or enforce laws that will affect a wider area. Local governments can elect officials, enact legislation to draw and charge taxes and other revenues, and do, on a more restricted scale, many of the things associated with the practices of national government.

Local Governance

What should be noted is that local governance is a process and a derivative of local government and entails the involvement of local communities in the management of their own affairs (Watts, 1999:25). Local governance

¹Watts R 'Comparing Federal Systems' (2nd ed.) SPC Queen's U (1999) 20-26.

involves organisations such as municipalities and city councils that are charged with providing public services in specific localities (be they urban or rural) and are usually controlled by officials who are either chosen, appointed and/or elected in local elections or through other formal means, responding to job advertisements, for example. (Madhekeni A & Zhou, 2012). In some cases, legislation may allow the Minister responsible for local government to appoint officials. One such piece of legislation that empowers the Minister responsible for local government to make appointments to local councils is section 4A of the Zimbabwe Urban Councils' Act of 2008. This empowers the Minister to appoint special interest councillors to all urban and rural councils in order to sit alongside elected local councillors, with a view to ostensibly enriching debates and deliberations in local councils and thereby apparently adding value to the making of bylaws. However, the new Zimbabwean Constitution adopted in April 2013 does not provide for such appointments and only provides for the election of councillors as well as technocrats recruited on the basis of their expertise.

Major Functions of Local Authorities

Through local governance, local authorities implement policies for the provision of services to local communities and, in addition, formulate bylaws that effect the provision of such services. Local authorities are responsible for the provision of an extensive range of public services in a geographical location. In addition to making bylaws and providing services, local authorities promote the interests of local communities in various spheres ranging from and including the social, economic, environmental, recreational and cultural. In federal state systems, local authorities enjoy more autonomy than in unitary state systems where such local authorities operate under the watchful eye of central government and receive instructions from the centre.

Local Government in Federal States

As has been indicated above, the operations of local government in federal states is more liberal than in their unitary counterparts, hence they can be regarded as partially self-governing. This is acknowledged by Watts (1999:27) in his definition of a federation. A federation (also a *convent* in Latin) is a political entity characterized by a union of partially self-governing states or regions united by a central (federal) government (Watts, 1999: 26). In a federation, the self-governing status of the component states,

as well as the division of power between them and the central government, are, typically, constitutionally entrenched and may not be altered by a unilateral decision taken by a component state (Watt, 1999:26). The governmental or constitutional structure found in a federation is known as federalism and constitutes the very opposite of a unitary state which is characterized by the centralisation of power at the expense of local communities (Hyden, 1992). It was in Germany where the practice of federalism started, with the country itself being constituted of 16 federal states of districts (landers). Similarly, Germany's neighbour, Austria, is made up of administrative divisions which are characteristic of federal states in which power is devolved to local administrative units, in most cases called 'local councils', 'municipal councils' or 'city councils'. This is the system that was inherited by most African states when they attained their political independence.

The composition of federal states may vary, with some having multi-ethnic, multi-lingual and multi-cultural communities while others may be homogenous societies. The complexion of a federal state does not need to meet any ethnic or cultural requirements or criteria. Those federal states that cover vast geographical areas include India, which is multi-ethnic. Multi-ethnic communities may be prone to ethnic violence, a common feature in some federations, which usually results in demands for cession by some ethnic groups. Although sometimes, arguably, despotic, unitary state systems often have some semblance of stability as a result of their mostly homogenous nature. However, on the political front, such states are characterised by an acute centralization of power, often leading to authoritarianism where human rights violations are commonplace. In such systems, local government is more dependent on central government which holds all the power to make decisions.

Given that local government is a sphere and an extension of central government, it acts as a conduit through which national policies can be implemented and communities consulted. At the same time, the political ideology of most local government institutions is a manifestation of the desires of the ruling elites whose political survival rests with the local communities which should in principle, therefore, be appeased by local government in order to further reinforce their own position as the ruling elite. Hence, devolution and decentralization are common practices in federal political state systems. On the other hand, in unitary state systems, the local communities are mere recipients of policies made at central government level. There is no community participation in the formulation of these policies and in most cases central government is not wholly aware of what local communities might require for their survival. The World