



# GUIDE TO UNDERSTANDING DEVOLUTION

EDITION 2



W/O 3/93  
Campaigners for Human Rights



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**Campaigners for Human Rights**

# **GUIDE TO UNDERSTANDING DEVOLUTION**

## **EDITION 2**

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Guide to Understanding Devolution Edition 2  
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## EXECUTIVE SUMMARY

This guide is designed to help communities understand the value and concept of devolution in Zimbabwe and capacitate them to promote and advocate the full realization and operation of the devolution in Zimbabwe. The guide provides communities with different models of devolution that have been implemented in different states as models to learn from mindful to the fact that devolution must be tailor-made for each country.

In the first chapter, the guide defines the concept of devolution and captures the communities' views on devolution. It further explains the importance of devolution in a functional democracy. In the same breath, it goes further to capture the views, from lived experiences, of communities concerning the effects of centralization and the expected impact of operational devolution in their respective communities.

In the second chapter, this guide analyses the different models of devolution that have been adopted and implemented in the United Kingdom, Uganda, Kenya, South Africa, and Switzerland. Further, it lays out a foundation on which Zimbabwe's devolution ought to be built on, citing constitutional provisions that gave birth to the concept of devolution in Zimbabwe.

In chapter three, the guide gives a glimpse of what a devolved government would look like in Zimbabwe. The guide also interrogates the effects of the Constitution Amendment Bill No.2 (bill) on devolution and captures the community views on the devolution provisions as they appear in the bill.

In chapter four, the guide analyzes the progress that has been made so far in ensuring that devolution is operational in Zimbabwe. It also discusses the current state of devolution or lack thereof.

In the last chapter, the guide outline ZimRight's key asks from a community perspective and expectation as devolution is operationalized fully.

*This guide is designed to help communities understand the value and concept of devolution in Zimbabwe and capacitate them to promote and advocate the full realization and operation of the devolution in Zimbabwe.*



# 1. WHAT IS DEVOLUTION

Devolution is the statutory delegation of powers from the central government of a sovereign state to govern at a subnational level, such as a regional or local level. Devolved territories have the power to make decisions on issues affecting them and relevant to their area and thus granting them a higher level of autonomy.

## Community Views on the Definition of Devolution

- ‘Devolution is the decentralization of power from central government to provinces.’
- ‘It is a form of decentralization through which authority to formulate policies in selected areas of public policy is conferred to elected subnational levels of government.’
- ‘Devolution - it is a type of decentralization, full transfer of responsibility, decision making, resources, and revenue generation to a local level public authority that is autonomous and fully independent of the devolving authority, has a clear geographic and legally recognized geographical boundaries within which to exercise its authority and perform its public functions.’
- ‘Granting of decision making powers to local authorities and allowing them to take full responsibility, without reference back to the central government.’
- ‘Devolution is whereby power is given to lower structures. Where they make decisions on the economic development and management of their local resources.’

## WHY DO WE NEED DEVOLUTION?

Devolution has been an evolving process that has responded to public demands and should ultimately transform Zimbabwe's political and economic landscape.

i. Devolution should bring a *democratic shift by bringing decision-making* closer to people across Zimbabwe. The people across the country can have an increasingly greater say in the policies that affect them. The principle of local democracy requires that local decisions should be made by elected local representatives who are closest to the electorate.

ii. Devolution should result in *more effective and tailored policy-making*. Policies can be produced and delivered that better account for the needs and priorities of the individual parts of Zimbabwe. For instance, the people in the Eastern Highlands can develop and deliver policies that reflects the unique importance of plantation farming of high altitude crops and diamond mining to their economy, while those in Matabeleland South can also develop policies responsive to the socio-economic landscape of their region whose economy is largely centred on subsistence farming and livestock farming.

### Community Views

- 'I'm in Zhombe and there is plenty of gold yet all this seems to be developing other areas while our Zhombe has no good roads, dams are next to nothing and schools are dilapidated'



- ‘We have many gold mines in the province but we do not see the benefit of having all those rich gold mines in the province, we have every right to believe that our gold is being used to develop other areas and this must be corrected’
- The concept of devolution must ensure equitable allocation of national resources and participation of local communities in the determination of development priorities within their areas. There is need to uplift areas that were previously marginalised.
- ‘Devolution will help to preserve and foster peace. This would also help by hiring local police who love us for who we are not being humiliated by Police who cannot speak the Local Language.’
- ‘Devolution will make an impact on people’s lives if critical offices like the office of the Registrar General are brought closer to the people. Parliament can also be decentralised into another province.’

iii. Devolution will encourage *innovation in policy-making*. Having a larger budget and greater say in what happens at local level can encourage administrations to innovate as well as learn from policies launched elsewhere which they can replicate them if they think they will be effective in their own jurisdiction.



## 2. MODELS OF DEVOLUTION

### 2.1. In the United Kingdom

Devolution is the statutory granting of powers from the Parliament of the United Kingdom to the Scottish Parliament, the Welsh Parliament, the Northern Ireland Assembly and the London Assembly and to their associated executive bodies the Scottish Government, the Welsh Government, the Northern Ireland Executive and in England, the Greater London Authority and combined authorities. The central distinction within the devolution space is between devolved and reserved powers. Devolved powers are those which have been passed from the UK Parliament to one of the devolved legislatures. Reserved powers are those that remain at a UK Parliament level.<sup>1</sup> Moreover, there are concurrent powers which have a shared responsibility between the UK Government and a devolved administration, meaning they can both pass secondary legislation in a certain policy area. For instance, health and social services are devolved in the UK, which means that legislatures in Wales, Northern Ireland and Scotland are able to make their own decisions on justice and policing, without reverting to the UK Parliament. However, they revert to the main parliament on issues of social security which are centralised. Thus, the main areas reserved for the UK Government are, defence and national security, foreign policy and immigration and citizenship.

Additionally, the various governments work together through **Memorandum of Understanding (MoU) and Joint Ministerial Committees (JMC)**. These set out the principles which support

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1. See, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/770300/IntroductionToDevolution.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770300/IntroductionToDevolution.pdf) accessed 12 March 2020

relations between the UK Government and the devolved administrations. The MoU puts emphasis on the principles of good communication, consultation and cooperation.

## 2.2. In East Africa

While Uganda is also a unitary country, it has a two-tier level of government.<sup>2</sup> Decentralization in Uganda began in 1986 with the aim to promote people's participation in the democratic process of the State of Uganda, and to improve service delivery and proximity with citizens. Thus over time Uganda has witnessed a gradual but comprehensive transfer of power, responsibilities and resources from the centre to local governments under Uganda's 1995 constitution and 1997 Local Government Act which give effect to the devolution of functions, specifying five levels of local government - district, county, sub-county, parish and village, among which the districts and local government unites (sub-counties) have political authority and financial autonomy.<sup>3</sup> Thus, the higher-tier of government is made of 111 districts and 1 City Council, under which there are 174 lower Local Governments Councils and 22 municipalities.

Local government councils have directly elected representatives that are accountable to the citizens, and have legislative and executive powers. Administrative Units Councils are political advisory bodies on planning and implementation of services, to assist local governments' councils.

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2. [https://www.jica.go.jp/jica-ri/IFIC\\_and\\_JBICI-Studies/english/publications/reports/study/topical/africa/pdf/003.pdf](https://www.jica.go.jp/jica-ri/IFIC_and_JBICI-Studies/english/publications/reports/study/topical/africa/pdf/003.pdf) accessed 13 March 2020  
3. <https://researchspace.ukzn.ac.za/handle/10413/1810> accessed 13 March 2020

Local governments, in particular districts, play a key role in public service provision. They are responsible for major functions and services previously carried out by the central government.<sup>4</sup> Major functional responsibilities such as primary education, health, water and sanitation, and rural feeder roads have devolved from the central to local governments.

### 2.3. In Kenya

the 2010 Constitution is a turning point in country's history as it reconfigured balance of power by devolving power and responsibilities from the national government to 47 elected county governments. It also recalibrated the powers between executive, legislative and judicial branches.<sup>5</sup> As is the case in Zimbabwe, the adoption of devolved system of government in Kenya was the outcome of a desire by citizens to access to public services closer to them. Devolution was seen as the key to unlocking Kenya's economic potential through distribution of responsibilities.<sup>6</sup> Thus, Kenya created a decentralized system of government wherein two of the three arms of government; namely the Legislature and the Executive are devolved to the 47 Political and Administrative Counties.

The forty-seven County governments came into operation in 2013. This marked a complete departure from the national government system that has been in operation since the independence of Kenya. Institutions as well as policies and regulation were established to enhance the functioning of devolved system of government.

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4. See, <https://www.oecd.org/regional/regional-policy/profile-Uganda.pdf> accessed 13 March 2020

5. <https://www.usaid.gov/documents/1860/devolution-kenya> accessed 13 March 2020

6. Devolution in Kenya: The Good, the Bad and the Ugly accessed 13 March 2020

This has institutionally strengthened democracy in Kenya by cementing the principle of separation of powers through adding a new layer of governance at the county level and a set of powerful new actors in the governors. However, it has had adverse effects on the politics of identity by strengthening ethnic identification and tying it to homelands, and this is a lesson to be learnt as devolution is rolled out in Zimbabwe.

## 2.4. In South Africa

Local government including municipalities are a creation of the Constitution. A municipality has the right to govern, on its own initiative, the local government of its community, subject to national and provincial legislation, as provided for in the Constitution; and the national or a provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions. Thus, municipal councils in South Africa have more flexibility in legislation and governance than their equivalent institutions in Kenya or Uganda. The crucial difference in the systems is the frequency of central government interference.<sup>7</sup>

## 2.5. In Switzerland

*The first neutral state in the world* has built a legacy of a devolution system that has succeeded in becoming the first multinational country with equality among nations while at the same time promoting direct democracy based on referendums. Switzerland, with 1% of the world's population, held 60% of the national referendums in the 20th century. Switzerland realised that for democracy to be

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7. See, [https://repository.up.ac.za/bitstream/handle/2263/58089/Ababio\\_Decentralisation\\_2013.pdf?sequence=1&isAllowed=y](https://repository.up.ac.za/bitstream/handle/2263/58089/Ababio_Decentralisation_2013.pdf?sequence=1&isAllowed=y) accessed 14 March 2020

rooted in the people, the people can also take the initiative for the government to hold a referendum within two years, if 100 000 signatures are raised. In order for decisions to be really local, its units should not be too big. For that reason Switzerland is not divided into 4 , but 23 cantons. In order to avoid 1 nation dominating the Cabinet, its seven members do not only represent the parties, but also the four nations. This is actually a permanent coalition government accountable directly to the people rather than to the national assembly it mirrors. It is an enormous contribution to the world on how real devolution can advance equality, democracy and participation and in the process sustainable peace.<sup>8</sup>

## 2.6. In Zimbabwe

The Constitution provides that the 3 tiers of government in Zimbabwe are, the national Government, provincial and metropolitan councils; and local authorities, which are urban and rural councils. Further, devolution is one of the founding values of the constitution. Thus, whenever appropriate, governmental powers and responsibilities must be devolved to provincial and metropolitan councils and local authorities which are competent to carry out those responsibilities efficiently and effectively in terms of Section 264 of the Constitution of Zimbabwe.

The purpose and objectives of the devolution of governmental powers and responsibilities include increasing popular participation in decision making, and establishing a sound financial base for each provincial and metropolitan council and local authority.<sup>9</sup>

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8. Galtung, J. *Transcend and Transform*, 2004:67

9. See Section 264 (2)

Thus, Zimbabwe is divided into 10 provinces which are, Bulawayo Metropolitan Province, Harare Metropolitan Province, Manicaland Province, Mashonaland Central Province, Mashonaland East Province, Mashonaland West Province, Masvingo Province, Matabeleland North Province, Matabeleland South Province and Midlands Province. The country is further divided into districts which are fixed by Parliament in consultation with the Zimbabwe Electoral Commission. Currently there are 59 districts and 1200 wards.

The idea of devolution is not a new one in Zimbabwe. As early as 1988, the Government set up a Committee of Ministers on Decentralisation and Cabinet adopted Thirteen Principles to Guide the Decentralisation process.<sup>10</sup> However, the principles were void of substance, and because they were policy and not law they were not implemented, which is why Chapter 14 of the Constitution is so important.

*The purpose and objectives of the devolution of governmental powers and responsibilities include increasing popular participation in decision making, and establishing a sound financial base for each provincial and metropolitan council and local authority.*

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10. See, Chigwata, 2018





## 3. WHAT WILL A DEVOLVED GOVERNMENT LOOK LIKE?

Apart from local authorities which have always been there, the devolved government will see governmental power and responsibilities in section 264 decentralized to provincial and metropolitan councils structured as follows;-

### 3.1. Provincial Councils

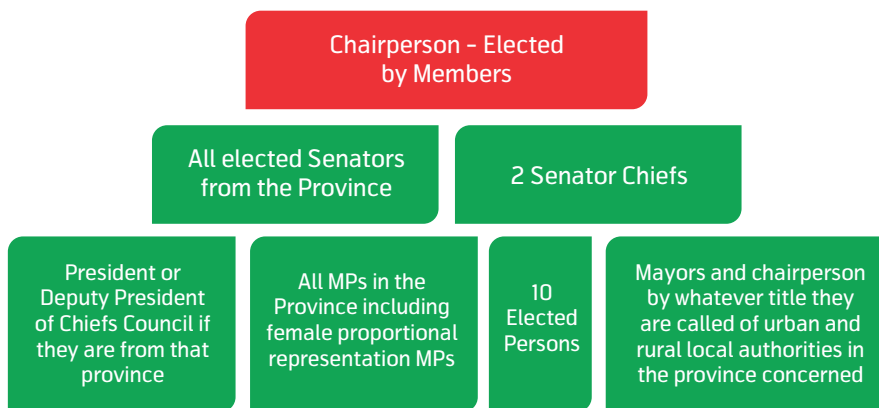
These will consist of a chairperson who is either elected from a list of at least 2 qualified persons submitted the political party which gained the highest number of National Assembly seats in the province concerned or if there is no such political party, then the nomination will come from the political party which received the highest number of votes cast in the province in that general election for Members of the National Assembly.<sup>11</sup>

Joining the chairperson will be the senators elected from that province concerned, the two senator chiefs, the president and deputy president of the National Council of Chiefs, where their areas fall within the province concerned; all the Members of the National Assembly whose constituencies fall within the province concerned, the women Members of the National Assembly, the mayors and chairpersons, of all urban and rural local authorities in the province concerned; and ten persons elected by a system of proportional representation into the provincial council.

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11. See Section 272 of the Constitution

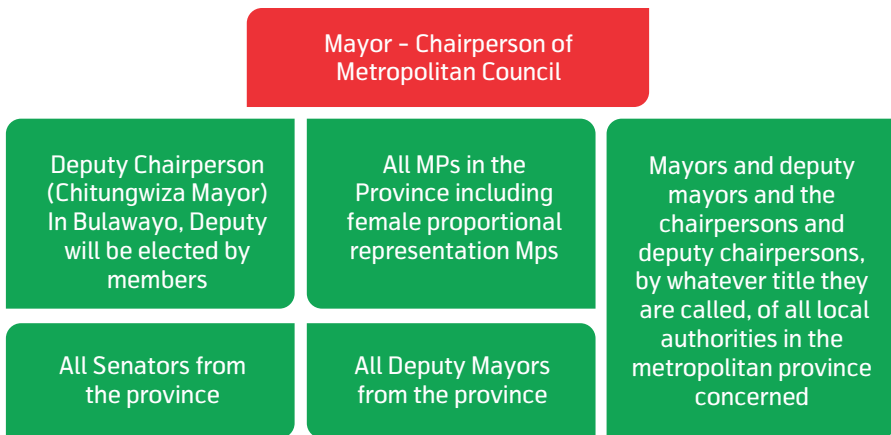
**Fig 1: Structure of Provincial Councils**



### 3.2. Metropolitan Councils

Metropolitan councils for Harare and Bulawayo consist of the Mayors of both cities who are the Chairpersons of the Councils, and the mayor or chairperson of the second-largest urban local authority within the province, who is the deputy chairperson of the Harare Metropolitan Council, all the Members of the National Assembly whose constituencies fall within the metropolitan province concerned, the women Members of the National Assembly from the metropolitan province concerned, the Senators elected from the metropolitan province concerned; and the mayors and deputy mayors and the chairpersons and deputy chairpersons, by whatever title they are called, of all local authorities in the metropolitan province concerned.

**Fig 2: Structure of Metropolitan Council**



Please note that due to the proposed amendment to the constitution, the structure of provincial and metropolitan councils may change through removing members of Parliament from the membership of provincial councils, merging the provisions relating to provincial and metropolitan councils by removing the special provisions relating to the metropolitan councils which will no longer be chaired by mayors, but by someone elected to that position as well as provide for the election of 10 of the members of Metropolitan Councils by a system of party-list proportional representation. As these amendments are not yet law, we will proceed on the basis of the structure in the Constitution and make the necessary changes if the amendments are enacted. However, below is an analysis of the proposed constitutional amendment in order to inform members adequately.

The proposed constitutional amendments will repeal sections 268 and 269 of Constitution which set out separate frameworks for provincial and metropolitan councils. The amendments will consolidate the separate provisions discussed above, and provincial and metropolitan councils will have an identical structure.

### **Additionally**

- Mayors will no longer be automatic chairpersons of the councils who will now be elected by members.
- Senators elected from the province concerned, senator chiefs elected from the province, the president and deputy president of the National Council of Chiefs, and all the Members of the National Assembly whose constituencies fall within the province concerned will no longer be members of the provincial and metropolitan councils.

### **Effect of the Amendments**

The proposed amendments would seem to be justified by the following apparent effects:

- **Promote efficiencies** and minimise bureaucracy by decreasing the size of provincial and metropolitan councils since there will no representation from the legislature;
- **Localise governance** – The inclusion of Chiefs and legislators was a misnomer as they represent central government. Limiting membership of provincial and metropolitan councils to is in accordance with the spirit and purpose of devolution;

- **Remove inconsistencies** - Currently the Constitution is at odds with itself as Members of the National Assembly are required to be part of provincial and metropolitan councils [(s268 (e) and (f) and s269 (e) and (f))] while at the same time, s129 (g) provides that if the Member of Parliament accepts public office or office as a member provincial or metropolitan council they will lose their seat. Thus, the amendment will deal with this issue.

There is no consensus on whether these amendments are necessary or justified, or at least for the moment. Though the above effects appear to be commendable, ZIMRIGHTS as with most other Civil Society Organizations (CSO's) is generally opposed in principle to tinkering with and amending the Constitution.

### Community Views

- Participants raised some concerns about amending the constitution before fully implementing it which they said is against the principles of constitutionalism.
- "The constitution should not just be amended to settle political scores and for political mileage, the constitution should be seen to be protecting the poor and the marginalized."
- "The Constitution is as good as it is. What it only needs is implementation. There is no perfect constitution in the world but let's make amendments after we have implemented the law. We will then know where we need to perfect."

- “Amendments relating to devolution provisions are necessary whether it is done now or later.”
- While the proposed amendments on devolution are in principle noble, most of the amendments proposed are designed to suit a political agenda.
- There was no consensus whether Members of Parliament should be part of the Provincial Council or simply play an oversight role. Other participants felt Members of Parliament must leave local governance business to local authorities.

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*The proposed constitutional amendments will repeal sections 268 and 269 of Constitution which set out separate frameworks for provincial and metropolitan councils.*







## 4. DEVELOPMENTS ON THE GROUND

Despite the stipulations in the Constitution, between 2013 and 2018 the Government of Zimbabwe did not meaningfully devote any resources towards the devolution agenda. Thus, the provincial and metropolitan councils described above have not been functional.

However, on 5 October 2018, the government adopted its new economic blueprint, the **Transitional Stabilisation Programme and Reforms Agenda**, (TSP) which directly addresses the issue of devolution of governmental powers, responsibilities and resources with a key focus on provinces championing economic development.<sup>12</sup> This resulted in a budget allocation of US\$310 million to provincial councils in the 2019 financial year as part of the five per cent subnational and local governments are entitled to in each financial year, and this was carried over to the 2020 budget, where provinces are required to plan for economic growth and development, factoring in their provincial resources, with the national government providing financial support for implementation. The budgetary allocations were made as per the table on the next page.<sup>13</sup>

The concern, however, is that given that the provincial and metropolitan councils are not yet set up and functional, administratively where do these funds go? It is believed these funds were redirected to constituency development and in circumstances that lack transparency which is wrong.

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12. See <https://zimlil.org/content/devolution-demystified-emerging-debates-and-prospects-devolution-zimbabwe-discussion-paper>

13. <http://www.newsдзеzimbabwe.co.uk/2020/05/govt-disburses-35m-to-yet-to-be-sworn.html?m=1>

Province	Number of Councilors	TSP FUND Amount allocated (ZWL)
Bulawayo	10	\$35,000
Harare	10	\$35,000
Manicaland	10	\$35,000
Mashonaland Central	10	\$35,000
Mashonaland East	10	\$35,000
Mashonaland West	10	\$35,000
Masvingo	10	\$35,000
Matabeleland North	10	\$35,000
Matabeleland South	10	\$35,000
Midlands	10	\$35,000

### Community Views

- While devolution is still be implemented, funds have been disbursed supposedly under devolution. There must be a mechanism to track how such fund were disbursed and how they were utilised.
- ‘It is also confusing because as citizens we hear funds for devolution have been disbursed but there is no structure, who administers the money and where do they get the powers on what to use the funds since there is no Metropolitan Council?’
- There was money which was disbursed under devolution, no-one seems to know how it was used. We must demand accountability and we must be part of the decision

making process on how the money is going to be used. Other participants recommended that an independent audit must be commissioned into the use of the funds.

Additionally, the Cabinet Committee on Legislation approved the principles on the **Provincial Councils and Administration (Amendment) Bill** which will align that Act to the Constitution and set out the mechanism for devolution in greater detail. However to date the bill is yet to be gazetted. This does not give confidence that there is a political will to roll out devolution. **Midlands State University** (MSU) has also established an institute to enhance research around devolution which has been perceived by some as part of government efforts to spearhead the decentralisation agenda.<sup>14</sup> There are some who are nonetheless sceptical that this reflects government effort as it is argued that the university is no more than an educational institution and not the government.

Suffice that there appears a good measure of political will or at least some intent to roll out devolution, which is why it is important for citizens to understand and engage with the process.

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14. <https://www.newsday.co.zw/2019/08/msu-to-establish-devolution-institute/> accessed 14 March 2020

## Measuring Effectiveness of Devolution

In all these examples, and particularly in Zimbabwe, four indices should be used as to assess whether or not the devolution is working. These are:

### **i. Effectiveness**

Have services becoming more effective because of devolution?

### **ii. Efficiency**

Are services becoming more efficient?

### **iii. Accountability**

Is there greater transparency, and are the authorities fulfilling their constitutional responsibility to provide information?

### **iv. Equity**

Are services becoming fairer and clearer?



## 5. WHAT ARE ZIMRIGHTS' KEY TASKS?

As we continue promoting dialogue on devolution, we see great opportunities for social transformation in the implementation of devolution. The 10 key asks presented here are taken from a series of conversations that ZimRights is having with different communities. They represent the vision of our members in pursuit of devolution. See our social media platforms for ongoing conversations.

### **i. Participatory Approaches**

Lessons learnt from Uganda show that the abundance of goodwill at the national level on its own is insufficient to create a sustainable devolution model. ZimRights opposes top-down approaches that does not harness local level thinking and approaches which are people-driven. Centralised government has resulted in challenges such as marginalization, mismanagement of resources, and exclusion of communities from the decision process and these should not be replicated under devolution.

### **ii. Allocation of Adequate Resources**

Lack of both financial and human resources has minimised the impact of devolution in Uganda and Kenya. Local governments have consistently lacked sufficient financial resources to run decentralised functions effectively. ZimRights would prefer a model where, councils do not depend heavily tax and grants from the Central Government, but are able to engage in their own budgeting.

### **iii. Harmonisation of Legislation**

In order for devolution to be successful in Zimbabwe, there is a need for a comprehensive review of all laws to identify those which retain residual powers in central government to the detriment of the local government. These include the Procurement Act and the Public Finance Management Act, among others. Where necessary ancillary legislation should be drafted to give true meaning and effect to the spirit of devolution. For instance in Kenya, the Commission on Revenue Allocation (CRA), was created and mandated to recommend the basis for equitable sharing of revenues raised nationally between the national and the county governments and this could be replicated in Zimbabwe.

### **iv. Capacity Building of Officials**

Given that this is uncharted territory in Zimbabwe members of the metropolitan and provincial councils require training in order to ground them in the principles of devolved government to ensure their effectiveness. It is equally important to ensure that professional staff have the experience and competence and for the task. The training can include experts from other countries that have implemented devolution. ZimRights' High Level Dialogues available on ZimRights LIVE Facebook Page and YouTube Channel are an important resource.

### **v. Accountability to the Electorate**

Devolved governance should result in greater interaction

and accountability to citizens who are both stakeholders and beneficiaries in this process.

### **vi. Equitable sharing of Revenue**

Devolution should result in more equitable growth, through fairer allocation of resources which should take into account factors such economic disparities within the country and the need to remedy them.

### **vii. Dealing with Corruption**

The delivery of social goods and services at the local level has been marred by allegations of corruption. ZimRights expects persons elected to provincial and metropolitan councils to be of high moral character, and that swift and effective action will be taken against those engaging in acts of corruption.

### **viii. Inclusive Governance**

ZimRights believes that devolution must result in inclusive governance. Smaller communities must have greater say in how the country and their local communities are run. The new system must allow for minority groups to be more involved and empowered to influence policy, especially matters that affect their own welfare.

### **ix. Peace and Conflict Transformation**

Devolution must allow peaceful resolution of ethnic and political conflicts. It must promote cooperation and



complimentarity as opposed to competition. It must improve the relationships between different communities as well as the relationship between the citizenry and the leadership. It must promote the concept of 'power with' as opposed to 'power over'. This means leaders exercise power with the citizens and not power over citizens reducing hostility and promoting cooperation between the state and the communities.

#### **x. Inclusive Economies**

Devolution must help Zimbabwe in reducing inequities. It must allow communities to benefit from local resources while lifting up impoverished communities for greater equality.

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