POLICY BRIEF

THE CONCEPT OF DEVOLUTION IN ZIMBABWE: LESSONS FROM KENYA AND SOUTH AFRICA

FOR

THE PORTFOLIO COMMITTEE ON LOCAL GOVERNMENT, PUBLIC WORKS AND NATIONAL HOUSING
Introduction

The old governance discourse and practice was based on centralisation and bureaucratisation of government. The central government controlled the resources and decision making rested in the hands of a few individuals who were usually unaware of the needs of those in the grassroots. The advent of a parallel and counterintuitive school of thought ushered in a new administration trajectory that focused on development from the grassroots through the participation of citizens\(^1\). As such, to attain the desired bottom-up socio-economic development, there was a growing need to involve those in the grassroots through decentralisation and devolution of power. This would be achieved through the “systematic transfer of powers and functions to semi-autonomous sub-national levels of government”\(^2\). Many European countries (Sweden, Germany and United Kingdom) thus adopted devolution as the socio-economic development blueprint that would be followed. The developing world, though slow, also embraced devolution as the means to attain rapid socio-economic development. In Africa, South Africa emerged as the front runner in the devolution race while Kenya, Uganda, Rwanda and Zimbabwe followed suit. Kenya is the most prominent success story of devolution in Africa.

The Concept of Devolution

Devolution thus implies the transfer of powers, functions and responsibilities to the sub-national levels of government. In most cases, it is accompanied by the creation of provincial and local tiers of government. These sub-national entities are accorded legislative, revenue and resource mobilisation, policy formation and implementation powers. In Africa, it is generally believed that devolution is the panacea to the incessant infrastructure backlogs, poor service delivery, inequalities, high rates of unemployment at the grassroots and the high household poverty rates\(^3\). The general belief is that the provincial and local tiers of government are critical in mitigating the effects of the aforementioned challenges that have affected the generality of citizens. Devolution thus entails the reconstruction of communities, the environment and the bedrock of a democratic, integrated, prosperous and unified nation-state\(^4\).

The potential benefits of devolution relate to administrative efficiency, transparency and accountability, participation and democracy, distribution of power and stability, economic development, competition and dynamism, social cohesion, laboratories of innovation and the creation of leaders and promotion of peace. The potential disadvantages are administrative slowness, economic inefficiency, lack of coordination and local tyrannies and corruption.

Tenets of a Robust Devolution Framework

Devolution refers to the granting of decision-making powers to local authorities and allowing them to take full responsibility, without reference back to central government. Through devolution, central government relinquishes certain functions or creates new units of

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1 Cheema and Rondinelli 2007
3 Pillay et al 2006
4 Constitution of South Africa
government that are outside its direct control. Therefore, a robust devolution framework has the following key tenets:

- Political autonomy of the sub-national governments
- Fiscal autonomy of the sub-national governments
- Administrative autonomy of the sub-national governments
- Role of Central Government in regulating, monitoring and supporting the activities of the sub-national government activities
- Co-operation and coordination of all the tiers of government.

**Devolution in Zimbabwe: Background**

The attainment of independence by Zimbabwe in 1980 ushered in a new government with a development ideology that was premised on the need to guarantee grassroots socio-economic development. This agenda would be attained through the decentralisation of power to local units. The 1984 Prime Ministers Directive and the 13 Principles on Decentralisation formed the foundation for a robust decentralised state in Zimbabwe. However, upon noting that there largely was central government interference in the activities of the decentralised entities coupled with the lack of fiscal autonomy and limited citizen participation in the affairs of the local authorities, there were calls for the adoption of devolution as the new development trajectory for Zimbabwe. This resonated well with the global discussion on the importance of devolution in ensuring grassroots socio-economic development. The 2009-2013 COPAC process reflected the citizens need to participate in shaping the destiny of their communities. The result of this consensus was the adoption of devolution as the development policy model and the constitutionalisation of local government, which, previously had been creatures of a plethora of statutes.

The adoption of devolution into the new Constitution of Zimbabwe, thus divided the administration of Zimbabwe into 3 levels, i.e. national, provincial/municipal and local governments. The primary aim of devolution is to transfer fiscal, political, administrative and market powers and responsibilities from the central to the quasi-autonomous lower levels of government. This would effectively ensure that there is democratic participation, localised development and equity in the distribution of the perennially scarce government resources. The New Dispensation committed itself to implementing devolution as a pivotal cog in the machine working towards the attainment of Vision 2030. In light of this, the government has hit the ground running through the provision of funds and a roadmap to kick-start the long overdue process of devolution in Zimbabwe.

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5 Chapter 14 of the Constitution of Zimbabwe establishes the Devolution in Zimbabwe.
7 The Transitional Stabilisation Programme.
Legislative and Policy Framework

Devolution in Zimbabwe is established by a plethora of policies and legislative pieces. These include the: Constitution of Zimbabwe (2013), Provincial Councils and Administration Act (29:11), Urban Councils Act (29:15), Rural District Councils Act (29:13), 2019 National Budget Statement, Transitional Stabilisation Programme (October 2018-December 2020). Chapter 14 of the Constitution provides for Provincial and Local Government. The section establish the primary institutional framework for devolution and local government in Zimbabwe. Zimbabwe is thus governed by Provincial Councils, Metropolitan Councils, Urban Local Authorities and Rural Local Authorities (Rural District Councils).

Objectives of Devolution in Zimbabwe

The preamble to Chapter 14 alludes to the broader objectives of devolution in Zimbabwe, which is;

a) the preservation of national unity in Zimbabwe and the prevention of all forms of disunity and secessionism;
b) the democratic participation in government by all citizens and communities of Zimbabwe; and
c) the equitable allocation of national resources and the participation of local communities in the determination of development priorities within their areas; there must be devolution of power and responsibilities to lower tiers of government in Zimbabwe.

Section 264 (2) of the Constitution outlines the specific goals and objectives of devolution in Zimbabwe. These are:

a) to give powers of local governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them;
b) to promote democratic, effective, transparent, accountable and coherent government in Zimbabwe as a whole;
c) to preserve and foster the peace, national unity and indivisibility in Zimbabwe;
d) to recognise the right of communities to manage their own affairs and further their development;
e) to ensure equitable sharing of national and local resources; and
f) to transfer responsibilities and resources from the national government in order to establish a sound financial base for each provincial and metropolitan council and local authority.

The 2019 National Budget further buttresses the objectives espoused in the Constitution by noting that the devolution objective is to achieve growth and development that is equitable, shared and sustainable for the benefit of citizens at all levels. The Transitional Stabilisation

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8 2019 National Budget Statement
Programme notes that in a bid to provide more efficient, effective services while guaranteeing value for money, there is need for the transfer of substantial decision making and authority to the Provincial and Local tiers of government. As such, in a bid to attain the set goals and objectives and monitor the progress of the devolution drive, the government of Zimbabwe will set up a Devolution Monitoring Committee.9

The Status of Devolution in Zimbabwe

Currently, Zimbabwe is a unitary state with one source of state authority underpinned by a local government system decentralized to provide services to a heterogeneous citizenry in geographically defined and demarcated areas of jurisdiction. Local authorities were created through statutes or acts of parliament and therefore operate within the legislative framework enacted and promulgated by central government (legislature) as the primary legislative authority. Basically, there are two types of local authority in Zimbabwe: (i) Urban Councils and (ii) Rural District Councils. Local authorities are governed by the Urban Councils Act, the Rural District Councils Act and the Regional, Town and Country Planning Act. The three Acts form the principal legislative basis for the implementation of local government policy in Zimbabwe and establish the relationship between local authorities and central government. It is important to note that due to the doctrine of ultra vires, local authorities are not allowed to perform functions not specifically mentioned in the legislation.

However, centralised powers has its own challenges. The current status quo is a major obstacle to people’s participation given that centralised structures retain control over decision making and resource allocation. Mostly, centralised planning of development programs and projects discourages local involvement while most planning takes place in ministries in urban centres and there is no genuine desire to devolve responsibility to the local level. Thus, the concept of devolution was adopted with the intention of transforming the economy of the country from the grassroots.10

Section 301 (3) of the Constitution of Zimbabwe, notes that not less than 5% of the national revenues must be allocated to the provincial, metropolitan and local tiers of Government. Albeit the provision, these devolved institutions did not get the requisite 5% between 2013 and 2018. The advent of the Second Republic saw the renewed prominence of devolution as a key asset for the resuscitation of the country’s economy. The 2019 National Budget committed to providing US$310 million for devolution, of which about USD46million has already been disbursed towards that cause. This allocation would be distributed upon the promulgation of the requisite Act of Parliament in 201911. These financial resources would be necessary for the achievement of growth and development that is equitable and sustainable for all the citizens in Zimbabwe. The allocation of funds among the provincial, metropolitan and local levels of government was premised on the provincial population size, the poverty prevalence and the infrastructure gap. Below is the proposed share of the devolution funds;

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9 The Transitional Stabilisation Programme (October 2018 – December 2020).
10 The Transitional Stabilisation Programme (October 2018 – December 2020).
Table 1: Proposed Vertical Share of Intergovernmental Transfers

<table>
<thead>
<tr>
<th>Expenditure Class</th>
<th>Total Share</th>
<th>Government Tier</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Provincial Councils</td>
<td>Local Authorities</td>
</tr>
<tr>
<td>Proportions (%)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operational Grant</td>
<td>5%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Capital Grant</td>
<td>95%</td>
<td>20%</td>
<td>80%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount Available for Allocation (US$)</td>
<td>310,000,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Actual Allocation (US$)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operational Grant</td>
<td>15,500,000.00</td>
<td>15,500,000.00</td>
<td>15,500,000.00</td>
</tr>
<tr>
<td>Capital Grant</td>
<td>294,500,000.00</td>
<td>58,900,000.00</td>
<td>235,600,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>310,000,000.00</td>
<td>74,400,000.00</td>
<td>235,600,000.00</td>
</tr>
</tbody>
</table>

Source: 2019 National Budget Statement

In addition, the country’s ten provinces will be transformed into specialised economic functionaries; Manicaland will be the Diamond Value Addition and Beneficiation Hub, Harare will be the ICT nerve centre, Bulawayo will be the industrial powerhouse while Midlands will be home to iron and steel value chain beneficiation centre. Under Zimbabwe’s devolution framework, the provincial and metropolitan councils will be required to draft and adopt the Regional Investment and Development Master Plans (RIDMP) which will act as the policy blueprint for their respective jurisdictions. The Plans will comprise of the following; resource endowment of a given region, generic environmental impact assessment plan, comprehensive supportive utilities plan, investment opportunities and beneficiation plan and local empowerment and participation plan. This strategy is aimed at facilitating the ‘ease of doing business’ and attracting domestic and foreign direct investment within the various regions. It is proposed that the Zimbabwe Investment and Development Agency once established, will be decentralised to provincial level to spearhead the investment processes in the various regions.

The Civil Service Commission is mandated to facilitate the transfer of functions and the establishment of the requisite systems to ensure the gains of devolution are realised and safeguarded. Over and above, a Devolution Monitoring Committee will be established to oversee the use of funds disbursed equitably towards devolution.

Challenges of Devolution in Zimbabwe

Despite the development and adoption of a seemingly robust devolution framework, there has been multiple points of disconnect among the multiple stakeholders. The Constitution of Zimbabwe and other subsidiary pieces of legislation are silent on the definition of devolution. As such, devolution in Zimbabwe is prone to many definitions and interpretations. Furthermore, the delayed implementation of devolution following its promulgation in the 2013

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12 The Transitional Stabilisation Programme (October 2018 – December 2020).
13 The Transitional Stabilisation Programme (October 2018 – December 2020).
Constitution has raised concern over the political willingness of the central government to cede administrative, fiscal, political and market powers and functions to the lower tiers of government\textsuperscript{14}. However, with the coming in of the Second Republic, concerted efforts have been made to accord the provincial and metropolitan councils, power to mobilise resources through taxes and levies as was done to the local authorities. However, this compromises the fiscal autonomy of the second tier of government in Zimbabwe.

The configuration of the bureaucratic pathology in Zimbabwe has militated against the devolution process in Zimbabwe. The local authorities are usually led by the opposition parties while the provincial, metropolitan and central governments are led by the ruling party. Reports suggest that there is incessant dissonance over the development agenda and this has stalled development\textsuperscript{15}. Moreover, debates have been raised over the points of convergence and divergence between the powers of the three tiers of government. The enabling legislation in Zimbabwe, particularly the Urban and Rural District Councils Acts, is said to accord excessive powers to the Minister responsible for Local Government, Public Works and National Housing\textsuperscript{16}. This has led to concerns that the Minister may interfere in the affairs of the devolution system in Zimbabwe. There have been concerns over the financing of the devolution process. While the national fiscus has committed to financing the whole process through the allocation of US$310 million in the 2019 National Budget Statement, the amount has proved to be inadequate for the demands of the process. There is a huge backlog of infrastructure, facilities and general amenities in Zimbabwe. These are pressing needs which need urgent redress. The situation has been exacerbated by the unstable socio-politico-economic climate in Zimbabwe. Thus, the central government is congested by pressing issues including the devolution process.

**CASE STUDIES: KENYA AND SOUTH AFRICA**

**Devolution in Kenya**

The history of governance in Kenya has been characterised by high levels of centralisation and consolidation of politico-fiscal power in the executive arm of the government\textsuperscript{17}. This was evidenced by the high levels of central government interference and influence of local level decisions by the President. The centralisation entailed that the citizens could not take part in making decisions that affect them at the local level. The Constitution making process reflected a burning desire of the citizens to govern themselves, to decide the nature of development they need and to shape the future they want. The result was a Constitution that mirrored their desire and that of government to cede political, administrative, fiscal and market powers and functions to the new body that was established. The result was a devolved government divided into the national and county governments. The government showed its intention to transfer decision making, implementation, legislative as well as revenue generation powers and functions to the

\textsuperscript{15} Coutinho, B. 2010.
\textsuperscript{17} World Bank 2012.
elected local level structures. The devolution process was based on the “supremacy of the Constitution, the sovereignty of the people and the principle of public participation.” As such, devolution in Kenya was established as a panacea to the skewed economic disparities and the ethnic divisions that had defined the identity of Kenya. Further, devolution was established against the need for equitable distribution of natural resources and to arrest the diverse and usually antipathetic climatic realities that affected the northern regions of Kenya which were semi-arid.

**Legislative, Policy and Institutional Framework**

Chapter 11 of the Constitution of Kenya establishes the Devolved Government. Unlike the Zimbabwean case, Chapter 11 divides the Kenyan administration into the National and County Governments. Section 174 of the Constitution of Kenya establishes the objects of Devolution in Kenya, as follows:

(a) to promote democratic and accountable exercise of power;

(b) to foster national unity by recognising diversity;

(c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;

(d) to recognise the right of communities to manage their own affairs and to further their development;

(e) to protect and promote the interests and rights of minorities and marginalised communities;

(f) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;

(g) to ensure equitable sharing of national and local resources throughout Kenya;

(h) to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and

(i) to enhance checks and balances and the separation of powers.

Furthermore, Section 175 of the Constitution of Kenya presents the general principles upon which the county governments will be governed. These include provisions that the:

a) county governments shall be based on democratic principles and the separation of powers;

(b) county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively; and

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(c) no more than two-thirds of the members of representative bodies in each county government shall be of the same gender.

Unlike the Zimbabwean Constitution, the Constitution of Kenya is explicit on the need to adequately finance the lower tiers of government. Furthermore, the Constitution recognises the need for inclusivity as fundamental for the effective implementation of devolution. As such, the various representative bodies are required to have an established selection criterion that guarantees gender balance.


Unlike in Kenya, the devolution framework in Zimbabwe is silent on the points of divergence and convergence between the 3 tiers of government. Through the Intergovernmental Relations Act, the nature of the relationship between the national and county governments is defined. The legal framework in Kenya also provides for a Transition Authority that will oversee the transition to devolution while ensuring continued service delivery to the people of Kenya.

Several institutions have been given the mandate to design, implement, monitor and control the devolution process in Kenya. These include: the National Government, County Government, The National Assembly, The Senate, The Ministry of Finance, Ministry of Devolution, Office of the Auditor General, Controller of the Budget and he Constitutional Commissions.

The Status of Devolution in Kenya

Implementation on devolution processes did not start until 2013. The devolution roll out phase was firstly supported by a cocktail of legal and institutional frameworks aligned to the Constitution and established with the sole mandate of ensuring that power is transferred smoothly from the national government to the county governments. In addition, strategic partners such as the World Bank provided both fiscal and technical assistance to the Kenyan administration through programmes such as the Kenya Accountable Devolution Programme, which was aimed at strengthening institutions as well as enhance the citizens’ participation in making decisions that affect their welfare in their communities.

In light of this, the Kenyan administration managed to devolve powers and functions to 47 county governments. These quasi-autonomous entities were accorded powers and functions to make laws, raise revenues, manage and coordinate administrative functions of the county and any other functions as conferred to the county.\(^{19}\) The powers and functions highlighted are

\(^{19}\) Constitution of Kenya 2010.
under the auspices of the county assembly. Each assembly is headed by the Governor elected by the people. Thus the devolution of functions has seen the development and resuscitation of Kenya’s education, social and transport infrastructure. In addition, there has been an increased propensity among the generality of the populace to participate in activities such as budget formulation as well as the development of plans and programmes to ensure equitable and sustainable distribution and utilisation of the nation’s resources. The 47 counties explicitly depend on the national fiscus for financing. This is done through a 2 step process of vertically dividing the funds between the national and county governments and horizontally dividing the county vote among the 47 counties. This horizontal division follows the specific needs of the county. In like manner, Zimbabwe distributes financing to the provincial/metropolitan and local tiers of government in a manner that is cognisant of the needs of the devolved entity.

The results of the devolution process in Kenya have been mixed. There has been an improvement in local service delivery as well as infrastructure development. In addition, the citizens are now participating in the crafting of budgets and development policies that are peculiar to their needs as a community. The devolution process has also managed to strengthen the relationships between Kenya and International Financial Institutions such as the World Bank. These institutions have been pivotal in providing financial and technical assistance to the government of Kenya. The Government of Zimbabwe can take a leaf from the government of Kenya in its reengagement efforts. However, corruption, nepotism and general mismanagement of funds has been endemic in the politico-bureaucratic pathology of the new counties. Furthermore, the mismanagement of funds has led to the marginalisation of the minority groups in Kenya; this is against the sole objectives of the devolution process in Kenya. While one of the primary objects of devolution was to do away with the division of Kenya along ethnic lines, devolution brought with it a society dominated by ethnic politics. This has led to the marginalisation of the minority groups as well as disparities pertaining to the access of resources in the same polity. More so, limited financial and administrative resources have curtailed the smooth transition towards a comprehensively devolved system in Kenya. The impact has been felt heavily by the health sector which has failed to provide complex tasks and service to the citizens. Over and above, the efforts and the strides taken by Kenya in devolving the government are commendable.

**Devolution in South Africa**

The concept of devolution and local government was established in pre-independence South Africa by the Apartheid regime. This included the establishment of “own group” areas with “own management” structures. The chiefs had power to allocate land, ensure development of the communal areas and rural townships (R293 towns) were given their own administrations with pseudo-administrative powers. The Bantu Affairs Administration Act (1971) transferred the management of townships from the whites to the Administration Boards. Community Councils were introduced in 1977 but were later replaced by the Black Local Authorities in

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21 Counties are allocated 15% of the audited national revenue (World Bank 2012).
1982; the Black Local Authorities had no revenue base and thus were incapacitated to carry out their development mandate. Despite the cocktail of legislative pieces and institutions, local government in South Africa was regarded as “racist, subservient, exploitative and illegitimate in nature.” The cities had dire housing backlogs, poor service delivery, inequalities in municipal expenditure, high unemployment and high rates of household poverty. The progressive realisation of these maladies led to the development of a framework that would guarantee a reformed local government system premised on inclusivity, integration, democracy and the elimination of poverty through the true devolution of powers.

**Devolution in Post-Apartheid South Africa**

Chapter 7 of the Constitution of South Africa establishes the Local Government institution in South Africa. This key institution is mandated to ensure development, the reconstruction of communities and to form the basis of a united nation that had previously been divided on racial lines. This would be done through the establishment of a devolved system that is development oriented and committed to working with citizens, groups and communities to create sustainable human settlements which provide both a decent quality of life and the socio-economic needs of the communities in a holistic way. As a result, in like manner as Zimbabwe, devolution in South Africa has taken the form of a three tier system; the Central Government, the Provincial Government and the Local Government.

Section 40 of the Constitution of South Africa establishes the 3 levels of government. These levels are distinctive, interdependent and interrelated and work towards the development of communities. Section 151 of the Constitution of South Africa provides for the status of the local authorities in South Africa. Section 151 (3) accords the municipalities rights to govern the affairs of their communities in line with the provisions enshrined in supporting pieces of legislation and the Constitution. Section 151 (4) provides for the autonomy of the authorities, asserting that the national or provincial government may not impede on the local government’s ability to carry out its functions or exercise its powers. As a result, through the Local Authorities: Municipal Structures Act 1998, there has been the establishment of 278 municipalities in South Africa as follows: 8 Metropolitan Councils, 44 District Councils and 226 Local Councils.

Section 152 (1) of the Constitution of South Africa establishes the objects of local government/devolution in South Africa, which include:

- to provide democratic and accountable government for local communities;
- to ensure the provision of services to communities in a sustainable manner;
- to promote social and economic development;
- to promote a safe and healthy environment; and

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to encourage the involvement of communities and community organisations in the matters of local government.

Section 152 (2) further notes that that the local authority/municipality should strive, within its administrative and financial capacity to achieve the objects set above.

Several factors have militated against the smooth operation, efficiency and effectiveness of the devolution system in South Africa. The limited fiscal legroom has disrupted service delivery by the municipalities, leading to often violent “community protests.”25 Furthermore, capacity constraints (leadership and human resources) have negated the gains of devolution in South Africa. The inter-government tensions have impacted negatively on devolution leading to operational inefficiencies as well as a policy disconnect in the local government sphere of government.

Lessons for Zimbabwe

Several lessons can be drawn by Zimbabwe from the case studies of Kenya and South Africa. These include:

- The need to have a supportive legislative framework that is reflective of the Constitutional provisions.
- The need for inter-government cooperation.
- The need for political will and the commitment of resources to the cause.
- There must be a guarantee of autonomy of the institutions that are created.
- There must be adequate financing extended to the lower tiers of government.

Recommendations

- A clear definition of devolution in the Zimbabwean context, housed in the devolution enabling legislation.
- Capacity building workshops on devolution for the concerned stakeholders, especially Members of Parliament.
- Provincial and Metropolitan Councils to be accorded powers to raise revenue to fund socio-economic development activities.
- Review of the legislative pieces to clear demarcate the points of convergence and divergence between the 3 tiers of government.
- Review the powers of the Minister responsible for Local Government as espoused in the Urban and Rural District Councils Acts to guard against “excessive interference.”
- Adequate financing for the devolution process.

Conclusion

In sum, the Government of Zimbabwe has since independence, envisaged a governance structure that is decentralised and devolved to the sub-national levels of government on

political, administrative, fiscal and market levels. The new Constitution promulgated in 2013, heralded the pregnancy of intentions to devolve powers, functions and resources to the sub-national governments through constitutionally recognising the institution of Local Government. Previously, these institutions were creatures of statutes, justifying their existence through Acts of Parliament, while absent in the Supreme Law of the Land. The advent of the “Second Republic” rejuvenated the drive towards devolution, with the government committing a substantial amount of financial resources towards kick starting the devolution process in the 2019 Budget Statement. The reform and realignment of the Provincial Administration and Councils Act is a show of the government’s commitment to bringing government closer to the people. It is thus imperative that adequate political space and fiscal resources be availed for the successful devolution of powers, functions and resources in Zimbabwe.