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## AN ANALYSIS OF POWERS AND FUNCTIONS OF LOCAL GOVERNMENT AUTHORITIES IN ZIMBABWE

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The Local Government Working Paper Series disseminates policy and legal analyses to improve local governance on the African Continent. The papers are short, preliminary studies intending to provide a brief look at relevant and timely topics. For additional information, please contact Prof. Jaap de Visser at [jdevisser@uwc.ac.za](mailto:jdevisser@uwc.ac.za) or visit the Local Government Project website at <http://www.communitylawcentre.org.za/communitylawcentre.org.za/clc-projects/local-government/>

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### 1. Introduction and Purpose

Local governments have powers and functions bestowed on them by statute to provide services such as roads, water supply and sewerage. Over the many years of existence, Local Governments (LGs) have increasingly become involved in the social, economic and cultural development of their communities and in improving local living environments. The purpose of this paper is to explore the most important powers, roles and functions of LGs in Zimbabwe. It shall also identify the sources of these powers and assess the level of discretion in exercising them (without central government intervention). The paper shall also assess whether there is agreement among major stakeholders on the mandate and broad functions of local governments. Finally, the paper shall outline areas for local government policy or law reform.

## **2. Defining Local Government in Zimbabwe**

Local Government (LG) as a concept is used in Zimbabwe to refer to the level of government generally called urban councils and rural district councils. Although provincial levels of government exist, they hardly qualify to be called local governments. This is so for several reasons. There are ten provinces into which the country is divided into. The provincial structures are not democratically elected. They are headed at the political level by a Governor and Resident Minister who is appointed by the President. At the technical level, the provinces are administered by the Provincial Administrator, a senior civil servant. The provinces do not have local revenues to support implementation of programmes. Instead, they are a mere coordination mechanism for programmes of sector ministries and local authorities. Provinces are part of the central government institution. It is for the foregoing reasons that the concept of 'local government' (LGs) is operationalized strictly in terms of the rural district councils (RDCs) and the Urban Councils (UCs). These are described in detail later.

## **3. Organization of Local Government in Zimbabwe**

Zimbabwe has sixty (60) RDCs and thirty (30) urban councils. However, the jurisdiction of local government authorities is limited in extent. Wildlife and game reserves, national parks, military areas, mining areas fall outside the jurisdiction of local governments. The Ministries that are responsible for these areas act as the local authorities. For instance, in terms of S 10 (1) (c & d) of the Regional Town and Country Planning Act 29:12, the Minister responsible for environment, is the

Local Planning Authority for purposes of making Master Plans in parks and wildlife areas and forest land.<sup>1</sup>

The current local government system in Zimbabwe consists of thirty one (31) urban councils and sixty rural district councils<sup>2</sup>. These categories are described in detail in the section that follows.

### ***3.1 Urban Councils***

There are thirty one (31) urban councils which have been established by the President<sup>3</sup> throughout the country. Urban Councils are established in terms of S 4 of the Urban Councils Act 29:15. While all the urban councils are established by the same Act they are accorded different status. The hierarchy of urban councils consists of four categories. In descending order, there are ***city councils, municipal councils, town councils*** and ***local boards***. S 14 of the Urban Councils Act provides that a council may apply in a prescribed format for change of status from lower to higher status. There is however no provision for a change of status from high to lower order. Once obtained, the status granted is held in perpetuity. It appears that provision is necessary for the status of councils to be reviewed from time to time as an incentive to improve, at the very least maintain standards.

### ***3.2 Rural District Councils***

Currently, there are 60 rural district councils. Like in the urban scenario, these RDCs are also declared, named and can have their boundaries altered by the President (S 6 of RDC Act 29:13). Similarly, the President has powers to dissolve an RDC. The RDCs were formed after the amalgamation of the formerly African District Councils and the European Councils.

The urban and rural councils are divided into wards. In total, there are one thousand nine hundred and fifty eight wards (1958) wards as per the last elections held in March 2008<sup>4</sup>. Each ward

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<sup>1</sup> (the Parks and Wildlife lands include namely Bangala, Manjirenji, Mbaze Pan, Manjinji pan, Umzingwane Dam and forest lands namely – Gwaai and Fuller). The areas for which the Minister of Environment and Tourism is local planning Authority for purposes of Local Plans are: parks and Wildlife lands namely – Chimanimani, Chipinge A, Kyle/ Mutirikwi, Mushandike, Ngezi, Rhodes Nyanga, Robert Mcllwaine/ Lake Chivero, Sebakwe, Zambezi portion in Kariba. In exercising his powers, the Minister responsible for the Environment may do so directly or he may constitute a local planning authority for the area. The forest estates for which the Minister is responsible authority are described in detail in the Third Schedule of the Forest Act 19:05.

<sup>2</sup> Interview with Livison Mutekede, Advocacy Officer - Urban Councils Association of Zimbabwe on 22/10/2009. Statistics corroborated by Mrs Mudzinge, Acting Director for Urban Councils, Ministry of Local Government, Rural and Urban Development on 11/11/2009.

<sup>3</sup> In terms of S 4 (1), it is the President of Zimbabwe who establishes councils. The President is granted powers to establish councils, be they municipal town, city or local board status. Further, the President is bestowed powers to alter the boundaries of any council and even to abolish it.

<sup>4</sup> Source: Gender Links' Local Government Coordinator for Zimbabwe, Priscilla Maposa.

is represented by an elected councillor. The political head of city councils, municipal councils and town councils is a (ceremonial) Mayor. Prior to the March 2008 elections, mayors were executive. In local boards and rural district councils the political head is the chairperson. Chairpersons have always been ceremonial and non- executive. In terms of the Local Government Laws Amendment Number 1 of 2008, S 22 (c ) the Mayor is elected by councillors from amongst the group of elected councillors or other person from the community. Of note is that the Mayor is elected not necessarily from amongst the councillors, whereas the deputy mayor and chairperson of councils shall be elected from amongst those elected. Elections to council are by simple majority. The Act as amended in 2008 also provides that the Minister of Local Government can appoint special interest councillors in terms of S 7 (b) who shall not exceed 25% of the number of elected councillors. These special interest councillors participate in the business of the municipal or town council to which they are appointed and perform the same functions and are entitled to the same benefits in every respect as if they were elected councillors, except that they do not vote at meetings of the municipal or town council concerned. The special interest councillors appointed for RDCs are said to have voting rights<sup>5</sup>.

The Councils compose of two units, the elected councillors who serve as policy makers and the legislature for making and passing bylaws and budgets, and the executive and technical arm, which is responsible for day to day running of council and implements decisions of council. The head of appointed staff in urban councils is the Town Clerk (TC) and in the rural district councils is the Chief Executive Officer (CEO) in the case of rural district councils. Both urban councils and rural district councils operate through a committee system.

***Table 1: Local Government Councils and their Categories***

Category	#	Names
Local Boards	4	Ruwa, Chirundu, Epworth, Hwange
Town Councils	11	Karoi, Chipinge, Gokwe, Plum Tree, Norton, Zvishavane, Rusape, Shurugwi, Chiredzi, Lupane, Beitbridge
Municipalities	9	Kariba, Victoria Falls, Gwanda, Chitungwiza, Redcliff, Marondera, Bindura, Chegutu, Chinhoyi
Cities	7	Harare, Bulawayo, Gweru, Mutare, Kwekwe, Kadoma, Masvingo
Rural District	60	Beitbridge, Bikita, Bindura, Binga, Bubi, Buhera, Bulilima (7),

<sup>5</sup> This information was corroborated but is not provided for in the Act. The Act only provides for special interest councillors for urban areas. To check for any SI that could have been made.

Councils (RDCs)	<p>Chaminuka, Chegutu, Chikomba, Chimanimani, Chipinge, Chirumanzu, Chiredzi, Chivi (8),</p> <p>Gokwe North, Gokwe South, Goromonzi, Guruve, Gwanda, Gutu (6)</p> <p>Hurungwe, Hwange, Hwedza (3)</p> <p>Insiza (1)</p> <p>Kadoma, Kusile (2)</p> <p>Makonde, Makoni, Manyame, Marondera, Masvingo, Mazowe, Mbire, Mhondoro, Mberengwa, Mudzi, Murewa, Mutare, Mutasa, Mutoko, Muzarabani, Mwenezi (16)</p> <p>Ngezi, Nkayi, Nyaminyami, Nyanga (4)</p> <p>Pfura (1)</p> <p>Runde, Rushinga (2)</p> <p>Sanyati (1)</p> <p>Tongogara, Tsholotsho (2)</p> <p>Umguza, Umzingwane, Uzumba-Maramba-Pfungwe (3)</p> <p>Vungu (1)</p> <p>Zaka, Zivagwe, Zvimba (3)</p>
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Source: Association of Rural District Councils (ARDCZ) 2009; Urban Councils Association of Zimbabwe (UCAZ) 2009.

Adapted from source: [http://www.pdm-net.org/fiches\\_paysZimbabwe\\_20\\_Sept07\\_.pdf](http://www.pdm-net.org/fiches_paysZimbabwe_20_Sept07_.pdf).

There are slight variations in the functions performed by urban councils and those performed by rural district councils. Some differences also exist in the powers and functions of the different levels of urban councils. These variations and differences shall be discussed later in this paper.

#### 4. Overview of the Powers and Functions of Local Governments Globally

Over the world, local governments have power bestowed on them either by Constitution of the country, or through legislation at national or sub-national level. In Australia, as an example, the Constitutional responsibility for local governments lies with the state and territory governments. Consequently, the powers and roles of LGs differ from state to state. Source: <http://www.alga.asn.au/about/>

The same applies to countries such as Canada, where local governments are a creation of provinces. Provincial legislation therefore provides the mandate and powers and elaborates the functions of the Local Governments. However, in spite of the variations that may occur across provinces and territories, generally the LGs have powers that can be classified into legislative and executive categories. Legislative powers refer to the law-making role (for local laws generally called bylaws). The executive powers refer to the powers to implement. The executive powers enable councils to: i) adopt and implement policies, ii) administer local government and iii) enforce local laws (by-laws).

#### ***4.1 Case Study of Botswana***

In Botswana, the powers, responsibilities and functions of councils are defined by the 1965 District Councils Act, 1965 (No. 35 of 1965) as amended and the Township Act, 1965 (No 40 of 1965). These acts spell out the role that councils can play and the functions that they can perform in the socio-economic and political development in Botswana. Although the two acts do not clearly differentiate different categories of functions and responsibilities that councils must undertake, it does seem clear that there are two main categories of functions that councils perform. These are mandatory and permissive functions.

#### ***4.2 Mandatory Functions***

Mandatory functions are those that councils give priority to in their planning and implementation processes. In other words, they are compulsory functions that councils have to perform, whilst permissive functions are those functions that councils may perform but are not statutorily compelled to perform. They are optional functions.

In Botswana, mandatory functions of councils are the provision of primary education, primary health, collection of matimela (stray cattle), collection of rates and site levies, issuing of trade licences, provision of rural water supplies, construction and maintenance of secondary roads and establishing and maintaining cemeteries and burial grounds.

### ***4.3 Permissive Functions***

Permissive functions include the provision of social services and community development. However, councils are permitted to perform any functions other than those specified, provided they are not beyond their areas of jurisdiction<sup>6</sup>.

## **5. Powers and Functions of LGs in Zimbabwe**

Local government powers and functions are bestowed by and large through various pieces of legislation. These shall be discussed in detail below. Some functions have emerged during the years of existence of local governments and are not necessarily legislated for. Examples include the coordinating and leadership function on addressing HIV and AIDS, which the LGs have assumed since the early nineties, to the extent that every Council now has in its employee an HIV and AIDS Coordinator, has a standing committee on HIV and AIDS called the District Action Aids Committee.

Getting back to the legislative sources of the powers and functions of urban councils and rural district councils, these are provided for mainly in three principal legislation, namely;

- i. The Urban Councils Act Chapter 29:15 for urban councils,
- ii. The Rural District Councils Act Chapter 29:13 for rural district councils and
- iii. The Regional Town and Country Planning Act 29:12, for both urban and rural councils.

These Acts are administered by the Minister responsible for Local Government. There are other Acts which are not under the supervision of the Ministry of Local Government but which bestow important powers and functions on local governments. These include;

1. The Environmental Management Act Chapter 20:27
2. The Public Health Act Chapter 15:09
3. The Shop Licences Act Chapter 14:17
4. The Vehicle Registration and Licensing Act Chapter 13:14
5. The Education Act Chapter 25:04
6. The Roads Act Chapter 13:18
7. The Communal Land Act Chapter 20:04
8. The Road Traffic Act Chapter 13:11

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<sup>6</sup> Source: Ranwedzi Nengwekhulu, An Evaluation of the Nature and Role of Local Government in Post Colonial Botswana - PhD Thesis – University of Pretoria p 125 - 126

9. The Traditional Leaders Act Chapter 29:17

10. The Water Act Chapter 20:24

The list above is certainly not exhaustive. However analyses of the powers and responsibilities in these Acts are sufficient to give an overall picture. Combined, these statutes bestow on LGs a variety of powers and functions which are described in detail in Annex 1.

### **5.1 Analysis of the Powers and Functions of Urban Councils**

Apart from the general powers of urban councils listed in the table above, more specific powers are provided in S 198 of the Urban Councils Act (Second Schedule). Powers are granted to urban councils in relation to fifty four developmental, regulatory, service provision issues. The fifty four issues on which LGs are bestowed powers on can be roughly categorized into the following;

- i. Environment related
- ii. Farming and animal husbandry
- iii. Commerce
- iv. Infrastructure and physical developments
- v. Entertainment
- vi. Financial matters
- vii. Plant and equipment
- viii. Services
- ix. Institution building

### **5.2 Powers to Make By-laws ( S 102, 145 (1), 227 and 232).**

LGs are granted powers to make bylaws that regulate on many aspects of social, economic and physical aspects of life of communities. These powers to make bylaws among other things the following

- i. general issues,
- ii. proceedings of the council and financial matters
- iii. controls over property
- iv. planning, construction and use of buildings and structures
- v. roads, public places and traffic
- vi. amenities and facilities
- vii. water

- viii. electricity
- ix. sewerage, effluent and the removal of refuse and vegetation
- x. animals
- xi. food, food premises, vehicles and ,markets
- xii. trades, occupations and other activities
- xiii. nuisances
- xiv. functions, performances and amusements
- xv. fires, combustible materials and explosives

It is evident from the above that urban councils are bestowed with wide range of powers. From face value, it appears that urban councils can almost do anything legal. Also more important is that the powers include powers to mobilise resources to fund the broad mandate that is bestowed on the urban councils in terms of the urban Councils Act Chapter 29:15.

### **5.3 Powers Bestowed on RDCs by the Rural District Councils Act Chapter 29:13.**

As if the authors of the Urban Councils Act were the same as those who wrote the Rural District Councils Act, almost similar general powers are bestowed on rural district councils through this Act. S 71 (First Schedule). In addition, rural district councils have ten other issues for which they have powers, over and above those of urban councils. The additional issues include;

1. Bush fires
2. Fences
3. Agricultural and other services
4. Animal diseases
5. Facilities for animals
6. Fisheries
7. Obstruction of water flow

Although there are differences in the number of powers in the Schedules of urban councils and rural district councils, their powers are by and large at par in terms of the provisions.

### **5.4 Analysis of the Powers of LGs in Zimbabwe**

There are five broad categories of powers and functions that LGs are expected to perform namely:

- a) Development powers and functions;
- b) Forward planning functions;
- c) Financial powers and functions;
- d) Governance powers and functions;
- e) Regulatory powers and functions

#### 5.4.1 Development Functions

Both the urban councils and rural district councils are empowered by their respective Acts to develop their areas which are under their jurisdictions. Part X to Part XV as well as the Second Schedule of the Urban Councils Act Chapter 29:13 as seen above provide for a wide range of developmental functions to be performed by urban councils. For rural district councils, the development functions are spelt out in Part X as well as the First Schedule of the Rural District Councils Act Chapter 29:13.

As prescribed in Part X Section 74 (1) of the Rural District Councils Act Chapter 29:13:

*Subject to this Act, a council shall have power and authority to-*

- a) promote the development of the council area; and*
- b) formulate policies, both long term and short term, for the council area; and*
- c) prepare annual development and other plans for the council area; and*
- d) monitor the implementation of development plans and policies within the council area; and*
- e) Exercise any other functions in relation to development that may be conferred upon it by or in terms of this Act or any other enactment.*

The developmental functions of local governments can further be sub-divided into service delivery functions, regulatory functions, environmental development and local economic development functions.

#### 5.4.2 Service delivery functions

Service delivery functions of local governments refer to the provision of services to citizens and businesses directly or indirectly through external service providers both public and private. In both urban and rural local governments the service delivery functions are categorized by sector which enhances policy and legislative alignment across spheres of government. These services include health services, education services, housing services, water and sewerage, electricity, roads and transport and emergency services. In this paper four examples are provided: Health services, Education, Water and sewerage management and housing.

In both urban and rural district councils, committees are formed to foresee the development control functions aligned to these various sectors. The entire PART VIII of the Rural District Councils Act Chapter 29:13 provides for the establishment of committees which include the Finance Committee, Area Committee, Roads Committee, Ward Development Committee, Environmental Committee and Other committees of council.

Section 96 (3) of the Urban Councils Act Chapter 29:15 states that:

*(3) Every council shall appoint a health and housing committee which shall be responsible for health and housing matters relating to the council.*

**Health services:** Section 25 of the Second Module of the Urban Councils Act and Section 34 of the First Schedule of the Rural District Councils Act state that:

*“Subject to any other law, to provide and operate hospitals, clinics and dispensaries and to take any measures or provide any facilities which are considered necessary for the maintenance of health, including dental health”.*

Several local governments have established hospitals, clinics, maternity clinics, dispensaries as well as mortuaries to fulfill this mandate. The City of Harare, for example, runs the Beatrice Infectious Diseases Hospital and the Wilkins Hospital which are the two main hospitals in the city dealing with infectious diseases such as TB and HIV/AIDS. The major problem faced by local governments in fulfilling the health services function is funding. Local governments are supposed to receive grants for public health from the central government. However, most local governments are no longer receiving this grant. Health accounts in most local governments have consistently displayed large accumulated deficits eroding surpluses in other accounts.

**Education services:** Section 35 of the Second Schedule of the Urban Councils Act and Section 45 of the First schedule of the Rural District Councils Act state that:

*Subject to any other enactment, to provide, operate and maintain schools and other educational institutions and facilities and amenities connected therewith and for such purposes to levy and collect fees and other charges”.*

The Ministry of Education has however sought to recentralize the education sector. In rural District councils for example, teachers who were formerly selected, recruited and paid through the District Council were in 1987, placed under a National Unified Teaching Service administered by the Ministry of Education.

**Water and Sewerage:** This is one service delivery function of both urban and rural district councils which attracted a lot of controversy and tension in Zimbabwe. Section 34 of the Second Schedule of the Rural District Councils Act gives rural district councils the mandate to ensure the provision of suitable and adequate supplies of Water. In the same vein PART VIII of the Urban Councils Act Chapter 29:15 gives urban councils the powers to provide and maintain a supply of water within or outside the council area. The provision of water has been a source of considerable revenue especially to urban councils. However, in 2006 the Minister of Local Government gave a directive for the takeover of water and sewerage management by the Zimbabwe National Water Authority (ZINWA) from local governments. The Minister cited lack of capacity by local governments as the major reason to transfer this function to ZINWA.

However local authorities viewed this as a deliberate effort by the Minister to deprive the local governments of their traditional source of revenue. This directive was met with a lot resistance as local authorities argued that ZINWA was not in a better position to manage water and sewerage. The power play between ZINWA and local governments denied the local governments the opportunity to voice their concerns regarding water problems that affect them such as water pollution, supply and sanitation. During the period 2006 to 2008 when water and sewerage management was under ZINWA there were no improvements in the supply of water. This led to another directive from the Minister handing back the responsibility to local governments.

**Housing:** In Zimbabwe the delivery of housing has been a policy issue for more than 50 years<sup>7</sup>. In the 1990s the government's policy was to achieve housing for all by 2000. Civil society organizations became more involved in housing. Local governments were given the responsibility to implement the housing policy and to provide land for civil society groups and private developers. Historically, this mandate has been achieved through different schemes including: (a) selling already built houses on plots with basic services (b) selling of serviced plots; and (c) selling of un-serviced land. As will be discussed below local governments derive a lot of revenue from the sale of land and property tax. In addition local governments are responsible for the approval of construction plans, provision of building permits and the inspection of construction.

#### 5.4.3 Environmental Management

Functions related to environmental functions include management of open spaces and recreational facilities, conservation of natural resources, effluent or refuse removal and treatment.

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<sup>7</sup> International Swedish Institute for Public Administration (SIPU) Fact Finding Mission for Local Government Capacity Development in Zimbabwe

Local governments in Zimbabwe have the powers through various ACTS to ensure that the environment is managed in a sustainable manner.

#### 5.4.4 Local Economic Development

Although the development functions of local governments are highlighted in the Acts there is no direct mention of the mandate to promote local economic development. In South Africa, Section 153 of the constitution states that: *A Municipality must structure and manage its administration, and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.* Local governments should provide an enabling environment, rather than being responsible for economic growth and job creation. While it is theoretically possible for local governments to play a major role in economic development, there are serious capacity and funding constraints.

#### 5.4.5 Forward Planning Functions

The Regional Town and Country Planning Act Chapter 29.12 Part III confers upon both urban and rural district councils planning authority status. However, although local boards and district councils are local planning authorities they do not prepare their Master Plans and Local Plans unless authorized by the Minister of Environment and Tourism. The Master Plans and Local Plans for local boards and rural district councils are prepared by the department of Physical Planning which falls under the Ministry of Local Government.

As planning local authorities, cities, municipalities and town councils have the duty to prepare and implement Master Plans and Local Plans. Where necessary they may delegate this function to a committee constituting not less than three members. Prior to the preparation of a Master Plan or a Local Plan a local planning authority has to undertake a study of the planning area to examine factors which are likely to affect development. Local planning authorities can also undertake studies of neighbouring planning authorities to assess factors which might affect development of their own areas of jurisdiction. All the other functions of local governments revolve around the forward planning function.

Master plans and local plans shall formulate the policies of that local authority and its general proposals for the planning area in order to foster development. The plans form the basis of the use of land and the construction of buildings, the conservation and improvement of the environment, the economic development of the planning area as well as the movement of traffic in the planning area.

#### 5.4.6 Financial Functions

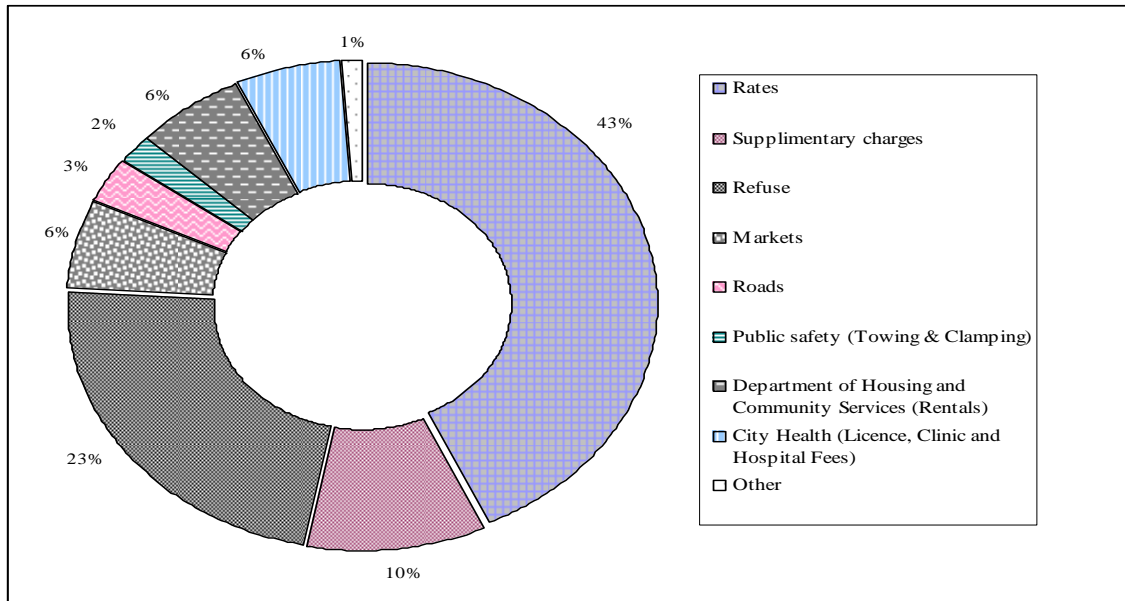
Sections 284 to 307 of the Urban Councils Act, as well as, Schedules to the Act provide for a wide range of powers to mobilize local resources. For rural district councils the financial functions are provided for in Part XIII of the Rural District Councils Act Chapter 29:13. The financial functions of both urban and rural district councils are further alluded to in other Acts which are not directly under the supervision of the Ministry of Local Government such as the Water Act 20:22, the Public Health Act, the Education Act 20:04, Land Survey Act 20:12, the Electricity Act 13:05, the Roads and Road Traffic Act 13:11 and the Liquor Licensing Act; Communal Land Forest Produce Act 19:04; Parks and Wild Life Act 20:14. These functions which are stated in other Acts are largely shared responsibilities subject to intergovernmental transfers. The shared responsibilities have caused immense financial difficulties for sub-national governments as their mandates have left a lot to be desired.

Both urban councils and rural district councils in Zimbabwe are largely self financing. The common sources of funds for local governments are:

- a) sale of land, property tax;
- b) levies, rates, and rents;
- c) service charges paid to council in respect of any services provided by it;
- d) revenue received from income generating projects such as commercial, industrial, agricultural or any other activity meant to raise revenue for the council;
- e) Transfers from the central government.

Once a council is conferred with municipal status it becomes a landowner for land within its boundaries and one of the council's financial functions is to sell land. Councils derive a greater proportion of their revenue from this function as they not only get revenue from the sale of land but also from property tax when it is transferred to the purchaser. Property tax in urban areas is levied as a rate in low density residential areas, commercial stands and industrial stands based on the value of the land and improvements. In high density residential areas, councils levy a supplementary charge not related to the value of the property. Property tax is an assured and a predictable source of revenue for urban councils which contribute the greatest proportion of revenue in most local governments. Figure 2.1 shows that 43% of the City of Harare's total revenue from January to August 2009 came from rates.

**Figure 2.1: Harare City Council Income Jan-August 2009**



Source: City of Harare, Management Accounts Report for the Period Ending 31 August 2009.

Unlike with urban councils, rural district councils do not derive much revenue from the sale of land and property tax. On average rural district councils in Zimbabwe raise only 15% of total revenue through the sale of land, taxes, rates and charges. The remainder comes in the form of transfers from the centre all of which are tied to particular activities, approved centrally (Stewart, *et al.* 1994). Rural district councils have very limited powers of taxation. They collect a small amount of revenue from the development levy, from fees, licenses and income generating activities.

Zimbabwe is one of the few countries in the region where local governments derive a substantial amount of revenue from property tax. In some countries such as Kenya, Uganda, Tanzania and Zambia valuation rolls are incomplete and out of date making it difficult to derive maximum benefits from property tax. Another problem with property tax is that a rise in property values may not be captured immediately with a tax increase because properties are usually revalued after some years rather than on an annual basis. It has also been noted that meaningful increases in property taxes and service charges are sometimes delayed by central government for fear of eroding political support among the urban populace. To generate more revenue from property tax in a way that is equitable, both technical expertise, the application of GIS and institutional tax administration must be improved.

Both urban and rural local governments in Zimbabwe charge a user fee for infrastructure and services rendered. User charges are designed to generate revenue to cover operating and investment costs. If well managed the system provides for more efficient municipal services and infrastructure and enables rates to be set and adjusted at levels, which reflect real capital costs and inflation. A

general problem affecting a number of services provided by local authorities in most countries is undercharging. Further, rates are infrequently revised, rendering charging services as a source of local income inelastic. These charges also need approval of the central government in some instances. Inefficient billing exacerbates this problem. The successful application of user fees requires a convenient way to measure individual consumption. Increasing user fees to economically efficient levels should be the first priority of an infrastructure strategy.

The Government of Zimbabwe through the Urban Councils Act and the Rural District Councils Act has emphasized the need for local governments to engage in income generating activities including the sale of beer, the rearing of livestock and growing of crops, grinding mills and other activities for the purpose of raising revenue for the council. Virtually all councils in Zimbabwe had liquor outlets proceeds of which go to social services. However, some of these functions are now being commercialized or rented out.

Section 290 of the Urban Councils Act Chapter 29:15 and Section 124 of the Rural District Councils Act Chapter 29:13 gives urban councils and rural district councils respectively powers to borrow money from the state or any other source with the consent of the Minister responsible for Local Government and the Minister responsible for Finance. Both urban and rural district councils may borrow money for the following purposes:

- a) the acquisition or construction of permanent works or undertakings;
- b) the acquisition of immovable property and any interest therein;
- c) the making of advances authorized by the Acts;
- d) the payment of compensation;
- e) the liquidation of the principal moneys owing on account or any previous loan;
- f) the relief of general distress occasioned by some calamity in the council area;
- g) The acquisition of plant, equipment and vehicles.

In executing their financial functions local governments are required by law to draw up council estimates of the income and expenditure on revenue and capital accounts for the next financial year. Councils are not allowed to expend any funds not outlined in these estimates except in cases of unforeseen expenditures which need the Mayor or Chairperson's authorization.

In Zimbabwe, like many other African countries local governments largely depend on income derived from property taxation and other service charges, while other more lucrative sources such as income tax, sales tax and business tax are monopolized by central government. As observed by Mosha 2004, many of the key sources of revenue for local authorities are inelastic. They do not

have the capacity to yield additional revenue in proportional response to inflation, growth of personal incomes and population growth.

In a number of cases the Ministry of Local Government in Zimbabwe has blamed local governments for poor financial management. The Ministry attributes this to shortfalls in technical expertise of local governments to handle expenditure responsibilities to generate revenue.

#### 5.4.7 Transfer of Funds from Central Government

In addition to their own sources of revenue local governments in Zimbabwe receive transfers from the central government. The main forms of transfers from central government are loans under the Public Sector Investment Programme and grants for public health. While there is a formula for calculating the central transfers, they have not been followed or funded in full resulting in operating deficits on the part of local authorities. Local authorities complain that disbursements are neither predictable nor transparent. Most of the transfers from the centre have traditionally been reimbursements of costs already incurred.

In Botswana the local government Act (Cap 40:010) defines the duties, functions and responsibilities of the local authorities. It also stipulates their sources of revenue. Funding for local governments in Botswana is mainly through Own Revenue Sources, Revenue Support Grants, loans from the Public Debt Service, and Development Grants. Own sources of revenue include property tax and rates, tax on provision of goods and services, charges for urban services, income generating enterprises and borrowing. The Revenue support grant from the central government is the difference between the local authorities agreed estimates of expenditure and anticipated revenue from local sources and government subsidies. Loans have been frozen. Own sources of revenue for the City of Gaborone during the 1999 – 2000 financial year accounted for 37.3% while transfers from the central Government through the Revenue support grant accounted for 62.7% (Moshia 2004).

Transfers from the central government in Zimbabwe have steadily declined since 2003 as the national economy has continued to under-perform. In the case of the health grants councils now subsidize this mandate creating a classic case of unfunded mandates. Councils are supposed to focus on primary health and spend upfront and recoup 50% of such expenditure from central government. This has been a problematic mandate where council now subsidizes a government competence. Roads are also a decentralized function and councils receive some allocation for road maintenance through the road fund.

Since 2004 the Central Government through the Central Bank has made some funding available to councils through the Parastatals and Local Authorities Programme in an attempt to offset the impacts of the economic meltdown. The ultimate objective of this programme was to

enhance and capacitate local authorities in their service delivery during a period when local resources were difficult to mobilize. Between 2005 and 2007 26 local authorities received funds from the Central Bank to carry out various activities. Of the total amount disbursed 7.3% was in respect of housing projects, 67.6% for water and sewage augmentation projects, 15.5% for income generating projects, 2.1% for debt settlement, 6.2% for computerization projects and 1.3% for procurement of equipment (Reserve Bank of Zimbabwe, 2007).

Transfers from central government have been a source of conflict between local authorities and the central government. A number of mandates have been devolved to local authorities without proper assignment of dedicated revenues. Some critics have argued that all central transfers should be pooled under the Ministry of Local Government which understands the requirements of local authorities.

Kenya provides a classical example where transfers from the central government are predictable<sup>8</sup>. Transfers to local governments are done through the Local Authority Transfer Fund (LATF) which was introduced in 1999 with the objective of providing resources directly to the local authorities as part of a bigger government strategy in the fight against poverty as stated in the Poverty Reduction Strategy Paper (PRSP). The Fund was established through the Local Authorities Transfer Fund Act, No 8/1998 and its accompanying regulations (Legal Notice No. 142). The Act provides a mechanism for implementing a system of central-local fiscal transfers. The existence of an Act of parliament gives a level of certainty and predictability to this system of intergovernmental transfer. It ensures that the government will honour its pledge to transfer a portion of its national income tax to local authorities. Through various Government policy statements and budget speeches the government has clearly shown its commitment to partner with local governments in national development. The Act gives validity to these policies.

#### 5.4.8 Governance Functions

The governance function refers to how the local governments organize themselves internally and externally in relation to constituents and service providers. This function refers to the powers that the local governments use to manage their functions, which include decision making and legislation through by-laws. Good governance is built upon an effective interface between councillors and officials, strong links between financial and technical divisions, and an appropriate organizational structure.

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<sup>8</sup> Wamwangi, 2003

In order to fully understand the governance function of local governments in Zimbabwe there is need to highlight the organizational structure of local governments. The Mayor of a City, Municipality or Town, or the Chairperson in the case of local boards and rural district councils is the political head and is elected by fellow councillors at the first meeting of a council after it has been established and thereafter after every general election. The Mayor is a ceremonial figure who enjoys plenary powers and cannot make individual decisions. Organizational decisions are vested in full council.

It is the duty of both urban councils and rural district councils to conduct elections to select councillors. Local governments are divided into small constituencies called wards and each ward elects a representative to the position of a councillor. Election to council is by simple majority. Elections are conducted by the Zimbabwe Electoral Commission in terms of the Electoral Act Chapter 2:13. In both urban councils and rural district councils the Minister of Local Government can appoint special interest councillors whose number should not exceed 25% of the total number of the elected councillors. These special interest councillors are meant to take care of gaps in some special skills which might lack among the elected councillors as well as to cover up for gender imbalances. The special interest councillors have no voting rights in urban councils but they do have voting rights in rural district councils.

Local governments in Zimbabwe are corporate bodies with the right to sue or to be sued in their own rights. Sections 227 – 232 of the Urban Councils Act Chapter 29:15 and Part XI of the Rural District Councils Act provide for urban councils and rural district councils respectively to make by-laws, regulations and resolutions to deal with a wide range of local planning, development and control of the area under their jurisdiction. Other than Parliament, councils are the only other institution which can make laws binding on local residents. These laws have to be within the national legislative framework.

The passing of the by-laws is subject to the approval of the Minister of Local government. The Minister can, after consultation with the local governments, amend or modify the by-laws. Where a local government is directed to make by-laws and fails the Minister may institute proceedings to make and adopt by-laws on behalf of the sub-national government. It has however been argued that in most cases the overarching supervisory powers of the Minister prevent due exercise of this discretion. Local governments find themselves tied down by procedures in their decision-making processes, which require them to seek the Minister's approval even for routine decisions. The Urban Councils Act and the Rural District Councils Act have too many sections that vest powers in the Minister of Local Government.

The governance function of local governments in Zimbabwe has been met with a myriad of challenges. One of the major problems that have often been cited is limited citizen participation in decision making in the planning and budgetary processes at the local government level. Local governments rely to a large extent on the following instruments for public consultation:

- The Government Gazette
- Newspaper notices in more than one issue calling for objections
- Public notices at council offices
- Ministerial commissions
- Consultation with the local government
- Ward development committees
- Attending council meetings

Some critics argue that these instruments assume a high degree of literacy and interest in civic matters by the ordinary members of the community and are consistent with top down approach. Zimbabwe has a high literacy rate but these instruments are not as widely used as envisaged. Both the Urban Councils Act and the Rural District Councils Act focus more on consultation and not participation *per se*. Consultation signifies the entrenched representative democracy outlined in the Local Governments Acts. Once elected, the legitimate representatives make decisions on behalf of the community and confirm the appropriateness of those decisions by seeking any objections. The issue of special interest councilors and the ceremonial Mayor are viewed as a violation of citizen representation in the decision making process since they are not directly elected by the citizens.

Another critical issue that has been raised regarding the governance function of local governments relates to the powers of the Minister responsible for local government. Section 314 of the Urban Councils Act, states that: *“Minister may reverse, suspend, rescind resolutions, decisions etc. of councils”*. For example, at one stage when the City of Harare was under a Commission the Minister issued a circular reversing the Harare City council’s decision to reinstate the Director of Housing, Director of Engineering and City Treasurer. This directive has proved to be costly as a lot of revenue was wasted paying suspended staff.

The Minister of Local Government also issued a directive to transfer the management of water and sewerage from local governments to the Zimbabwe National Water Authority (ZINWA) in 2005. The Minister responsible for local government cited incapacity by the urban councils to provide adequate water to residents as the major reason behind this transfer. However, evidence has

shown that the supply of water and the disposal of sewage never improved under the management of ZINWA. This decision however, affected local authorities because they were deprived of their traditional sources of revenue.

It has been argued that for the governance function of local governments to be effectively fulfilled local government should be seen as a sphere of government on its own without too much interference from the central and the provincial spheres of government. For this to be effective local government should be provided for in the national constitution. Once this has been done central government cannot simply abolish local governments nor can it unilaterally change the nature of a particular local authority.

#### 5.4.8 Regulatory functions

Local governments need to apply certain controls on the activities of their citizens to ensure that their developmental objectives are achieved. Regulatory functions include land building and works regulations, liquor licensing regulations, trading regulations, billboards, cemeteries and traffic and parking regulations. These regulations are made through by-laws and regulations which are subject to approval by the Minister of Local Government.

### **6. Discretion: Assessment of Powers of Local Governments and those of President and Minister Responsible.**

While the foregoing demonstrate that indeed LGs have many powers, to do almost anything legal, these powers are matched by even more powers that are bestowed on the Minister responsible for Local Government. In an interview with an Acting Director of Urban Councils in the Ministry responsible for Local Governments in November 2009, Mrs. Mudzingo pointed out that often there is unnecessary confusion about the powers of the Minister in Zimbabwe's local government sector, to the point where others have coined expletives such as 'interference'. She was of the opinion that such is based on a misunderstanding of the type and nature of the LG system. The local government system is based on a delegatee and delegator relationship. The Central Government delegates powers to local governments. The Minister responsible for Local Government has the authority bestowed on him by the Act and by the President to manage the local government sector.

The main legal instruments of local government invest in the President and the Minister of Local Government powers to suspend or act in place of a local authority and the power to nullify some decisions of local governments. For instance, in the RDC alone, there are over two hundred

and fifty instances where the Minister can intervene in the day to day running of RDCs. <sup>9</sup>There is simply too much of the “Minister shall” concept in the legislation and in practice of local government too. This has entrenched excessive central executive intervention.

Similarly, through-out the various legislation, the President is empowered to intervene in a variety of cases, the ultimate being the dissolution of a council and dismissal of councillors. Under the RDC Act, for instance, the President is empowered to declare, name, alter or abolish a district. It therefore appears that for every power bestowed on LGs, there is an equal or more power vested in the President or Minister responsible. If not either of the two, it is some other institution such as the Local Government Board.

**Table 3: Instances where there is reference to powers of Minister,**

Number	Reference	Intervention
RDC Act	S 53	Minister’s approval is required for certain resolutions. The Minister may by notice in writing to the council concerned, direct that any resolution of a council dealing with such matters or such class of matters as are specified in the notice shall be submitted to him for approval.
U C Act	S 91	Minister has rights of access to records of council. The Minister has unrestricted access to all council records, minutes and any documents in the possession of any council which relate to the councils’ meetings, resolutions and affairs, and if required to do so by the Minister or any person so authorized by the Minister, the Council shall, without delay submit to the Minister or that person a copy of the record, minute or document as requested
RTCP	S 10	RDCs and Local Boards not LPAs for part IV and VI unless Minister has authorised them as such by statutory instrument
	S 16 (1)	Submission and determination of Master Plan – LPA shall submit to the minister the draft master plan, report of the study etc
RDC Act	S 94	Minister’s powers to make bylaws on behalf of councils
	S 87	Bestows powers on the Minister to act on behalf of Council in estate development. This power is also granted in the <u>Urban Council Act S 206</u> to the Minister
	S 90	Minister approves by-laws of RDCs

<sup>9</sup> Zimbabwe Institute, 2005, page 5

UC Act	S 233	Ministers powers to make bylaws on behalf of councils <u>and S 94 of the RDC Act</u>
	S 309	Minister may from time to time require a council to submit to him certified copies of records of its proceedings, statistics and documents and such other information he may require
RDC Act		Minister may require RDC to furnish him with reports as above
UC Act	S 116	Local Government Board whose members are appointed by the Minister to provide guidance on the senior employees of councils and conduct inquiries into affairs and procedures of councils
RDC Act	S 124	RDCs require the Minister to approve their borrowing powers. Same power is granted to the Minister by the Urban Council Act S 290. In the case where council borrows money illegally in the case of urban councils then the councillors become liable for the money borrowed and interest payable in their individual capacities S 294.
RDC Act	S 138	Gives powers to the Minister to conduct financial inquiry of any council
Urban Council Act	S 311	Inquiries by Minister and appointment of investigators. Minister may, if he considers it necessary, appoint one or more persons as investigators, to inquire into any matter which relates to good government, failure of council to undertake any function or matters related to municipal partnerships and relationships and intergovernmental relations. Similar powers are granted to the Minister in the <u>RDC Act S 154</u> . The costs of such investigations are borne by the council investigated
	S 314	Minister may reverse, suspend, rescind resolutions, decisions etc of councils where he feels that it is not in the interest of the inhabitants of the area or not in national or public interest
RDC Act	S 155	Minister may direct certain actions. The Minister may from time to time give a council such directions as he considers appropriate to ensure that the council, when constructing or repairing roads, dams or waterworks or carrying out any other activity, makes use of service provided by the State, any statutory corporation, the District Development Fund or any other agency of the Government.
RDC Act	S 157	Suspension of Councillors. If at any time he considers it necessary or

		desirable to do so in the public interest or in the interest of the inhabitants of the Council area, the President may, by statutory instrument, suspend all or any of the councillors, and if the suspension is not lifted within thirty days, then the seats of the councillors shall become vacant and the councillor removed from office is disqualified from being nominated for election as a councillor until such time that the President, by statutory instrument, has removed the disqualification.
	S 158	Minister may appoint a Caretaker to act as a Council if there are no councillors or where the councillors have been dismissed from office.
	S 161	Refusal to obey orders, requirements of directions of the Minister: any person who contravenes any order, requirement or direction which is given, made or issued by the Minister in terms of the Act shall be guilty of an offence and liable to a fine not exceeding five hundred dollars or imprisonment for a period not exceeding six months or both the fine and the imprisonment

Thus, it can be seen from the foregoing that although local governments are body corporate, they owe their existence to statutes and central government, which defines their powers, functions and responsibilities. The LG system is based on delegate and delegator relationship with so many powers vested in the Minister to intervene in LGs whenever necessary. In practice, the local governments confine their operations to that which is stipulated in the statutes. Anything that is not specifically permitted by statutes is considered ultra vires.

## 7. Stakeholders' Consensus on Powers and Functions of LGs

It is imperative to unpack the concept of stakeholders in local government sector, before discussing whether there is consensus amongst them on the powers and functions of the LGs. The key stakeholders can be defined as to include the Ministry responsible for Local Government, the rural and urban councils, the local government associations namely the Urban Councils Association of Zimbabwe (UCAZ) and the Association of Rural District Councils of Zimbabwe (ARDCZ). Other include the major political parties, ZANU PF and MDC factions; Universities and colleges that are responsible for teaching students and undertaking research on local government (these are namely University of Zimbabwe, the Midlands State University, Domboshawa College, the Zimbabwe Institute of Public Administration and Management. Others include the local

Government Board, a creation of the Urban Councils Act, and the Urban Development Corporation. Also in the sector are a number of consultancy firms in local governance, which invariably influence decision making in the LG sector. Another key institution is the Council of Chiefs. Some of these key stakeholders are discussed below.

At the centre of policy making and monitoring of the LG sector is the Ministry responsible for local Government as a lead Agency. The Ministry is responsible for administering the relevant legislation that guides local governments, including the UCs Act and the RDCs Act, the Traditional leaders Act, the Provincial Councils and Administration Act and the RTCP. The Ministry sets policies and gives direction on various matters affecting local governments. Functionally it is supposed to play a facilitative role, although in practice it has played a more controlling and directive role. It is important to note here that the manner in which legislation on local government is couched is such that the Minister is bestowed with powers to intervene in almost all aspects of the LG sector whenever s/he chooses to. He enjoys the ultimate power of intervention and suspension of any local council.<sup>10</sup>

Another critical Ministry in the functioning of local governments is the Ministry of Finance. The Ministry has a direct interest and input in the development planning and public finance through the public sector investment program. In some instances, treasury has provided funding for local governments, in particular to bail out Rural District Councils.

Another critical stakeholder is the office of the President. The president is the custodian of rural land in terms of the communal lands Act, and he is the one who establishes councils and the system of local governance. He also has powers to dissolve an entire council when its necessary.

Another key stakeholder is the Local Government Board. This Board is established under the Urban Councils Act, with a mandate to oversee the operations of urban councils. The LGB however has perennially been underfunded and its major input into local government visible to the other stakeholders is the appointment and dismissal of senior council employees. Its broader mandate however is to provide guidance on the organization, administration and personnel issues in local government.

Another important institution that is gaining even increasing importance is the Council of Chiefs. The institution of traditional Chiefs, unlike local government, is recognised in the Constitution of Zimbabwe. The Council of Chiefs is provided for in the Traditional Leaders Act. The Institution of traditional leaders is now entrenched into the governance of rural Zimbabwe and it has structures that span from village level, ward level, where the sabhuku and the headman chair

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<sup>10</sup> Zimbabwe Institute, 2005, pg 5

the village and ward development committees, district level where Chiefs are ex-officio members of RDCs, to provinces where chiefs have provincial councils that participate in provincial development committees and to the senate, where representatives of Chiefs selected by provinces sit as non-constituency members of parliament.

Local Government associations, as represented by the ARDCZ and theUCAZ also play important roles in influencing policy and speaking as local government voices on various matters of concern. Another important stakeholder is the Parliamentary Portfolio Committee on Local Government. The Committee exercises surveillance over the entire local government sector. It convenes public discussions on pertinent issues that arise or are of concern to the public and reports its findings to the parliament.

The question now is, amongst these key stakeholders, is there emerging consensus on the broad mandate, powers and functions of LGs. The truth of the matter is that in the author's knowledge and to-date there has never been an indaba where all these key stakeholders were brought together at once to discuss the vision or future of local government that is desired. Scattered efforts have been made by local government associations and various non-governmental organizations to facilitate sessions focussed on building consensus around some of the issues affecting the local government sector. Such NGOs include the Combined Harare Residents Association (CHRA), the Parliamentary Support Trust and the voluntary local government associationsUCAZ and ARDCZ. The analysis in this section is based on reviews of the 2000 Draft Constitution, the Kariba Draft Constitution, the ARDC andUCAZ joint submission to the year 2000 Constitutional Review Commission and the manifestos of the major political parties, namely ZANU PF and the MDC formations.

Indeed there are some broad ideas around which there seem to be consensus amongst key stakeholders, not necessarily on powers and functions of LGs. One such issue is the constitutionalization of local government. Inspired by the SADC Forum of Local Government Ministers which has recognised the necessity of enshrining local government in the constitution, there has been gaining acceptance that local government will be constitutionalized. In the 2000 draft constitution which was rejected in a referendum, local government has been constitutionalized. The manifesto of the MDC favours a constitutionalized LG sector. The draft constitution which was produced by the National Constitutional Assembly also speaks to a LG system that is constitutionalized.

However, what seems to attract divergence in views is the reason for constitutionalizing the local government. Other stakeholders support it as means to enable better funding for LGs through

sharing of the national fiscus. Others feel constitutionalizing will make local governments more stable and not exist at the peril of Central government, but they advocate for local revenue sources for local governments shunning any transfers from central government which they argue will reduce the autonomy of the local governments.

Another important issue where there is divergence is on the principle of decentralization. The Ministry of local Government s of the view that Zimbabwe has a very advanced form of decentralization, especially as it applies to urban local authorities. It is for this reason that the decentralization process that was initiated in the 1990s was focused on decentralization to the rural local governments. The understanding and spirit behind the thirteen principles of decentralization was that it already existed in urban council and the principle had to be applied to rural local government. For that reason, the thirteen principles of decentralization did refer to rural district councils by and large. Other stakeholders are of the view that if anything, in Zimbabwe there has been experienced a spate of ‘re-centralization’ in the past decade. They point to a too powerful central government, which was less comfortable with the executive mayoral system which seemed to strengthen the powers of local governments, hence the Local Government laws Amendment Act Number 1 of 2008, which replaced executive mayors with ceremonial mayors. Other examples include the central government interference is the running of councils through appointed commissions (now called caretaker councils) in the period 2000 to 2008. What is clear is that there are divergent views on the principle of decentralization as it is defined and applied in the LG sector. There are also divergent views amongst key stakeholders on the forms of governance of LGs, whether it should be executive or ceremonial systems. Further, there is no agreement on the provision for special interest councillors. Others support the idea as means to bridge the skills gap that may be evident in some councils after elections, while others see it as a mockery of democracy that some councillors get appointed in a democratic system.

There are also divergent views on the powers bestowed on the minister to intervene. Other stakeholders are of the view that the Minister wields excessive powers, and that the legislation is written in manner that makes it open to abuse. The system of local government therefore becomes dependent on the individual Minister’s power to exercise restraint. Others argue that the powers to intervene (and not the politically incorrect inference as interference) are necessary to rein-in incompetent and corrupt and erstwhile councils. These stakeholders place emphasis on the supervisory and monitoring role and function of the Minister.

There are also divergent views on the vision of a future local government in respect of the existence and the powers of provincial level of government. Other stakeholders see a stronger

provincial level of government as necessary as part of the process of decentralization. The NCA provides for a local government system that is constitutionalized but the enabling Act is made at provincial level. There are others who are out-rightly opposed to a provincial level of government, arguing that Zimbabwe is too small a country to have a provincial tier of government. They argue that comparison with South Africa is misplaced as in South Africa in terms of land size and population, Zimbabwe would be but a province. They base their argument on the capacity of the local resources to support a central government system, provincial local government system and a local government system. They point out that some provinces have no financial base to support such a system. However, it seems that going by the nature of the organization of political life in Zimbabwe, both ZANU PF and the MDCs are organized in provincial level within their respective party systems. It is therefore difficult to fathom that the political formations will support proposals for a future local government that does not provide for provincial local government structure, when they themselves are organised in such fashion. It seems thus that provincial local government will be a permanent feature of the future of LG. What may be tinkered with are its powers and functions.

The last major point of divergence in the future local government is on the role of the traditional leadership system in a democratic set up. Some stakeholders argue that it is not possible to fuse the democratic local government system with the traditional hereditary system. They further argue that traditional leaders should stand outside the local government system, and have parallel structure of their own, responsible for traditional matters, outside the domain of local government (see paper by Professor John Makumbe). Other stakeholders are of the view that local governments can co-exist side by side with traditional leaders. The Chiefs Council is lobbying for increased role for traditional chiefs in the local government system.

In conclusion of this section, the paper has described the major stakeholders in local government. It has also discussed the major issues around which there is consensus and divergence. It has emerged that there does not seem to be major issues on the powers and functions of local governments.

## **8. Areas for Policy and Legislative Reform**

The stakeholders in the local government sector should express their keenness and commitment to contribute to the current constitution making process. There are policy and legislative issues that deserve review. Some of these are discussed in the sections below.

### **1. Constitutionalizing local government**

It is critical to ensure that Local Government are enshrined and attain permanent and guaranteed status in the Constitution of Zimbabwe. Constitutionalizing local government is preferred as means to secure constitutional tenure for local governments which currently exist through Acts of Parliament. Further, it is preferred as it will guarantee financial support to local governments from the national Treasury through assured revenue sharing. It will also secure recognition of local governments as critical agents in national development.

### **2. Single legislation for local government sector**

Currently, there is a myriad of legislative provisions for Local Governments as was shown in the foregoing analyses. The Acts are also administered by different Ministers (Minister for Health, Minister for Water, Minister for Environment, Minister for Education and Minister for Roads etc). For the convenience of the sector, and to facilitate efficiency and effectiveness, it is desirable that a single legislation for local government be enacted as the principal local government law.

Potentially, the single legislation could avoid some of the conflicts and redundancy that is associated with the current legislative provisions. There is duplication of powers granted by various pieces of legislation on the same issue. For example in water supply, there is the Water Act which establishes catchment councils, which are not committees of the LGs, there is the Environmental Management Act which regulates pollution of water bodies), the Public Health Act (S 64 & 66 & 67) and the general powers granted in the RDC and UCA Acts (Part XIII S 183 – Powers of Council) in relation to water supply.

### **3. Powers and Functions of Local Governments**

There should be certainty as regards the powers and functions of local governments flowing from the principal enabling legislation. Such powers and functions should be clearly classified into mandatory functions and permissive functions. Further, the principal legislation should seek to develop partnership in governance among the various institutions that are involved, namely central

government, provincial local government and local governments. These partners need to recognise each other's existence and to complement each other in the performance of governance functions, without undue intervention into each other's domain. While Central Government can still retain its powers to supervise local governments, the central government function should be limited to supervision and compelling local governments to perform, with powers to enhance capacity and set policy direction.

The current situation has caused many problems. The Minister bears too much powers to intervene on almost every power granted to local authorities, including powers to reverse decisions, or undertake/ perform certain acts on behalf of the LGs. Section 314 of the Urban Councils Act, the Minister may reverse, suspend, rescind resolutions, decisions etc of councils. Further, S 315 empowers the Minister where a council has failed to give effect to any of the duties imposed upon it by or under this Act or any other law. S 87 of the Rural District Councils Act gives powers to the Minister to act on behalf of Council S 87 (2) (a) (i) take possession of any undeveloped council land, including surveyed land or S (2) (b) compulsorily acquire land in the name of the council any land and recover the expenses from the council concerned.

This goes to demonstrate that the development of legislation foresees non-performance by councils and immediately provides a remedy in the form of powers to act directly, and not to compel the council to perform.

#### 4. Setting up a local government commission

The view of the author is that powers should be vested in a Local Government Commission, and not a Minister. The Local government commission will have broader and oversight powers over local authorities to ensure that the latter discharge their constitutional and statutory mandate properly. Among other things the local government board will have a role to capacitate the councils and compel them to perform, as opposed to the current situation where the Minister can execute work on behalf the councils and hand them a bill to pay.

#### 5. Ensuring adequate revenue resources for local governments

The sources of revenue for the performance of functions and responsibilities bestowed on local governments are very limited. A number of the functions, roles and obligations imposed on local government are in some instances partially funded or there is no clear funding source at all. For instance, in terms of the Public Health Act, S 45 and 46, local authorities can be refunded for

expenses incurred in the operation of epidemic emergencies and the quarantine of those affects up to two thirds of the net costs. It is not elaborated where the balance comes from. The assumption is that the balance comes from reserve funds of the LG.

**Annex 1: Powers and Functions of Local Governments from various Statutes**

#	Legislation	Sections	Powers and Functions	LGs they apply to
1.	Rural District Councils Act	S 12	Establishes RDCs as body corporate, with perpetual succession and powers to sue and to be sued, and generally doing all things which they are empowered to do in terms of the RDC Act and other laws.	RDCs
2.		S 46	Powers to regulate meetings and special meetings of council	RDCs
3.		Part VIII	Powers to set up committees. There are standing committees such as Finance, Area Committees for land in RDC areas or where the area is large enough a Town Board, Roads Committee, Ward Development Committees, Rural District Development Committee.	RDCs
4.		S 62	Empowers councils to set up ad hoc or special committees as it deems fit, or when so directed by the Minister	RDCs
5.		S 64	Empowers Councils to set up sub-committees of parent committees.	RDCs
6.		S 65	Empowers RDCs to employ staff and to determine their conditions of service	RDCs
7.		S 69	Empowers Councils to delegate powers of council to officers of the council	RDCs
8.		S 70	Empowers the Council to deal with corrupt members of staff. The penalty is such that the employee may be dismissed from the council and may never be employed by any local authority ever again, unless the Minister pardons the corrupt employee and permits such employment.	RDCs
9.		Part X	Specifically deals with powers of RDCs	RDCs
10.		S71	Powers to do anything listed in the First Schedule, or powers given by other laws, or anything that may be authorized by the Minister which in his opinion is incidental to the functions of the council or is necessary or desirable in the interest of the public	RDCs
11.		S 72-74	Specific powers are listed below as follows; S 72 – Sewerage and drainage S73 – Enforcement of conditions of title S 74 – Development Functions – in the local area including preparation of development plans, implementation and M&E	RDCs
12.		S 75	Financial Powers S 75 Owners and occupiers of land may be charged for services made available, even if not necessarily consumed S 76 Powers to determine charges, rents and deposits by way of council resolution	RDCs

13.		S 77	Powers of entry and inspection	RDCs
14.		S 78	Powers to compulsorily acquire land and property, with the consent of the Minister	RDCs
15.		S 79	Powers to enter into contracts and invite tenders in the exercise of its functions	RDCs
16.		S 80	Powers to engage in income generating projects, although subject to approval of the Minister	RDCs
17.		S 81	Powers to facilitate the emergence of cooperatives, with written approval of the Minister	RDCs
18.		S 82	Powers to cooperate with the State, other local authorities and other persons for the better or more economic carrying out its mandate	RDCs
19.		S 83	Powers to establish joint committees by agreement	RDCs
20.		S 86	Powers to do estate development (ie lay out and service state land or council land for residential, commercial or industrial purposes, construct buildings and sell, lease or dispose the property	RDCs
21.		S 88	Powers to make bylaws for the rural areas, and also powers to make bylaws in relation to certain urban areas under its jurisdiction in terms of S 89.	RDCs
22.		S 96	Empowers council to charge levies in rural areas. Incomes of RDCs include levies on and charges from <ul style="list-style-type: none"> <li>• owners of rural land</li> <li>• owners of mining locations</li> <li>• licensed dealers</li> <li>• business operators</li> <li>• holders of permits of occupation of rural land</li> <li>• heads of households may be required to pay development levy</li> <li>• land development levy</li> <li>• special levies</li> <li>• property rates in urban areas in the RDC area</li> <li>• interest on unpaid charges</li> <li>• charges in respect of property transfers</li> <li>• sales and leases of land</li> <li>• revenues from wildlife and parks areas (Wildlife Act 20:14)</li> <li>• Amounts received from Communal Land Forest Produce Act (Chapter 19:04)</li> </ul>	RDCs
23.		S 121	Powers to prepare annual budgets	RDCs
24.		S 124	Powers to borrow money from the State or such other sources as the Minister, with the consent of the Minister of Finance, may approve.	RDCs
25.	Urban Councils Act	S 4 (8)	LG established shall be a body corporate with perpetual succession and shall be capable of suing or being sued	All Urban Councils
26.	Chapte	S 14	Powers to apply for change of its status (Local Board –	All urban

	r 29:15		Town Council – Municipal Council – City Council)	councils
27.		S 87	Powers to resolve into committee and exclude the public and the press	All urban councils
28.		S 90	Power to rescind council decisions	All urban councils
29.		S 96 (1)	Powers to set up committees of council through which business of council is conducted. These are standing committees and special/ ad hoc committees. Standing committees of council include: finance committee, health and housing committee, environmental management committee, audit committee and procurement board	All urban councils
30.		S 210	Powers to set up a municipal procurement board. Every municipal council shall appoint a municipal procurement of not less than five and not more than seven members, which is responsible for arranging tenders and making recommendations to council	All municipal councils
31.		S 102 (1 – 3)	Powers to make standing orders and rescind or suspend them when necessary	All Councils
32.		S 106 (1)	Powers to appoint Alderman	(municipalities & cities)
33.		S 132/ 133 & 134	Powers to appoint senior staff of councils	All urban councils
34.		S 139 (1) & S 140	Powers to discharge, discipline or suspend a Town Clerk and senior officials	All urban councils
35.		S 141	Powers to appoint and determine conditions of all other employees	All urban councils
36.		S 142	Powers to employ uniformed employees to assist the Police (Parks and Traffic)	All urban councils
37.		S 145	Power to delegate powers to employees	
38.		S 150	Power to acquire land or interest in land in an area under its jurisdiction or outside – by way of purchase, lease, expropriation	All urban councils
39.		S 157	Powers to construct sidewalks and recover costs from owners of land	All urban councils
40.		S 168, S 178 & S 180	Powers to install sewerage and drainage and recover costs from beneficiaries and compel owners of properties to connect into the system, Powers to finance waterborne sanitation and powers to protect these facilities	All urban councils
41.		S 183 & 184, S 187	Powers to provide and maintain a supply of water within or outside its area of jurisdiction, treat the water and require connection into the water distribution network, powers to ration or restrict use of water	All urban councils

42.	S 189, S 192	Powers to provide and maintain parking garages, parking spaces and install parking meters for use by citizens, omnibuses and	All urban councils
43.	S 193 & S 196	Powers to provide transport services and determine routes and stop points etc	All urban councils
44.	S 195	Powers to prohibit (regulation) certain public vehicles (more than seven passengers) unless licensed	All urban councils
45.	S 198	Council shall have power to undertake, carry out or carry on any or all acts and things set out in the second schedule, or anything authorised by the Minister which is deemed necessary or desirable to do or is an extension of the powers granted in second Schedule, or anything that is necessary to give effect to its bylaws of the council	All urban councils
46.	S 199	Enforce conditions of title to any land, prohibit use or execute works required in fulfilment of a condition of title and recover costs from owner	All urban councils
47.	S 200	Powers to provide and maintain fire and emergency service for use inside or outside the council area for protecting human and property	All urban councils
48.	S 204	Powers to construct and maintain railway sidings	All urban councils
49.	S 205	Power to service land, whether state land, council land or land vested in the council and construct buildings and sell the land or buildings	All urban councils
50.	S 207	Powers to borrow and repay money for estate development	All urban councils
51.	S 209	Powers to enter into contracts for any purpose	All urban councils
52.	S 212	Powers in relation to numbering houses and naming of roads	All urban councils
53.	S 214	Powers to close or deviate roads	All urban councils
54.	S 216	Subject to Electricity Act, power to own, operate a public electricity supply undertaking	All urban councils
55.	S 217	Power to place, erect, install, provide, maintain and operate street lighting inside or outside the council area	All urban councils
56.	S 218	Power to charge for a service provided by council, even if one's property is not actually connected	All urban councils
57.	S 219	Powers to fix charges by resolution	All urban councils
58.	S220	Powers to enter property and use land for municipal services	All urban councils
59.	S 221	Powers to implement income generating projects (subject to ministerial approval)	All urban councils
60.	S 222	Power to foster cooperatives (subject to ministerial approval)	All urban councils
61.	S 223	Powers to cooperate with i) other councils, ii) the state	All urban councils

			and iii) other persons through a deed of agreement	councils
62.		S 227 & S 228	Powers to make by-laws and the matters on which council may make by-laws (Third Schedule) – subject to Minister’s approval	All urban councils
63.		S 237 & S 241 & 269	Powers to employ a valuation officer and prepare valuation rolls, establish a valuation Board all as the basis for property taxation	All urban councils
64.		S 273	Powers to fix and levy a rate on property for council expenses in executing, maintaining or operating any works	All urban councils
65.		S 282	Powers to issue rates clearance certificates in the transfer of property	All urban councils
66.		S 283 & S 303	Powers to write off irrecoverable rates and bad debts	All urban councils
67.		S 288	Powers to prepare annual estimates (financial budget)	All urban councils
68.		S 290 & S 295	Powers to borrow money (subject to Ministerial approval) and to repay the loans	All urban councils
69.		S 298, 299, 300 & 301	Powers to establish capital development fund, revenue reserves, estate account, housing accounts	All urban councils
70.		S 302	Powers to invest moneys	All urban councils
71.		S 304	Powers to appoint auditors and implement audits	All urban councils
72.	Regional Town and Country Planning Act: Chapter 29:12	S 10, 14 & 17	Power as a full Local Planning Authority to prepare and implement master plans, local plans and approved schemes, alteration of those plans, repeal or replacement	City, municipality, town council
73.			Power as a partial local planning authority (excluding preparation of Master, Local Plans and subdivisions and consolidations of property) unless authorized as such by Minister	district council and local boards
74.		S 11	Powers to LPA to do anything which is necessary to implement an operative master plan, local plan or approved scheme,	All councils
75.		S 12	Powers of LPA to establish committees of not less than three and delegate to it powers, duties and responsibilities imposed on the LPA	All councils
76.		S 19	Powers of LPA to consider objections to their plans	All councils
77.		S 24	Powers to control development	All councils
78.		S 27	Powers to regularise buildings, uses or operations	All councils

79.		S 30	Powers to issue orders for preservation of buildings of special architectural merit or historical value	All councils
80.		S 31	Powers to preserve trees and woodlands	All councils
81.		S 32 & S 34	Powers to issue enforcement orders and prohibition orders	All councils
82.		S 35	Powers to remove, demolish or alter existing buildings or discontinue or modify uses or operations or require abatement of injury	All councils
83.		S 36	Powers of LPA to enter into agreements with owners of existing developments	All councils
84.		S 39	Powers over subdivisions and consolidations and powers to impose conditions of development, including that land be set aside for roads purposes, public uses, payment to the authority the prescribed percentage of the value of each subdivision	All councils
85.		S 45	Powers to acquire land required for development, redevelopment, improvement, contained in an operative master plan or local plan or an approved scheme	All councils
86.		S 46	Powers to expropriate land (subject to provisions in the land Acquisition Act Chapter 20:10)	All councils
87.		S48	Powers to acquire buildings that have preservation orders	All councils
88.		S 49	Powers to use and dispose land acquired by the LPA	All councils
89.		S 50	Powers to pay compensation	All councils
90.		S 55	Powers bestowed on councils as Roads Authorities	All councils
91.	The Shop Licence s Act Chapter 14:17	S 7 (1) & (2)	Recognises municipalities, town councils, local boards and district councils as 'licensing authorities' and powers to further delegate to employees or committees	All councils
92.		S 11, 12 & 13, S 23	Powers of Councils as licensing Authorities to issue licences, limit the duration of the licence and fix fees for licence and power to renew or not to renew licence	All councils
93.		S 29 & S 34	Power to issue permits upon payment of fees, and power to cancel the permit for non-compliance	All councils
94.	Public Health Act Chapter 15:09	S 2 (1) (a)	Recognises municipal councils, town councils, local boards and rural district councils as public health authorities (PHA)	All councils
95.		S 7	Powers on LGs as PHA to appoint medical officers of health with duties as spelt out in S 8	All councils
96.		S 10	Powers on LGs to appoint health inspectors	All councils
97.		S 14	Powers of LGs as PHAs to take lawful and necessary	All

		precautions for the prevention of the occurrence or for dealing with the outbreak or prevalence of any infectious or communicable disease	councils
98.	S 15	Powers to establish committees known as health committees	All councils
99.	S 22	Power to inspect premises and examine persons suffering from infectious diseases	All councils
100.	S 23	Responsibilities to provide isolation hospitals, mortuaries, disinfecting stations and ambulances provide	All councils
101.	S 25	Power of one LA to levy/ charge another LA for treatment in hospital or place of isolation, maintenance, nursing and treatment of persons referred from the other LA.	All councils
102.	S 27	Responsibility to carry out disinfection	All councils
103.	S 28	Responsibility to remove to cleansing stations of dirty and verminous persons	All councils
104.	S 39	Responsibility to report formidable epidemic diseases	All councils
<b>105.</b>	S 41	Powers on PHAs to requisition buildings, equipment or other articles during an outbreak of any formidable epidemic disease (subject to Ministerial approval)	All councils
<b>106.</b>	S 45	LGs as PHAs , subject to ministerial approval, may received advances for dealing with outbreaks of infectious diseases	All councils
107.	S 46	Minister may authorize the refund of half (50%) of costs incurred by a LG in providing and equipping an isolation hospital or accommodation for persons suffering from infectious diseases or detailed for investigation, or two thirds the cost of an epidemic committee	All councils
108.	S 64	Responsibility of LGs to furnish adequate and sufficient water supplies for drinking and domestic purposes and powers granted to acquire any land, waterworks, springs, fountains, water rights etc necessary for this purpose, also power to compel the owners of properties to connect and fix a minimum charge whether used or not (2)	All councils
109.	S 66	Responsibility to maintain existing water supplies in good order	All councils
110.	S 67	Powers to inspect water supplies	All councils
111.	S 68	Powers to make regulations regarding use of water resources – prohibit bathing in, erection of dwellings, sanitary conveniences etc that are likely to pollute water sources	All councils
112.	S 76, S79	Powers to licence slaughter houses and where necessary cancel them	All councils

113.		S 83	Powers bestowed on LGs to maintain cleanliness and prevent nuisances in the district or town	All councils
114.		S 84	Power to prevent or remedy danger to health arising from unsuitable dwellings	All councils
115.		S 89	Power to enter and inspect any buildings or premises for purposes of investigating any nuisances	All councils
116.		S 92	Power to demolish unfit dwellings that are so dilapidated, or so defectively constructed or situated that repairs or alterations of same are not likely to remove the nuisance (subject to court satisfaction)	All councils
117.		S 93	Powers to prevent construction of back to back properties or erect any room for sleeping without sufficient lighting through a window or windows (size of one twelfth of floor space)	All councils
118.	Environmental Management Act Chapter 20:27	S 2 (c)	Recognises RDCs as the appropriate authorities in relation to Communal land and resettlement land which is assigned environmental management functions in terms of S 133. It also recognises the environmental committee of RDCs	RDCs
119.		S 59	Power to issue licences for discharge of effluent and pollutants into the sewerage system at a prescribed fee	RDCs & UCs
120.		S 95	Responsibility to prepare Local Authority Environmental Action plans for the area under its jurisdiction	RDCs & UCs
121.		S 125	Powers on LGs to make by-laws compelling occupiers of land within a local authority area to keep their land free from invasive alien species	
122.	Roads Act : Chapter 13:18	S 2	Recognises rural district councils as roads authorities for tertiary roads	RDCs
123.			Recognises municipalities and district councils as Roads Authorities for Urban Roads	RDCs and UCs
124.		S 4	Bestow powers on LGs as Roads Authorities to plan, design, construct, maintain, rehabilitate and manage roads, prioritise, award contracts, prepare annual budgets, ensure compliance with environmental standards, establish and maintain facilities on roads, fence, plant trees, shrubs or other plants, information management, exchange knowledge and expertise	RDCs and UCs
125.		S 30	Power to close a road as a Roads Authority	RDCs and UCs
126.		S 32	Power to appoint a board of inquiry in regard to any proposed declaration, diversion or closure of a road	RDCs and UCs
127.		S 39 & S 40	Power to construct storm water drainage on land adjoining roads and power to compensate for any loss of land or damage caused	RDCs and UCs
128.		S 41	Power as a Road Authority to make roads, temporary deviations through one's property, and taking materials for making or repairing roads	RDCs and UCs
129.		S 42	Power to sink boreholes or wells for water for primary	RDCs and

			purposes	UCs
130.		S 43	Powers to make entrances through fences	RDCs and UCs
131.		S 45	Powers of RAs to make temporary encampments	RDCs and UCs
132.		S 48	Regulation of trading on roads on in restricted areas	RDCs and UCs
133.		S 50, 51 & 52	Preliminary reservation of land for roads construction, or withdrawal of reservation or its modification	RDCs and UCs
134.		S 57	Powers to restrict any construction alongside restricted roads	RDCs and UCs
135.	Road Traffic Act	S 40	Local Authority, by placing notice boards or traffic signs, may prohibit passage of traffic or impose conditions or restrictions relating to use of road by traffic or limit kind or mass of traffic (be it animal, pedestrian or vehicular traffic) on roads other than State roads, within the area for which it is the authority	RDCs and UCs
136.		S 47	Control of advertisements visible from roads: RDCs may exercise delegated powers and functions that are performed by the Minister responsible for roads, if so delegated in relation to control of advertisements visible from the road. S 47 (a) Minister may delegate powers to rdcs in respect of roads in the area for which an RDC is a local authority, in writing.	RDCs
137.		S 82	Regulations, by-laws and resolutions relating to speed limits. S (2) gives powers to local authorities other than local boards to make by-laws in terms of the Urban Councils Act Part XVII or Part XI of the RDC Act providing for general speed limits in respect of the whole of the urban area under its jurisdiction or any part specified, including maximum speed limit of all vehicles or any class of vehicles. Such bylaws however do not apply on State roads unless if the council making them is a municipality or city. In exercising these powers, a Council may simply pass a resolution instead of making a by-law. When the Councils limit is made by way of a resolution such resolution shall be published in the Government Gazette.	Local Authorities other than local boards
138.	Vehicle Registration and Licensing Act	S 31	Powers on LGs to impose fees in respect of vehicles ordinarily kept at night within the area under the control of the LG, to be paid licences, temporary licences, temporary identification cards, garage licences, exemption certificates for the benefit of the road fund after deducting the administration costs of the LG	RDCs and UCs
139.	Education Act Chapter 25:04	S 8	Puts responsibility on local authorities to establish and maintain such primary schools as may be necessary for all children under its jurisdiction	RDCs and UCs

140.	Liquor Act Chapter 14:12	S 22	Recognises local authorities as agents in the processing of Liquor Licenses. Note that licenses are issued by the Liquor Licensing Board. However the procedure requires that local authorities inspect and approve the premises in which the business of liquor selling will take place. <sup>11</sup> S 22 (6) provides that a person to whom authority for the issue or renewal of a Part II licence has been granted may obtain the issue or renewal of such licence by submitting the relevant certificate and prescribed fee to the local authority where the premises are located, and the local authority shall issue the or renew the licence as appropriate. S 22 (7) requires that where a local authority has issued or renewed a licence, it shall submit a copy to the Secretary of the liquor Licensing Board	RDCs and Urban Councils
141.	Water Act Chapter 20:04	S 60	Powers to Act as a Water Catchment Council : The Minister responsible for Water may confer powers of a catchment council on urban councils. The Functions and Powers of catchment councils are elaborated in S 21 and s 22 of the Water Act. They include the preparation of outline plans, the regulation and supervision of water resources and water rights in a given river system	Urban Councils only
142.		S 66	Powers to regulate the use of water in Water Shortage Areas. The Minister responsible for Water may, after consultation with the Minister responsible for Local Government and the council concerned, delegate the powers of a catchment council in relation to use of water in Water Shortage Areas.	RDCs and UCs
143.		S 71	Powers to prevent water pollution. The Secretary in the Ministry of Water may confer powers of a catchment council on a council for purposes of controlling or preventing the pollution of water	RDCs and UCs
144.	Traditional Leaders Act	S 24 (2)	Requires RDCs to comply with the provision in the RDC Act (29:13) of preparing a land use plan for the village and to issue a settlement permit to the head of each household in the village concerned.	RDCs
145.	Chapter 29:17	S 24 (3)	Requires RDCs and the District Administrator to keep accurate records of all settlement permits issued to each household	RDCs
146.		S 26 (1)	Reinforces the fact that RDCs are the authorities over Communal Land. Allocation of land in communal areas (by Chiefs and Headman and Village heads) should not be done without the approval of the appropriate RDCs, which are the administrative authorities with overall	RDCs

<sup>11</sup> Interpretation of the Liquor Licensing Act made by Mr. Dombo Chibanda, Director of Waste Management Services and former Deputy Director of Health Department, City of Harare

			control over the use and allocation of all Communal Land.	
147.	Communal Land Act	S 8 (1)	Requires that occupation of Communal Land for agricultural purposes or residential purposes be with the consent of RDCs established for the area, which are the responsible local authorities	RDCs
148.	Chapter 20:04	S 8 (3)	Provides for officers and employees of RDCs that they can occupy and use Communal Land within the council area for the purpose of their employment	RDCs
149.		S 9 (1)	Empowers a RDC to issue [permits, with the consent of the Minister responsible for local Government, to any person to occupy and use any portion of Communal Land within its area of jurisdiction for purposes of administration, religious or educational purposes, hospitals or clinics, hotels, shops or other businesses, or any other use which will benefit the inhabitants of the area.	RDCs
150.		S 9 (2)	The RDC is also empowered, in performing the functions listed in S 9 (1) above, to impose such conditions on the permit and when need arises to cancel the permit	RDCs
151.		S 13	Powers to make bylaws for Communal Lands: Empowers RDCs to make by-laws as provided for in the RDC Act 29:13 for the control and regulation of occupation and use of Communal Land within its area.	RDCs
152.		S 14 (2)	In the performance of making by-laws for the occupation and use of Communal Land, the RDC is empowered in S 14 (2) to simply adopt model by-laws	RDCs

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