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## **HAMREF Position Paper on Devolution<sup>1</sup>, 7<sup>th</sup> October 2019**

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### **Introduction and background**

Zimbabwe's 2013 Constitution has a clear scope for devolved governance. This is based on three tiers of government at national, provincial/metropolitan (10) and local (92) levels. Constitutional reference to devolution relates to how governmental powers and functions are distributed across these three tiers. The diversity that is Zimbabwe's pre and post-independent political economy justifies the many voices negotiating the operational meanings and desirable design of devolved governance. This has focused on policies, laws, structures and processes necessary to actually deliver devolution.

Organizations under the umbrella of the Harare Metropolitan Residents Forum (HAMREF) have individually convened and been involved in relevant devolution debates. A recent meeting<sup>2</sup> was held to articulate a common devolution position. HAMREF's immediate focus was to have a clear perspective in the lead-up to a proposed Harare Metropolitan Provincial Devolution Conference<sup>3</sup>. However, HAMREF members were also investing in a medium to long-term conversation to inform devolution implementation beyond the Conference. This focus also goes beyond Harare Metropolitan Province.

This paper pulls together insights drawn from activities convened over time by other civil society organizations. It highlights i) what civil society organizations expect devolution to deliver, ii) the emerging ambitions regarding the design and powers of sub-national government tiers, iii) concerns relating to gender and social inclusion, and iv) ideas about institutional mechanisms for steering transformative implementation of devolution in Zimbabwe.

### ***Summary of Civil Society expectations***

Civil Society Organizations (CSO's) expect devolution implementation to deliver i) increased citizen participation and inclusivity in governance, ii) enhanced say by citizens regarding natural and man-made resources occurring in and exploited from their areas, iii) increased and more equitable delivery of quality services, iv) closure of intra and inter-regional development disparities, and v) higher governmental transparency, accountability and responsiveness. These expectations are based on the past and continuing negative experiences of rural and urban citizens. The experiences highlight governance weaknesses that devolved governance systems can help resolve. They reflect a general resentment of over-centralization of development planning and governance from before and since Zimbabwe's independence. CSOs therefore seek to engage government in designing devolution appropriately.

### ***Devolution is not about secession***

A clear reflection emerging from ongoing debates is that devolution is a national aspiration expressed by all Zimbabweans. This is important given sentiments that associate the ambition with pronounced grievances related to marginalization by, among others, Zimbabwe's Western Regions of Matabeleland,

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<sup>1</sup> HAMREF received technical support from the Development Governance Institute in developing this paper

<sup>2</sup> Held in Harare on the 5<sup>th</sup> of September 2019

<sup>3</sup> Udugu Institute, working together with national government (Ministry responsible for local government) and the Chartered Institute of Project Managers in Zimbabwe convened Provincial Devolution Dialogues from late 2018 and at the time of producing this paper were making arrangements for the Harare Conference

parts of the Zambezi Valley and Zimbabwe's South Eastern Lowveld. The articulation of the grievances has been seen as raising the risk of some regions seeking to secede. Zimbabwean CSOs consider this risk to be non-existent and potentially fear-mongering. An appropriate model of devolution will obviate the risk should it arise in future. A consequence of this position is that debating devolution should be exorcised of the fear of secessionism. Critically, Zimbabwean CSOs are encouraged by successful devolution implementation in (while recognizing the challenges faced by) Kenya, South Africa, Zambia, eSwatini, Spain and other jurisdictions with multi-level government systems.

### ***A strong national government is critical for devolution***

Devolution is not antithetical to a capable national government. It just allows the 'strength' to be defined in ways that allow equally strong sub-national governments co-governing with it. Implementation of devolution therefore requires a strong national government that delivers on those functions for which it has competence. Particular strong areas include delivering developmental finance, setting standards and macro policy, building capacity and coordinating development within a framework of whole-of-government delivery or performance. CSOs see no contradiction between having such a strong national government and fully devolved provincial/metropolitan governments and local authorities, with which it co-governs. Civil society is committed to help re-define and operationalize improved relations between national and sub-national levels of government in Zimbabwe.

### ***Involves more than transferring resources from the capital***

National governments in over-centralized jurisdictions tend to thrive on 'dispensing favors', capturing local elites and overshadowing local institutions. Notions of inadequate local institutional capacity are exaggerated to justify centralized governance. Effective devolution requires necessary adjustments to tax administration and general revenue sharing, financing mechanisms and natural resource extraction so that visible local benefits are seen. CSOs expect necessary policies and laws to be developed that are consistent with national values (Section 3.2j), Section 301 and other constitutional provisions<sup>4</sup>. CSOs view *equitable sharing of resources* beyond transfers from national government. Expectations are that strategic revenue streams will be defined, developed and protected for exclusive exploitation and semi-autonomous utilization at sub-national level. Additionally, sharing of national tax heads (PAYE, VAT etc.) constitute another area of possible innovations to allow subnational governments to harvest additional revenue based on their human capital and economic contributions.

CSOs are familiar with the governance frailties of local authorities and provincial/metropolitan governments. They expect improvements in terms of better communication with and engagement of residents, clarity on the cost of services, delivery models, available budgets and responsiveness to local needs or priorities. Local authority and Provincial/Metropolitan fiscal stability and high performance are critical for sustainable local development. Devolved governance aids realization of this goal.

### ***Clear and substantive roles and responsibilities for sub-national governments***

Actual relations between the three tiers are expected to be sufficiently clear in terms of responsibility and accountability for decisions related to assigned powers and functions. In this context CSOs have repeatedly expressed concern about a Provincial/Metropolitan tier that is more accountable to the national government through the Office of the President than locally. Government's proposals on the design and operations of the Provincial/Metropolitan Council executive and policy making structures is not inspiring confidence amongst Zimbabwe's CSOs. They reflect a 're-centralization via the backdoor' and a potential violation of Section 270(3) as Provincial/Metropolitan Councils may have little to no control over a Presidential appointee at Provincial/Metropolitan level. To be clear, the concern goes beyond the powers of the President to appoint a Minister responsible for Provincial/Metropolitan issues to the office's lack of horizontal and downward accountability. CSOs expect the laws envisaged by

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<sup>4</sup> Constitution of Zimbabwe Amendment (No. 20) Act 2013

Sections 265(3), 270(2) and 279<sup>5</sup> to frame more fundamental governance reforms than what Principles 6 and 11<sup>6</sup> envisage.

Clearly, there are concerns about the powers of the policy making sides of the Provincial/Metropolitan Councils and local authorities. CSOs expect that these will be expanded and deepened under devolution. These policy spaces are currently less influential making it difficult for them to motivate and engage citizens to participate fully in development. Part of their weaknesses arises from nationally-designed and implemented programs that circumvent them. Sub-national policy makers have been weakened by both the political system of whipping and the intervention by the national executives. Pursuant to devolved powers and functions it is expected that sub-national governments will make appropriate policies, laws, decisions and establish structures to deliver on their mandates. Substantially far-reaching devolution will aid resolution of Zimbabwe's limited participatory governance record.

### ***'Clawed-back' national government powers and presence***

An appropriate devolution model for Zimbabwe is one that re-organizes national government presence and exercise of powers at sub-national levels. In particular, CSOs have repeatedly argued for the need to reflect on the powers of national government Ministers in their relations with the executives of semi-autonomous sub-national government tiers. Concerns have been raised not only about the Ministry responsible for local government<sup>7</sup> but others particularly those responsible for specific resource and service delivery areas. Similar concerns have been raised about Ministries responsible for infrastructure, transport, lands, water, SME regulation, energy, environment and mining. Aspects of inadequate room for sub-national tiers to make decisions, follow them through and confidently engage residents/citizens have been raised. CSOs consider it overdue that devolved Provincial/Metropolitan Councils and local authorities lead all planning and management of development processes within the areas where governmental powers are assigned to them. The design of sub-national structures needs to reflect devolution of substantive powers from national to sub-national levels.

'Clawing back' national government powers include better integration of staff members and departments of deconcentrated national government departments into sub-national structures. This includes state-owned enterprises in sectors like agriculture and mining that should be adequately integrated for development planning and management purposes with local authorities. Integration of security sector structures<sup>8</sup> in Development Committees is also an area to be improved under devolution. At the same time, national government needs to invest in improving the public perception of its agents and agencies at local level including making them accountable to sub-national governments. Where needed stand-alone platforms for interaction can be set up for interaction by heads of public sector agencies of the three levels of government. Arrangements at sub-national level that amplify integrated functionality allow Provincial/Metropolitan Councils and local authorities to be more in charge of and accountable for the development of their areas more than currently.

### ***Transformative policy and law reforms are critical***

Since the 2013 Constitution became law national government's leadership on policy and law making has not sufficiently demonstrated a departure with the past. CSOs consider the reform philosophy to have remained unambitious and steeped in centralized governance. Yet the reality is that more far-reaching law reforms are needed to make devolution work as envisaged in the Constitution. Some laws

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<sup>5</sup> Constitution of Zimbabwe Amendment (No. 20) Act 2013

<sup>6</sup> Government of Zimbabwe (2018) Memorandum to cabinet by the Minister of Local Government, Public Works and National Housing, Honorable July Moyo on the Proposed Provincial Councils and Administration Amendment Bill, November 2018

<sup>7</sup> The majority of CSOs engaged in devolution debates are however those working on local governance issues, less so those working on social and economic development issues

<sup>8</sup> In most jurisdictions the state security function (represented by the Police, the Army and Intelligence) is a national government competence

need to be assessed with a view to amend and possibly repeal them while completely new laws are needed to translate the constitutional ambitions around devolution a reality. These include Regional Town and Country Planning Act<sup>9</sup>, Joint Venture Act<sup>10</sup> and Procurement and Disposal of Public Assets Act<sup>11</sup>. Additionally, new laws that define citizen engagement or participation with the three levels of government are needed as part of ensuring that each level operationalizes devolution in relation to its powers and functions. This is particularly for services where all three or at least two levels of government are involved e.g. on potable water. Some of the existing laws governing inter-governmental relations disempower sub-national governments. This makes it difficult to create appropriate relations with citizens as decision making on critical infrastructure and services is managed by national agencies<sup>12</sup>. This affects the ability of local authorities to provide residents with access to services let alone enlarge the economies of local areas. Implementation of an appropriate model of devolution will thus unshackle sub-national governments allowing them to support local development and job creation.

### ***Inclusion central to devolution operationalization***

Zimbabwe's 2013 Constitution has very expansive provisions on rights generally and the promotion of the rights of specific social groups. These include the elderly, women, children, youth and persons with disabilities. The founding values and principles guiding governance in Zimbabwe (Sections 3, 14, 22, 62, 298 and 301<sup>13</sup>) clearly provide for their rights in a way that makes it mandatory for any implementation of devolution to take them into account. CSOs share the view that government should prioritize the specific requirements of persons with disability in development plans and overall governance based on the principle of i) self-representation, ii) defining resource allocation thresholds, iii) access to information<sup>14</sup>, iv) adding inclusivity to the devolution principles, and v) ensuring that members of marginalized social groups are employed in different roles. Devolution implementation has to specifically speak to the needs of marginalized groups in terms of governance structures and frameworks for delivering services.

### ***Natural resources and related opportunities in devolution***

Communities where black granite, chrome, gold, diamond and other minerals are extracted, timber and fish harvested, those close to major dams and in areas where land has been polluted by companies extracting natural resources have repeatedly raised concerns. These have included displacement, negative health concerns, inadequate local procurement and thus limited support to local jobs and growth, violations of individual rights and closing of access to common resources.

A sense of being 'milked' with nothing to show for it or abused and patronized through shallow corporate social investments has created unease relations between extracting companies and communities of place. Typically, the licensing and overall regulation of extracting companies has rested with national institutions. Sub-national governments and local institutions including traditional leaders in rural Zimbabwe have also felt disempowered leading to resentment of the extractives sector.

Besides extractive sectors devolution implementation is expected to create frameworks that allow equitable distribution of different development opportunities within the country. It is expected that different parts of the country will receive support to i) develop based on their competitive advantages,

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<sup>9</sup> In terms of the limited spatial planning powers that Councils have e.g. central government approval for layouts

<sup>10</sup> Councils are required to identify a partner, discuss and agree, report to Ministry, which in turn reports to the Office of the President and Cabinet (OPC) then Cabinet and often this takes long. As a consequence, investment and partnership opportunities are lost

<sup>11</sup> Tender, adjudication and reporting to Procurement Regulatory Authority of Zimbabwe (PRAZ) for approving tender award e.g. Councils require PRAZ approval to procure materials to attend to water leaks and blocked sewers

<sup>12</sup> The construction of water bodies like Kunzwi, Musami and Muda Dams for Harare Metropolitan is controlled by the Ministry responsible for water

<sup>13</sup> Constitution of Zimbabwe Amendment (No. 20) Act 2013

<sup>14</sup> This includes ensuring that those with hearing impairments access sign language at hospitals, police stations, at the courts and all other public gatherings.

and also ii) receive support to create new development streams or drivers. Strategies in this respect that CSOs expect to be explored may include but are not limited to decentralizing the management of different economic drivers, creation of hubs and supporting incentives for attracting opportunities to Zimbabwe's different regions.

Innovations like the Community-Share Ownership Trusts (CSOTs) have helped address some of these concerns. Their success has however been uneven. CSOs expect devolution implementation to devolve appropriate powers up to community levels, inform review of laws and administrative practices related to the licensing of companies that extract resources from local areas, model CSOT-like arrangements, enhance locals' employment and support the setting of revenue targets for Councils earmarked for infrastructure development. It is important to have better monitoring and authority to be devolved to sub-national governments. This will allow sub-national governments to deal with environmental degradation i.e. repair and preserve the environment, enforce regulations to reduce health hazards and ensure that companies support local social service delivery. Sub-national regulation of Corporate Social Investment or Responsibility (CSI/R) initiatives at local and provincial levels is also critical. Sub-national governments can make laws and structure partnership frameworks that guide companies to invest in infrastructure development based on their levels of operations and revenue.

### ***Conclusion***

Zimbabwe's past and current CSOs were active in agitating for constitutional reforms. This was inspired by a desire to contribute to a different state in terms of design and performance. The inclusion of devolution in the 2013 constitution was in many respects a product of the passion for good macro and local governance. Six years since the constitution was adopted not enough has been done to define the model of devolution to be pursued. The 'New Dispensation Government' has made strides towards implementing devolution. Senior members of the government have engaged citizens inviting ideas. HAMREF is one umbrella agency taking this invitation seriously. By coordinating this position or consensus a process of defining a clear basis for engaging national government and other stakeholders has been created. An independent structure (Task Force, National Commission) is possibly needed to drive devolution implementation. CSOs on their part need a coordination platform to ensure they keep tracking developments and monitoring government efforts. A strategic plan is needed to guide i) a national civic education program, ii) mobilization of informed participation, iii) capacity development support to different CSOs addressing devolution issues, and iv) ongoing lobbying-advocacy of state agencies responsible for devolution implementation at different levels.