

Real or Imagined Local Autonomy

Experiences from Local Government in Ethiopia, South Africa and Zimbabwe

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1 Introduction

Centralized rule has been common in Africa, and almost all African countries implemented, constitutionally or otherwise, programs of centralization from the time they achieved independence from colonial rule. They did so with the declared purposes of modernization, achieving economic development and nation building (Godefroidt, Langer and Meuleman 2016). However, these lofty goals were not achieved; African countries remain characterized by underdevelopment, lack of democratic rule, corruption and ethnic-based conflicts. Many blame the centralized and extremely bureaucratized government and governance systems and decision-making processes for worsening, if not causing, these problems (Addisson 1998; Jackson 2002).

In the past three or so decades, therefore, there has been a general move in Africa towards decentralization and reducing bureaucracy. This trend is part of a global movement, based on the recognition that central government was too big, inaccessible, remote and inefficient in terms of bringing about development and democratic rule (Sharma 2009). Furthermore, thanks to advances in communication technologies, small subnational political units are now capable of efficiently delivering services and infrastructures that hitherto only national government could manage. Technological advancement, therefore, by diminishing the economic role of national government and, concurrently, enhancing the role that subnational political units play in economic matters, has further encouraged decentralization (Sharma 2009). Moreover, in the 1990s, international financial institutions, such as the World Bank and the International Monetary Fund (IMF) put pressure on many African and other developing states to implement Structural Adjustment Programmes, one of the integral parts of which was decentralization, which became a requirement for securing loans from these institutions (World Bank 1999).

Many African states have therefore undertaken a restructuring of their territorial and government organizations (Gore 2000). As part of this institutional

reform, some African countries—for example, Ethiopia, Sudan, South Sudan—have adopted federal-type arrangements. Others—such as South Africa and Kenya—have combined federal and unitary features. Another group of countries—such as Zimbabwe and Zambia—with predominately unitary systems introduced some form of multi-level government arrangements. All of them underscored the importance of allowing local government to enjoy a degree of political, financial and administrative autonomy.

Several questions arise. First, what is the level of local autonomy in these countries? Is it real or just imagined? How has such autonomy impacted on the realization of objectives which necessitated state (re)organization? This chapter seeks to answer these questions by taking three African states—Ethiopia, South Africa and Zimbabwe—as case-studies. It provides an overview of each and outlines the political and economic motives that underpinned decentralization. It then describes the local government structure of each country and assesses whether local autonomy in is real or simply imagined both at constitution/statutory levels and in practice.

2 The Federal Democratic Republic of Ethiopia

Ethiopia is one of the largest and, with over 100 million people, the second most populous country in Africa. With over 80 ethno-linguistic communities, the country has an extremely diverse population (Central Statistics Agency of Ethiopia 2007). It has one of the lowest levels of urbanization in the world (World Bank 2015), and is among the poorest nations: close to 30 per cent of its population lives under the national poverty line. Having been a monarchy for centuries and under the rule of a military junta for two decades, the country has barely any experience of democratic rule. The lack of democratic governance, the mismanagement of the ethnic diversity of the people and the prevalence of poverty led to decades of civil war, ending in May 1991 when the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) assumed power. After a four-year transitional period, the party oversaw the promulgation of the 1995 constitutions which restructured the country on federal basis with a federal government at the centre and nine states as constituent units of the federation.¹

1 The states are Afar, Amhara, Benishangul-Gumuz, Gambella, Hararei, Oromia, Southern Nations and Nationalities (SNNP), Somali and Tigray (FDRE constitution, Art 47).

2.1 *Decentralization in Ethiopia: Motives and Processes*

Ethiopia had an extremely centralized system until EPRDF assumed power and began a process of decentralization which was implemented in two phases. Having diagnosed the key political predicament facing the country as the mismanagement of its ethnic diversity, EPRDF intended the first phase (1991–5) to address the ‘nationality question’ (Gebre-Egziabher and Berhanu 2007). The nine states were structured along ethnic lines, designed to allow ethnic communities to enjoy territorial autonomy. Each of the five largest states (Amhara, Oromia, Tigray, Afar and Somali) has a dominant ethnic community and is considered a ‘mother state’ or ‘homeland’ of the ethnic community whose name it bears (Fessha 2010; Fiseha 2007). Nevertheless, all of the regional states are ethnically heterogeneous. Ethnically structured local government was thus used as the other option for accommodating ethnic diversity at substate level. Some 15 ethnically organized local governments were thus established for substate minorities in Amhara, SNNP, Gambella and Afar states.

The second phase of decentralization was launched in the early 2000s with the aim of ensuring the efficient delivery of basic services so as to reduce poverty in the country (Gebre-Egziabher and Berhanu 2007). The nine states revised their subnational constitutions with the declared purpose of restructuring their local government and devolving to the latter certain local political and financial powers.

2.2 *Local Government Structure in Ethiopia*

There are two categories of local government in Ethiopia: ethnic and regular local governments (Ayele and Fessha 2012). The ethnic local governments are nationality zone (special zone) and *liyu-woreda* (special district). Nationality zones are established as institutions of self-government for intra-state ethnic minority communities occupying a territorial area covering two or more *districts*, while a *liyu-woreda* is established for a community inhabiting a single district. The territorial demarcation of a nationality zone or *liyu-woreda* follows the territorial settlement structure of the particular ethnic community for which it was established (Ayele and Fessha 2012). A nationality zone or a *liyu woreda* is not only an autonomous local unit, it may also secede from its state to become a separate state (see also Ayele 2014). Recently, more than 10 nationality zone councils, the most notable being the Sidama zone, have resolved to secede from the SNNP—f implemented, this would be the end of the SNNP as a state.

The regular local government is comprised of rural *woredas* and cities. In principle, a *woreda* is established in an area inhabited by approximately

100,000 people.² There were 600 *woredas* when the second phase of decentralization began. Now, there are over 800 *woredas* and over 100 cities; it is unclear what the criteria for the additional 200 or so *woredas* (Berhanu 2017). Addis Ababa (the capital of the federation and the largest city in the country) and Dire Dawa are autonomous federal cities which are outside the political jurisdiction of any regional state.³

2.3 *Local Autonomy in Ethiopia*

2.3.1 Local Autonomy at Constitutional/Statutory Level

The 1995 constitution does not explicitly recognize local government as an autonomous third level of government after the federal and state levels. Under the constitution, local government falls within the exclusive competence of the states. However, the constitution makes references, albeit vague and passing, to local government. Article 39(3), which recognizes the right to self-government of every ethnic community, implies that ethnic self-government could be established as the local level and would have some degree of political autonomy. Article 50(4) also suggests the establishment of what is referred to above as a regular local government. Moreover, by linking the establishment of regular local government with the need to ensure democratic participation at the lowest level of government, the constitution implicitly enjoins the state to provide it with some degree of autonomy.

The nine sub-national constitutions recognize the *woreda* as a local-level government with the power to autonomously decide on local matters. They provide that each nationality zone, *liyu woreda*, *woreda* and city should have a representative council composed of elected representatives and an executive appointed by the local council. The executive council (or cabinet) of a *woreda*, *liyu woreda* or nationality zone is composed of a chief administrator and the heads of the various executive organs of that local unit. The chief administrator, who is elected by and from among the members of the *woreda*, *liyu woreda* or the nationality zone council, chairs the executive council of the local unit. A mayoral committee, composed of a mayor and heads of the executive units of a city, serves as the highest executive organ of the city. A mayor is elected by and from among members of a city council when a party which controls the majority of the seats nominates a person

2 For instance, Benishangul-Gumuz regional state has 20 *woredas* (BGRS Proclamation 86 (2010) Art 9 (1), with a total population of 670,847. The average population of each *woreda* in this region is, therefore, approximately 33,000 people.

3 Addis Ababa is constitutionally recognized as the capital; Dire Dawa was federalized by an act of parliament.

for the position from among the members of the city council. In Oromia the regional president appoints mayors (Oromia State Proclamation 116 (2006) Art 2 (6)).

The FDRE constitution does not allocate functional competences to local government since its division of powers is restricted to the federal and regional states (Arts 51 & 52). The state constitutions are also less than clear regarding local government functions. They simply provide that *woredas* can plan and implement their own 'economic development and social services' without defining the relevant functions (Ayele 2014). The functional competences of cities, including the federal cities, are categorized into 'state functions' which include primary education, health care, drinking-water, and agriculture and municipal functions which include cultural and recreational centres, museums, housing, sewerage, street, street lighting, fire-fighting, abattoirs, ambulance services, and the like (Ayele 2014, p. 166). Addis Ababa and Dire Dawa may be assumed to have certain competences on matters that are reserved as state functions under Article 52 of the constitution, even though they cannot trace their competences directly from the constitution. This is so because these cities are not within the jurisdiction of a state. Each derives its authority from a charter adopted by parliament.⁴ Like the regional constitutions, the charters contain general provisions that authorize the cities to formulate policies and design plans for their social and economic matters.⁵

Woredas do not have constitutionally allocated (including by sub-national constitutions) revenue-raising powers, except that they are mandated to *collect*, on behalf of the states, some state taxes and user fees, such as land-use fees. The revenue so collected, however, belongs to the states and cannot be considered as *woredas'* internal revenue. Some states allow *woredas* to raise revenue by collecting income taxes from their employees and collecting service fees. In any case, the main source of revenue for *woredas* is transfers from states, which take the form of unconditional block grants and specific-purpose grants. Unconditional state transfers cover over 70 per cent of *woredas'* expenditure (Ayele 2014; see also Negussie 2006). Cities raise revenue in the form of user fees to fund municipal services. They also receive transfers from the states that they can use for providing state services such as education, water and primary health care. Addis Ababa and Dire Dawa are financially self-sufficient.

4 Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Dire Dawa Government Charter Proclamation No. 416 (2004) & Federal Negarit Gazeta of the Federal Democratic Republic Ethiopia: Addis Ababa City Government Revised Charter Proclamation No. 361(2003).

5 FDRE Proclamation 361 (2003) 11(2) (a & b); FDRE Proclamation 416 (2004) Art 9(2).

For instance, Addis Ababa covers over 90 per cent of its expenditure from internal revenue.

2.3.2 Local Government Autonomy in Practice

In practice, local government enjoys barely any autonomy. While members of *woreda* and city councils are directly elected by the people, local elections are not held as regularly as national and state elections, and may be postponed for various reasons. Addis Ababa was administered for several years by caretaker provisional administrators. Local elections were due to be held throughout the country in May 2018, but political unrest caused their postponement for a year. However, a year later, preparations for local elections were still not under way.

In any case, previous local elections—all elections in Ethiopia for that matter—have been less than competitive, resulting in EPRDF's or its affiliate parties' exclusive control of every seat in every *woreda* and city council. Moreover, EPRDF has a centralized and hierarchical structure in which those running the local-level structure of the party are subordinate to those in charge of the party structure at state and federal level. The subordinate position in the party structure of local authorities mean they can enjoy barely any political autonomy. As Assefa Fiseha argues from field research in Tigray:

In terms of party positions, the heads at the zones ... and regional state are political seniors compared to the wereda administrator and the mayor. The latter are subject to the influence of senior party figures at the higher level. Decisions made at the local level can also be vetoed or reviewed by zones and the regional state ... there is thus a thicker vertical line of accountability of local governments to zones and regional states compared to the weaker/thinner horizontal accountability to elected councils at local level. Thus the state of decentralization in reality resembles a mix of both decentralization and deconcentration, a setback on the autonomy of local governments.

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In addition, when political exigencies demand, local government are even legislatively deprived of their political autonomy altogether. In the 2005 national elections, the one and only competitive election in the country's history, the Coalition for Unity and Democracy (CUD) defeated the ruling party in many urban areas of Oromia, Amhara and other states. Presumably with a view to preventing any chance of opposition parties controlling any city in Oromia, the Oromia state council reacted by enacting a piece of legislation in which it transferred the power to appoint mayors from city councils to the state

president and rendered mayors accountable to the state president. The state thus reduced its cities into agents of the state without an iota of political autonomy.

Furthermore, the states exercise excessive supervisory power over *woredas*, extending from vetoing decisions of local authorities to dissolving *woreda* and city councils. Constitutional and legislative provisions regulating state intervention into local government are often driven by political motives. For instance, the Tigray state constitution had contained no provision for state intervention in *woredas*. Explaining the political motive for the insertion of intervention clauses in the state constitution, Fiseha writes:

Following the TPLF party crisis in 2001 ... a wereda in the central zone was not happy with the way the party and the government managed the crisis in the party and the process of '*tehadiso* (renewal)'. The wereda considered the act of the regional state as undue interference in its autonomy. The then new regional state governor (Tsegay Berhe) and senior party members visited the wereda in an effort to sort out the issues. Yet the wereda did not concede and this was understood as a misuse of wereda level political autonomy. This was unprecedented in the experience of the party and thus called for a more rigorous system of control and accountability on weredas to the higher level.

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As stated above, the state constitutions also do not clearly define the functional competences of *woredas*. The states have unfettered discretion over the functional competences that *woredas* can and cannot exercise. Moreover, under state constitutions and statutes, not only have *woredas* few internal sources of revenue, but they are not entitled to transfers from the states. They receive only grants, which can be denied for political reasons. Furthermore, there is an enormous imbalance between the expenditure needs and the revenue of *woredas*, despite the increased amounts transferred to them in the form of block grants. More than 90 per cent of these go to paying the salaries of *woreda* employees, leaving very little for capital investment in building schools, health-care facilities, and the like (Garcia and Rajkumar 2008, p. 36).

Following three years of public protest that propelled Abiy Ahmed to the premiership, various institutional reforms are now being implemented with the declared purpose of opening up the political space.⁶ Different pieces of

⁶ The public protest began in 2015 in Ginchi (Oromia) when state officials tried to transfer a piece of land for investment. The protest quickly spread to other parts of Oromia and

legislation have been revised and other are in the process of revision, including anti-terrorism laws, electoral law and the media law which EPRDF reportedly used to silence any dissension in the country (Tsige 2019; Ethiopian News Agency (2019)). The institutional reforms and political negotiations are, however, exclusively focused on the federal and, to a very minor extent, state governments. Neither the ruling party nor the opposition seem concerned about democratizing and empowering local government. This is indeed ironic since in the past three decades, opposition parties have lamented that local authorities were the principal impediments to their electoral success. Not only did local authorities harass and intimidate their members and supporters, but they also blocked their access to the public. Meanwhile, the ruling party has accused local authorities of failing to properly execute federal and state policies with respect to land administration, expansion of health care and education and more and of supplying inflated reports of their achievements in expanding the provision of basic services.

The first targets and victims of the angry public protests mentioned above were local government and local authorities. In many areas, the protesters dismantled local institutions and attacked (even killed) or forced local authorities to flee. They did so for two reasons. First, local governments and local authorities were naturally the easiest targets. They were the nearest, in most cases the only, government institutions in most parts of the country. Federal and state governments were too remote for the fuming protesters to attack. Second, the public has witnessed first hand government at the local level going amiss, with entrenched corruption and nepotism and human rights violations. The public expressed its anger and frustration by burning *woreda* offices and attacking local officials. It is common knowledge that, in many parts of Oromia and Amhara, there is barely any functioning local government structure. However, thus far, empowering local government and enhancing its autonomy are not on the reform agenda.

3 Republic of South Africa

South Africa has an estimated population of over 57.7 million, composed of different races, the majority being black, of different ethnic composition

Amhara and the aims of the protesters also evolved to a demand for major political change in the country. The protesters found some sympathizers within the party and eventually Haile Mariam Dessalegn, the former chair of EPRDF and prime minister, resigned, to be replaced by Abiy Ahmed.

(STATSSA 2019). The country is divided into nine provinces, with nearly all of the ethnic groups having what may be called a 'home' province. It is the economic hub of Africa, but faces many challenges, such as unemployment, with the unemployment rate sitting at 27.6 per cent in the first quarter of 2019 (STATSSA 2019). Unlike most of Africa, South Africa only attained majority rule as late as 1994 under an interim constitution, negotiated between the apartheid government and liberation movements, with the African National Congress (ANC) playing a major role, which took the country out of the misery of apartheid rule (de Visser 2009, p. 269).

The first democratic parliament of South Africa adopted the final constitution of South Africa in 1996. Providing, *inter alia*, for an expansive Bill of Rights, a Constitutional Court and a bi-cameral parliament, it is one of the most progressive and transformative constitutions in the world. The constitution entrenches a multi-level system of government, which some scholars deem quasi-federal because of its federal features, even though the constitution does not say so. The ANC has dominated the political landscape since 1994, but its electoral support has slowly diminished over the years.

3.1. *Decentralization in South Africa: Motives and Processes*

Under colonialism and apartheid, the black majority in South Africa had been systematically disenfranchised and exploited. At local government level this was no different. The grand apartheid logic included the establishment of separate local authorities for separate racial groups and the denial of a democratic voice for the black majority (Steytler 2005, p. 184). Furthermore, it included the systematic spatial segregation of racial groups. Establishing an inclusive democracy and extending the right to vote to the black majority in local government was thus a critical element of the constitution-building project in the early 1990s (Steytler 2005, p. 184). At the same time, the entrenchment of local democracy was seen, particularly by the outgoing white nationalists and liberal political forces, as a bulwark against the inevitable dominance of the ANC. Both these factors played a major role in shaping local democracy in South Africa.

Apartheid local governments delivered grossly uneven local government services and deliberately starved black communities of opportunities and resources (Cameron 2014, S81). Underdevelopment and unequal service delivery were key drivers for the new local government system: municipalities were to be tasked with reversing the apartheid spatial logic and make a meaningful contribution to reducing inequality (Powell 2012, p. 12; Steytler 2005, pp 184,187).

The motivation to use local governments to build peace and promote integration was visible in the early stages of the transformation. The first transitional

local government institutions were mergers of existing (apartheid) institutions and representatives of civic organizations who were tasked to jointly manage transitional local authorities (Powell 2012, p. 12). The second transitional phase still mitigated the majoritarian effects of democracy. For example, it insisted on inclusive executive leadership structures at local level, emphasized consensus-seeking and demanded that budgets were adopted with a two-thirds majority. In a move to appease a powerful and potentially disruptive rural constituency, it also acknowledged the status of traditional authorities by including them as *ex officio* members of municipal councils. Upon completion of the transition, however, the structures became more majoritarian. In many cases, the inclusive executive leadership structures were replaced by strong executive mayors. Budgets could now be adopted by simple majority and traditional leaders lost their voting powers in the council. Overall, the insistence on inclusion gave way to a 'winner-takes-it-all' outlook.

3.2 *Local Government Structures*

Local government is constituted by 257 municipalities whose jurisdictions covers the whole of the country. There are three categories of municipalities: metropolitan (category A), local (category B) and district (category C). Metropolitan municipalities have exclusive municipal executive and legislative authority in their areas of jurisdiction (Constitution of South Africa, section 155(1)(a)). There are currently eight metropolitan municipalities, with Johannesburg the biggest both wealth- and population-wise. Local municipalities, which total 205, share municipal executive and legislative authority in their respective areas with the district municipalities (44 in total) under whose jurisdiction they fall (Constitution of South Africa, section 155(1)(b)). The division of roles and responsibilities between local and district municipalities in practice is problematic, partly because it is not clear (Steytler 2005, pp. 192–3). While there is no dispute that local municipalities are the interface with communities and perform community services, the role of district municipalities remains contested (de Visser 2009, p. 273).

3.3 *Local Autonomy at Constitutional or Statutory Level*

Local government is recognized in the constitution as the third and lowest sphere of government, the other senior spheres being the national and the nine provincial governments. These three spheres of government are distinctive, interdependent and interrelated (Constitution of South Africa, section 40(1)). Unlike in many countries with multi-level forms of government, the institution of local government in South Africa has the highest form of protection through the constitution. The protection extends to individual municipalities,

which may not be arbitrarily abolished or merged. The same level of safeguards applies to the boundaries of these municipalities, which may not be arbitrarily altered. Local government has representation in the second chamber of parliament, the National Council of Provinces (NCOP), and the Finance and Fiscal Commission (FFC).⁷ The constitution widens opportunities for the protection of local autonomy by requiring that national and provincial legislation that affects the institutions and functions of local government may not be enacted without the consultation of organized local government (Constitution of South Africa, section 154(2)).

The legislative and executive authority of each municipality are vested in its council (Constitution of South Africa, section 151(2)). Half of the members of the council in metropolitan and local municipal councils are elected under a ward-based majoritarian system, the other half under a system of proportional representation.⁸ District councils are constituted by some members (40 per cent) elected under a system of proportional representation, while others (60 per cent) are nominated by local councils in the relevant district area. This electoral system enables political parties to determine who becomes a councillor, entailing the accountability of local leaders to 'political leadership rather than to the community' (Cameron 2014, S88).

A council may delegate executive decision-making authority to an executive mayor or an executive committee chaired by a mayor. Both the executive mayor and executive committee are elected by the council from its membership. While the executive committee must be representative of the entire composition of the council, this requirement does not apply to a mayoral committee which assists the executive mayor. The executive mayor can simply handpick any councillors to constitute this 'cabinet'. In rural areas, traditional leaders are only *ex officio* members of the council, but they may not constitute more than 20 per cent of councillors. The reduction of their role to advisory status continues to anger many traditional leaders, who feel that they deserve voting rights (de Visser 2009, p. 273). The council may establish different structures and procedures for the effective functioning of its duties.

Municipalities in South Africa have service-delivery duties, and also a development mandate. Section 151(3) of the constitution states that a '[m]unicipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided

7 The FFC is a constitutional body that advises government on intergovernmental fiscal relations.

8 In councils with less than seven members a system of proportional representation is followed exclusively.

for in the Constitution'. The national and provincial governments are prohibited from compromising or impeding a municipality's exercise of this right (Constitution of South Africa, section 151(4)). Each municipality is required to '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' (Constitution of South Africa, section 153(a)). Municipalities have an obligation not only to focus on their own development programs, but also to participate in those of the national and provincial governments (Constitution of South Africa, section 153(b)). The constitution equips municipalities with expansive powers and functions to enable them to fulfil their service-delivery obligations and development mandate. The power of each council to make and implement its own laws and policies derives directly from the constitution (Constitution of South Africa, section 156(2)).

The constitution further enumerates 39 functional areas which municipalities have the right to govern, including water and electricity reticulation, land-use planning, municipal public transport, municipal roads, building regulations, street trading, municipal health and refuse removal. The national and provincial governments may regulate the exercise of these functions (Constitution of South Africa, section 155(7)) and assume a local responsibility if a municipality fails to undertake it effectively (Constitution of South Africa, section 139 (1)). However, national or provincial law 'could be trumped by a local law if [it] would "compromise or impede" local government's functioning' (Steytler 2005, p. 185). Moreover, the exercise of intervention powers is strictly limited and subject to the oversight of intergovernmental bodies such as the NCOP.

While assigning to local government a variety of functions, the constitution does not give municipalities all the relevant functional areas for delivering major services, particularly in urban settings (Cameron 2014, S82). Housing, which is a national and provincial competence, is a good example. However, the constitution entrenches the principle of subsidiarity by requiring national and provincial governments to assign any of their functions if they can be effectively exercised by a municipality and if that municipality has the capacity to do so (Constitution of South Africa, section 156(4)). Moreover, municipalities are empowered with incidental powers, that is, those powers that are necessary for the effective performance of their functions.

An expansive list of functional areas is matched by a variety of revenue streams for municipalities that are protected by the constitution. Municipalities, and only municipalities, can raise revenue by imposing property rates and surcharges on fees for services provided (Constitution of South

Africa, section 1). National legislation can also permit municipalities to impose other forms of taxes, levies and duties—excluding income tax, value-added tax, general sales tax and customs duty. Municipalities can also borrow money to finance their capital and current expenditure priorities (Constitution of South Africa, section 230A(1)). The exercise of these revenue-raising powers is regulated by national legislation, but not at the expense of local autonomy.⁹

The equitable division of revenue raised nationally among the three spheres of government is also provided for in the constitution to ensure the financial sustainability of municipalities. The division of revenue occurs through an annual enactment which can only take place after the provincial governments, local government and the FFC have been consulted and the recommendations of the latter considered (Constitution of South Africa, section 214(2)). Importantly, any additional revenue raised by a municipality may not be deducted from its share of revenue raised nationally or any other allocations from the national government (Constitution of South Africa, section 227(2)). This is an encouragement for municipalities to exercise their fiscal powers fully. On the other hand, there is no obligation on the national government to provide financial support to municipalities that fail to fully exercise their fiscal powers or that overspend. Besides the equitable share, municipalities may receive other allocations from the national government which may be conditional or non-conditional (Constitution of South Africa, section 227(1) (b)). While there are concerns around the distribution of grants to local government, metros and other larger municipalities are largely self-financing (Cameron 2014, S94).

3.4 *Local Autonomy in Practice*

It has been argued that the 'legal and constitutional recognition of local government is impressive and propels it to a status that at times equals or surpasses that of provincial government' (de Visser 2009, p. 268). This is correct, considering that local autonomy is real, perhaps primarily because the constitution has made it so, unlike provincial autonomy. What is as important as the text of the constitution is the willingness of municipalities to assert their constitutional status and the willingness of the courts to protect it. Municipalities are increasingly asserting their autonomy in the political arena, but also in the courts. This has resulted, for example, in a firm jurisprudential trend in the Constitutional Court to disallow any national or provincial interference in the

9 See, for instance, the Local Government: Municipal Property Rates Act 6 of 2004 and Municipal Fiscal Powers and Functions Act 12 of 2007.

exercise of original municipal executive powers such as decisions on land-use management. This does not mean, however, that there are no strong centralizing tendencies.

While urban municipalities raise a significant portion of their own revenue, rural municipalities are largely grant-dependent. In any event, capital investments by local governments are mostly driven by grant funding (or, in some cases, borrowing). Thus, the impressive constitutional entrenchment of local resource-raising powers is 'not matched by financial buoyancy in many municipal areas and is under pressure from centralising tendencies' (de Visser 2009, p. 281). The tight regulation of local government governance and financial management is also considered to have a centralizing effect (Powell 2012, pp. 15, 17). However, party politics has by far the greatest impact. The ANC controls the vast majority of municipalities and practises 'democratic centralism', a political principle that significantly constrains the discretion of its local politicians. The main opposition, the Democratic Alliance, controls a significant share of municipalities, primarily in the Western Cape and also subjects key decisions of local politicians to central approval. Almost all political parties which have representation in local councils play a significant role in determining who occupies key local positions (Steytler 2005, p. 194). Thus, the constitutional entrenchment of local autonomy 'co-exists with party centralisation' (Cameron 2014, S88).

The full realization of local autonomy in practice is also undermined by several other factors that are both within and outside of a municipality's control. For instance, legislation and policy interventions by national and provincial governments do not always respect the principle of local autonomy. The overlap of functional areas among the three tiers of government complicates the scope for municipalities to fully exercise their autonomy. Skills shortages continue to undermine effective administration, particularly in poor small towns and rural municipalities (Powell 2012, p. 11) (Steytler 2005, p. 194). The discussion cannot be complete without mentioning corruption, in all its manifestations, which continues to hamper effective local administration and service delivery (Cameron 2014, S88; Powell 2012, p. 19).

3.5 *The Impact of Local Autonomy in Realizing Decentralization Objectives*

Having established that in South Africa local autonomy is real, the critical question is how such autonomy affects local government's potential to realize the objectives usually associated with multi-level governance. Has it been successful in responding to the pressures that gave rise to its entrenchment? These questions are answered below. It should be noted that strong constitutional

protection for local government does not automatically translate into strong municipalities in practice. In South Africa 'many municipalities are incapable of asserting their financial and political autonomy for reasons both within and beyond their control' (de Visser 2009, p. 268).

Municipalities remain at the centre of state delivery of public services in South Africa. While significant strides have been made in extending access to basic services to the previously disadvantaged black population, public service delivery is failing to match people's expectations (Cameron 2014, 583). Both the quality and quantity of public services remain a key concern. Some citizens continue to receive better public services than others; some do not receive any services at all. Service-delivery protests are perhaps the best indicator of dissatisfaction levels. The fact that such protests have gradually increased over the years and are growing more violent indicates that the constitutional entrenchment of local autonomy has not translated into universal access to quality public services (Powell 2012, p. 22).

When it comes to counterbalancing the centre, local autonomy has acted as a brake on central power, perhaps more so than provincial autonomy. A number of significant, centralizing reforms were stalled and ultimately abandoned as a result of local government invoking its autonomy in the political domain. Nevertheless, between 2000 and 2016, centralizing tendencies in finance and politics remained strong. With the ANC controlling the vast majority of municipalities, opposition to the central government played itself out mainly within the structures of the ruling party and in the intergovernmental arena. The scene was set for this to change in 2016 when the ANC lost majorities in South Africa's largest cities. However, it has not yet led to a groundswell of opposition.

It is fair to say that local government has made a considerable contribution to building peace in South Africa, particularly in the earliest years of the current dispensation (Powell 2012, p. 14). The process of designing the local government system and transitioning it played a key role in holding the nation together. The transitional phase was characterized by peace-building mechanisms that contributed to sustaining local pacts during those volatile first years of independence. As the systems settled, municipalities gained more powers and became more and more political. Furthermore, as budgets grew and financial discretion increased, the elements of greed and corruption tore away at the integrative potential of municipalities.

The greatest faultline in the integrative and peace-building potential of local government is ever-widening income disparity (Powell 2012, p. 17). While municipalities cannot be blamed for economic stagnation and widespread unemployment, they carry considerable blame for not using their built environment functions to break the back of apartheid spatial segregation. The

spatial injustice carried over from apartheid persists; black and white continue to live separate lives, kept apart by apartheid buffer zones, inadequate public transport systems and privatized security. There are other factors which inhibit integration: protests against failing municipalities are strictly along race/class lines (street protests versus rates withholding and court cases); simmering ethnic tension sometimes spills over into outright ethnic territorial claims and an increase in political killings in local government (Powell 2012, pp. 22–23). However, the door for local government to continue to contribute to national integration remains open, given that it has some of the necessary instruments to do so.

Local government autonomy has been a game-changer in entrenching multiparty democracy. The combination of an electoral system based on proportional representation and strong local autonomy offered avenues for opposition parties to grow. This opposition grew firstly, and mostly, in the cities, which emerged as strong centres of power on the back of their autonomy. Intergovernmental relations, hitherto mostly conducted in centralized party structures, were increasingly being conducted across party lines. The fact that the intergovernmental (fiscal) system continues to survive (albeit perhaps with limited conviction) is testimony to the deepening of South Africa's multiparty democracy. There is no doubt that local autonomy played an important role in that. With respect to other indicators, such as voter turnout in local elections, the emergence of local parties and the role of independents, the impact of local autonomy has been muted. Turnout is relatively low, local parties have not emerged as a particularly strong force in local government, nor have independent councillors.

4 The Republic of Zimbabwe

Zimbabwe is a landlocked country in Southern Africa with a population of over 17 million people (ZimStat 2019). The country is divided into 10 provinces, which are subdivided into several administrative districts. The Shona are the dominant ethnic group, followed by the Ndebele and other minority ethnic groups. Zimbabwe achieved independence from Britain in 1980 under the Lancaster House constitution, negotiated by the liberation movements and the British and Rhodesian governments. Since then, the country has been under the rule of the Zimbabwe African National Union–Patriotic Front (ZANU–PF). Once known as the jewel of Africa, Zimbabwe has experienced deep political and economic struggles which became more pronounced

after 2000.¹⁰ In 2009 a government of national unity (GNU),¹¹ constituted by major political parties,¹² managed to stabilize the political and economic environment.

The GNU also successfully steered the adoption of a new constitution in 2013,¹³ which is progressive in many respects. It established a new Constitutional Court at the apex of the judiciary, provides for a wide array of constitutional bodies with a mandate to promote and sustain democracy and requires multi-level governance. The harmonized elections of 2013 and 2018, held under the new constitutional dispensation, were won by ZANU–PF (though under disputed circumstances). Hence it is no surprise that the electoral victory of ZANU–PF has failed to translate into the popular legitimacy needed to steer political and economic stabilization. A military-assisted transition in November 2017, otherwise described as a coup d'état or soft coup, culminated in the removal from power of the long-time ruler, Robert Mugabe. Mugabe's successor, Emmerson Mnangagwa, also of ZANU–PF, has signalled that his government will implement devolution. There is, however, nothing significant on the ground, outside of his pronouncements, to back up his words (Mapuva and Miti 2019). The nature and objectives of devolution to be implemented are also unclear.

4.1 *Decentralization in Zimbabwe: Motives and Processes*

The adoption of a multi-level system of government in Zimbabwe, under which sub-national governments exercise devolved powers, was heavily contested during the constitution review process (2009–13) (Chigwata 2018, pp. 58–9). The entrenchment of decentralization was meant to realize a number of goals linked to development, service delivery, democracy, national integration and peace. Zimbabwe had experienced a steady deterioration of public services prior to the introduction of more autonomous local government in the 2013 constitution. From the early 2000s, the state delivery of public services, including by local government, had begun to fail, primarily due to the economic crisis that was being experienced (Muchadenyika 2015, p. 115). For example, local government's failure to supply safe drinking-water and proper sanitation

10 For instance, in October 2018 inflation reached more than 16% and continues to grow (ZimStat 2019).

11 The GNU was an outcome of a peace agreement facilitated by the former president of South Africa, Thabo Mbeki.

12 ZANU–PF and the two Movement for Democratic Change political formations.

13 Constitution of Zimbabwe, Amendment No. 20.

resulted in several cholera and typhoid outbreaks. Local autonomy was thus seen as a vital element in improving local government's ability to improve the delivery of public services.

The centralized system of government, which ZANU–PF inherited from the British settlers and developed after independence, had proved incapable of driving equitable development (Mhlanga 2012). The entrenchment of local autonomy was therefore motivated by the desire to empower people in different parts of the country to champion their own development (Mapuva and Miti 2019, p. 15; Moyo and Ncube 2014, p. 294). There was a need to establish democracy at the local level in order to give back power to the people (Muchadenyika 2015, p. 116; Moyo and Ncube 2014, p. 294). Local autonomy would promote citizen participation, entrench multi-party democracy and enable vertical accountability. Since the top-down approach had failed, it was thought that building democracy from below was the ultimate solution to Zimbabwe's problems.

Independent Zimbabwe has generally been peaceful. However, disturbances in the Ndebele-dominated provinces in the early days of independence were attributed to claims that the Shona-dominated ZANU–PF government marginalized those provinces and favoured the Shona region (Mhlanga 2012, pp. 207, 209, 218). Other minority ethnic groups, such as the Tonga and Kalanga who generally occupy the border areas of the country, have expressed similar sentiments. Surprisingly, though, some Shona tribes in places such as Manicaland province have also complained of marginalization (Moyo and Ncube 2014, p. 296). Against this background, local government was seen as a means for minority groups to exercise a measure of self-government (Chigwata 2018, p. 59). The ultimate objective is to promote national integration and peace within the confines of a unitary state (Mapuva and Miti 2019, p. 15).

4.2 *Local Government Structure in Zimbabwe*

Local government in Zimbabwe is constituted by 32 urban and 60 rural local authorities. There is a single category of rural local authorities, but three types of urban local authorities: municipal councils (cities and municipalities), town councils and local boards. The population sizes of cities, municipalities and towns varies considerably, from a couple of thousand to Harare's more than 1.5 million residents. The jurisdictions of rural local authorities also vary both in physical size and population numbers. What is peculiar to rural areas is that rural local authorities govern alongside the institution of traditional leadership constituted by chiefs, head persons and village heads. While traditional leaders can make certain decisions, rural authorities are the ultimate decision makers. Traditional leaders are, however, the immediate form of local government in these areas, and thus have the most contact with the citizens (Chigwata 2018, p. 19).

4.3 *Local Autonomy in Zimbabwe*

4.3.1 The Constitutional Place of Local Government in Zimbabwe
While Zimbabwe remains a unitary state, the 2013 constitution required the establishment of a multi-level form of government (Constitution of Zimbabwe, sections 1 and 5). Local government is recognized as the third and lowest tier of government after the national and provincial governments (Constitution of Zimbabwe, section 5(c)). Thus, the existence of the institution of local government is constitutionally protected; its division into urban and rural local authorities and the establishment of different types of local authorities within the urban–rural typology are also recognized.

Democratic governance is at the centre of the system of local government under Zimbabwe's new constitution. Both urban and rural local authorities are governed by councils constituted by councillors directly elected by the citizens of that jurisdiction (Constitution of Zimbabwe, section 265(2)). The councillors, who are elected under the first-past-the-post electoral system, are voted into office on the same day as the president, members of parliament and members of provincial governments (Constitution of Zimbabwe, section 277(1)(a)). The direct election of all councillors is a departure from the previous constitutional position, where some councillors were elected while others were appointed by the national government. Cities and municipalities are led by a ceremonial mayor who is elected on the first day the council sits from among its membership. Town councils, local boards and rural local councils are led by a ceremonial chairperson also elected from the membership of the council. The constitution, however, allows mayors and chairpersons of urban local authorities to exercise executive decision-making powers provided that they are directly elected by citizens in the relevant communities (Constitution of Zimbabwe, section 274(5)).

The 2013 constitution requires the devolution of powers and responsibilities to the local government level and empowers every local authority with the right to govern its area and with 'all' the necessary powers to do so (Constitution of Zimbabwe, sections 264(1), 276(1)). Furthermore, the provision gives every local authority a certain level of discretion when undertaking this governing role. Section 276(2)(a) envisages local authorities exercising law-making powers for the effective discharge of their responsibilities.

While investing local government with these 'generic' powers, the constitution does not set out their functional areas. This is left to the determination of national legislation. Under existing primary local government legislation, local authorities have a variety of functional areas that have significant implications for people's lives, including water supply, refuse removal, land-use planning and the provision of sanitation, education, fire-fighting and health services.

City councils and municipalities enjoy more discretion in carrying out these functions than town councils, local boards and rural local authorities. The relevant pieces of legislation that assign responsibilities to local authorities are yet to be reformed in line with the 2013 constitution. It is expected, however, that even when this reform process takes place, local government will retain most, if not all, of the functional areas they are currently responsible for. What may change is the level of discretion they are granted over them.

The 2013 constitution envisages local authorities exercising some resource-raising and spending powers, but the exact nature and extent of these powers is again left to the determination of national legislation. The existing local government legislation empowers local government to raise revenue in various ways. Local authorities can impose property rates, levies, fees and charges; they are allowed to borrow money internally and externally to finance recurrent and capital expenditure; and they can also engage in a diversity of income-generating projects to mobilize resources needed for service delivery and development. To ensure the financial sustainability of local authorities, the 2013 constitution introduced the new requirement that national revenues in each financial year must be shared equitably among the three tiers of government (Constitution of Zimbabwe, section 298(1)(b)(ii)). The constitution further stipulates that at least 5 per cent of such revenue should be shared equitably between and among provincial and local governments (Constitution of Zimbabwe, section 301(3)). However, as of 2019, no such equitable revenue-sharing system was in place.

The extent to which the 2013 constitution actually entrenches local autonomy is debatable. It determines clear and enforceable boundaries with respect to local democracy, with respect to the election of local leaders. However, it does not provide in clear terms for any other aspects of autonomy, such as the security of existence of local authorities, their powers, their revenue and their administrative autonomy. These matters are left to parliament. As discussed in detail below, the courts have not yet added their voice to clarify the boundaries of local autonomy. A number of provisions that touch on some aspects of local autonomy have not yet been tested.

4.4 *Local Government Autonomy in Practice*

There is a big difference between the constitutional framework for local autonomy and what is happening in practice. Local autonomy largely remains on paper, with the government putting in little effort to ensure that it is realized in practice. According to Mapuva and Miti (2019, p. 15), 'events on the ground seem to show lack of political will to implement devolution for fear of losing power to local communities'. They further argue (2019, p. 15) that 'the major

reason for lack of political will for implementation of devolution is that the current crop of political leaders does not want to share power'. Their view is supported by Cameron (2014, S82), who contends that '[n]ational elites often fear losing power at local-government level' and tend to undermine local autonomy, especially when opposition political parties control strategic local authorities, such as the capital city.

In Zimbabwe, the legislative reforms required to implement devolution or operationalize the constitutional framework on local autonomy have not been enacted more than six years after the adoption of the constitution. This reluctance suggests that the ZANU–PF-dominated parliaments have had insufficient political will to make local autonomy, and devolution in general, work (Moyo and Ncube 2014, p. 303; Mapuva and Miti 2019, p. 13). This means that some of the broad powers endowed by the constitution have not been given practical effect. The judiciary has not helped the cause. Several court challenges aiming to clarify the autonomy of local governments have not been heard or concluded. In the few cases that have been concluded, the courts do not seem prepared to uphold the elevated status of local government enshrined in the new constitution.

The national government has also undermined local autonomy by reversing the process of decentralization (Moyo and Ncube, 2014, p. 230). Not only has it retained key decision-making powers on local affairs, it has recentralized some of the responsibilities previously undertaken by local government—for instance, motor vehicle licensing, which had been a reliable revenue stream for (mostly opposition-controlled) urban local authorities.

A major obstacle to achieving local autonomy are the huge economic problems that hinder resource mobilization by the state as a whole (Moyo and Ncube, 2014, p.302). There are insufficient resources to fund the operation of existing structures and establish new structures. For decades in Zimbabwe the national government has not been in a position to provide meaningful support to local authorities. While acknowledging the impact of the underperforming economy, some scholars believe that misplaced or skewed priorities, where significant resources are used in fighting to consolidate power rather than on matters that directly affect public welfare, are a more fundamental explanation (Mapuva and Miti 2019, p. 13.)

4.5 *The Impact of Local Autonomy in Realizing Decentralization Objectives*

The 2013 constitution promised a better life for ordinary citizens after decades of economic crisis which led to the deterioration of public service delivery. At the least, this means that citizens should be able to access basic public services, irrespective of where they reside. However, more than six years later, little has

changed. The cholera outbreak of September 2018 was a good indicator of the poor state of public service delivery, particularly access to potable water and proper sanitation. One of the reasons for this continued failure is that the local autonomy enshrined in the constitution has yet to be realized in practice.

Equitable development remains a pipe dream in Zimbabwe. Governmental powers and resources are still centralized in Harare, with the national government determining who gets what and where. Natural resources in various parts of the country are exploited, but most of their proceeds continue to support development at the centre. Even where these proceeds are distributed to the local level, they are usually channelled through centrally controlled structures such as deconcentrated agencies of the national ministries, the army and traditional leaders (Mapuva and Miti 2019, p. 16). Democratically elected local councils are therefore often marginalized, despite having advantages such as better familiarity with local environments.

Local autonomy has also yet to achieve its potential for counterbalancing the centre. As we have seen, local governments have not been able to assert their autonomy. And as the constitution is relatively new, the multi-level system of government has yet to gain traction. In practice, central government continues to treat local government as an easily macro-managed extension. There is a clear gap between the constitutional intentions and what is happening in practice. However, with the opposition Movement for Democratic Change controlling 28 of the 32 urban local governments, including the two biggest cities of Harare and Bulawayo, there is vertically divided authority—‘which occurs when different political parties control disparate levels of government’ (Cameron 2014, S81). Thus, opportunities for vertical oversight exist, especially if the constitutional provisions that speak to local autonomy were to be taken seriously.

The potential of local autonomy to hold the nation together remains untested, since the constitutional framework for local government is yet to be fully implemented. No measure of local self-government promulgated in the 2013 constitution has been realized to date. It is therefore no surprise that minority groups still complain of marginalization. The question is for how long will these groups be satisfied to pursue non-violent means of amendment. At what stage will they consider other options, including secession? Mhlanga (2012, p. 210) argues that the ‘continued suppression of [devolution or local autonomy] might create fissures that like in a boiling pot, will lead to an uncontrolled pro-secessionist eruption in the future’. The constitution requires devolution of governmental powers and resources to hold the nation together—in other words, to prevent secessions. The non-implementation of devolution may threaten national integration.

The effects of local autonomy on democracy are mixed. On the positive side, multi-party democracy is gaining traction and would have been blossoming, if it were not for elections which are often disputed. In urban areas, the parties in power at the national and local levels are often different, which is good for accountability. We are seeing a diversity of candidates, particularly independence candidates, contesting local elections. On the negative side, holding presidential, parliamentary and local elections simultaneously has not been beneficial for the state of local government and democracy, in general. Councillors are often elected not on their basis of their personal performance or profile, but rather on the basis of their party. As a result, the link between voter and representative tends to be weak (Chigwata 2018, p. 431). We are also seeing fewer and fewer women contesting positions at all levels of government. Meaningful opportunities for citizen participation in between elections at all levels of government remain scarce. Thus the progressive constitution appears to have delivered no significant benefits for direct participatory democracy (Mapuva and Miti 2009, p. 16).

5 Comparative Conclusion

The discussion of the three case-studies bring to the fore three important points. The need to achieve democratic participation and enhance public service delivery is a common denominator underlying decentralization in the three countries. Ethiopia alone explicitly seeks to use local government for dealing with challenges of ethnic diversity, whereas South Africa and Zimbabwe lack any constitutional levers allowing the territorial management of ethnic diversity at the local level.

Second, the case-studies reveal marked differences in the constitutional place and status of local government and its implications for the autonomy of local government. Local government in Ethiopia has barely any constitutional recognition, except to the extent that it is linked with the right to self-rule of intra-state ethnic minorities. In the dual federal system of Ethiopia, local government is an exclusive competence of the states with little constitutional protection. In the absence of explicit constitutional principle requiring the states to provide local government with a degree of political autonomy, the states seem to have chosen to allow a very limited political and financial autonomy to local government. The Zimbabwean constitution leaves matters affecting local autonomy to be legislatively defined. For instance, parliament is authorized to define sources of local government revenue, but as of 2019 had not done so. At the other extreme, the South African constitution not only recognizes

local government as one of the three spheres of government, but specifies both local government competences and sources of revenue. Local government in South Africa hence enjoys both political and financial autonomy. Whenever the autonomy of local government is challenged, the Constitutional Court comes to the rescue.

Third, all three countries are characterized by the existence of a dominant political party. In Ethiopia, EPRDF controls all levels of government, including every city and municipality. In South Africa, the 'one-party dominance across the three spheres of government has enabled the ANC to iron out, within party structures, many tensions and disagreements between organs of state' (de Visser 2009, p. 275). In Zimbabwe, ZANU–PF controls all the rural local authorities, but only 4 of the 32 urban local authorities. Any differences or issues with rural local authorities are ironed out in political rather than government structures. The relationship with urban local authorities is typically confrontational and conflictual, with local government mostly on the losing side.

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