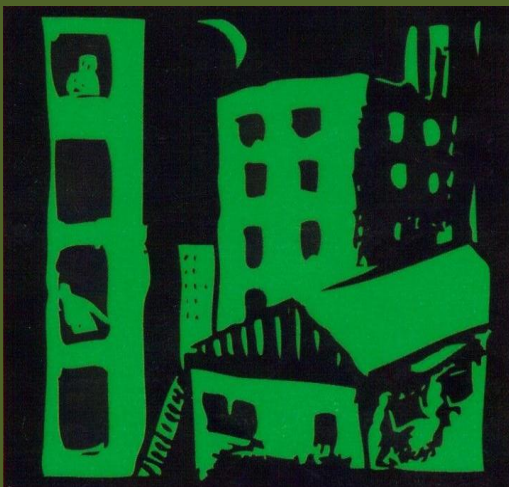


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Supervision of local government in Zimbabwe: The travails of mayors

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ABSTRACT

The discourse on decentralisation theoretically supports central government supervision of local government. The exercise of such powers by the central government of Zimbabwe is mired in controversy. Mayors are often suspended and/or dismissed to safeguard so-called “public interests”. In particular, those who are from the opposition political party, the Movement for Democratic Change, have been greatly affected in this regard. The supervisory interventions of the Zimbabwe African National Unity-Patriotic Front led national (central) government have raised questions about the very existence of local democracy and the parameters within which supervision should be implemented. The inadequacy of the laws regulating central supervision over local government and, in some cases, the blatant disregard of such laws by the supervising authority have left mayors vulnerable to arbitrary suspensions and/or dismissal. Such interventions have been motivated mainly by sinister political objectives rather than a genuine desire to improve local governance. A case study methodology focusing on the supervision of mayors in Zimbabwe since independence has been adopted.

Keywords: Local government, local autonomy, mayors, supervision, power politics, decentralisation, Zimbabwe

1. INTRODUCTION

The end of the Cold War in the early 1990s saw a wave of democratic decentralisation sweeping across Africa. New local governments were created whilst existing ones were strengthened. Throughout the continent, democratically elected subnational entities emerged. Under the leadership of local officials, such as mayors and chairpersons, local governments were assigned various powers and responsibilities. Nevertheless, national (central) governments retained substantial supervisory powers over local government. In Zimbabwe, the use of such supervisory powers by the national government has often been mired in controversy. The Zimbabwe African National Union-Patriotic Front (ZANU-PF) led national government often suspends and even dismisses mayors often in the name of preserving “public interests”. In what appears to be by design rather than coincidence, most of the suspended and dismissed mayors were aligned to the opposition political party, the Movement for Democratic Change (MDC). The supervisory interventions have certainly undermined local democracy. Questions have also arisen about the adequacy of the legislative framework within which central supervision is exercised. With the adoption of a new Constitution in 2013, hopes were raised that arbitrary supervision would be kept to the minimum and eliminated at best. This is yet to be realised in practice. The culture still persists well after adoption of the new Constitution which, among other things, is meant to promote local democracy, in particular by protecting locally elected officials from arbitrary suspension and removal

from office. The controversial exercise of supervisory powers has, over the years, undermined the role of local authorities in meeting their service delivery obligations.¹

In general, the suspension and dismissal of mayors in Zimbabwe seem to be less a reflection of genuine supervision but more a manifestation of power politics at play. In this regard, local government supervision has turned out to be a powerful tool for gaining political advantage at the disposal of the ZANU-PF led national government.² Mayors that pose a real or perceived threat to central control often do not escape the “hard hand” of the national government. Ruling party officials are sometimes not immune to these political machinations. Naturally, the control of urban municipalities by opposition parties heightens prospects for a power struggle and amplifies the tension between national government and mayors. This explains why the frequency of harassment, suspension and dismissal intensified and the role of mayors was reviewed after the MDC took control of major urban councils in the early 2000s. The article situates the supervision of local government in the literature before briefly describing the system of local government in Zimbabwe. The theoretical framework is followed by an analysis of cases of mayoral supervision by national government since independence in 1980. The discussion ends with concluding remarks drawing general observations and policy implications.

2. SITUATING THE USE OF SUPERVISORY POWERS: A THEORETICAL FRAMEWORK

Decentralisation is associated with a number of benefits linked to democracy, development and peace.³ It can enhance democracy by widening opportunities for citizens to participate in governance and by holding governing authorities accountable.⁴ Decentralisation serves as a peace-building and conflict management mechanism, especially in ethnically diverse societies, by providing a measure of self-government to minority groups.⁵ It can also improve the quality of the decisions on how public resources are deployed and thus can have a positive impact on citizens’ welfare.⁶ The potential of decentralisation to realise these and other benefits relies on the design of the decentralisation programme, the existence of sufficient political will and capacity,

¹ Chakaipa S “Local government institutions and elections” in De Visser J, Steytler N & Machingauta N (eds) *Local government in Zimbabwe: a policy dialogue* (Bellville: Community Law Centre, University of the Western Cape 2010) at 31-68; Muchadenyika D & Williams J “Social change: urban governance and urbanisation in Zimbabwe” (2016) 27 *Urban Forum* 253 at 257-258.

² Jonga W & Chirisa I (2009) “Urban local governance in the crucible: empirical overtones of central government meddling in local urban councils affairs in Zimbabwe” (2009) 3(12) *Theoretical and Empirical Researches in Urban Management* 166 at 168.

³ See Ladner A *et al Patterns of local autonomy in Europe* (London: Palgrave Macmillan 2018) at 6 and 8; Resnick D “Urban governance and service delivery in African cities: the role of politics and policies” (2014) 32(s1) *Development Policy Review* 3 at 6.

⁴ Manor J “Understanding decentralisation: key issues for successful design” in Ojendal J & Dellnas A (eds) *The imperative of good local governance: challenges for the next decade of decentralisation* (New York: United Nations University Press 2013) at 33.

⁵ Manor (2013) at 33.

⁶ USAID *Democratic decentralisation programming handbook* (Washington DC: USAID 2009) at 5.

among other factors. The potential negative impacts of decentralisation, such as, corruption, decreasing stabilisation, and inequalities, are equally recognised in the literature.⁷

Normatively, when it comes to institutional design, scholars concur that if local government is to promote development, democracy and peace, it should enjoy a certain level of autonomy over the responsibilities which it has authority to discharge.⁸ While it is widely acknowledged that autonomy is important, there is, however, no agreement among scholars on what this concept entails. Chigwata and De Visser define autonomy as “the extent to which local governments have discretion in carrying out their duties and obligations”.⁹ They argue that the discretion applies to the raising and expenditure of revenue, appointment and dismissal of staff, determination of internal organisation, and adoption and implementation of laws and policies, among other things.¹⁰ Ladner *et al* consider local autonomy “as both as a right and an ability —as consisting of a series of sub-dimensions”.¹¹ For them, local autonomy “implies the legal right to manage public affairs within the limits of the law but also the necessary political, administrative and financial resources that a local government should freely dispose of to carry them out effectively”.¹² While scholars emphasise different aspects, it is undisputed that local autonomy “provides subnational officials with flexibility to respond more effectively to local conditions and the specific needs of local people”.¹³ There is also a general consensus that without a guaranteed level of local autonomy, the potential of decentralisation is limited. Most functioning municipalities “are positively related to local autonomy or—as it is assumed—are direct products of local autonomy”.¹⁴ Thus, local autonomy “has become something to be achieved, an aim responsible political leaders should crave for”.¹⁵ Mechanisms for protecting and promoting such autonomy become crucial, but are also subject to debate.

Accountability, whether downward, horizontal or upward, is equally important.¹⁶ Mechanisms designed to promote local accountability provide the central link between formally decentralised institutions and citizens. Horizontal accountability relationships between the local administration and elected structures are crucial for effective performance.¹⁷ Importantly for the purposes of this article, the upward accountability of local governments to higher level governments, which is a relationship of supervision, is necessary in any decentralised system of government. This means that

⁷ See Ladner *et al* (2018) at 8,

⁸ De Visser J *Developmental local government: a case study of South Africa* (Antwerpen-Oxford: Insentia 2005) at 170, Manor (2013) at 32.

⁹ Chigwata TC & De Visser J “Local government in the 2013 Constitution of Zimbabwe: defining the boundaries of local autonomy” (2018) 10 *Hague Journal on the Rule of Law* 165 at 167.

¹⁰ Chigwata & De Visser (2018) at 167-170.

¹¹ Ladner *et al* (2018) at 24.

¹² Ladner *et al* (2018) at 26.

¹³ USAID (2009) at 7.

¹⁴ Ladner *et al* (2018) at 6.

¹⁵ Ladner *et al* (2018) at 6.

¹⁶ Manor (2013) at 32.

¹⁷ USAID (2009) at 8.

superior levels of government should have the right to supervise local government in order to rectify failures that are detrimental to the achievement of important local and national goals.¹⁸ For instance, national government should ensure that local governments comply with the prescribed national norms and standards relating to the provision of public services – water quality, health care and building standards. It should ensure that local governments comply with the rule of law with respect to the management of resources, citizens’ rights and governance procedures, such as, electoral processes, personnel issues and administrative establishment. Thus, local autonomy should not be construed to mean that local governments are free to take whatever decisions they want.¹⁹ Rather, it should always be bounded by constitutional, legislative and policy prescriptions.

However, “not all failures should attract external intervention, as that would seriously compromise local democracy and the whole concept of representative governments at the local level”.²⁰ The regulation and limitation of supervisory powers are important to protect local autonomy, which is likely to be compromised by unlimited supervisory powers. Thus, it is crucial to legally recognise that the use of supervisory powers by higher level government should only be exercised in accordance with procedures and in such cases as provided in the constitution and/or legislation.²¹ Supervision takes many forms including regulation of, and intervention in, local affairs to address problems such as corruption and mismanagement. The disciplining of errant locally elected officials is to be expected under a decentralised system. There is no doubt that intervention measures, such as the suspension and/or dismissal of locally elected officials, have far-reaching consequences for local autonomy. It is primarily for this reason that some scholars have cautioned that the powers to intervene in local affairs by, for example, suspending or dismissing locally elected officials must be limited and strictly regulated.²² If not, such powers may be (ab)used to drive other objectives that are detrimental to local democracy.

The (ab)use of supervisory powers to achieve political objectives has been a common practice in sub-Saharan Africa particularly when there is vertically divided authority. Vertically divided authority occurs when different political parties govern at the national and local levels.²³ In most parts of Africa, vertically divided authority seems to have encouraged many central governments to “employ strategies of subversion, or tactics designed to limit the autonomy of sub-national officials while simultaneously increasing the culpability for poor service delivery”.²⁴ These strategies are often justified in the name of “public interests” in order to obscure them from their

¹⁸ Machingauta N “Supervision of local government” in De Visser J, Steytler N & Machingauta N (eds) *Local government in Zimbabwe: a policy dialogue* (Bellville: Community Law Centre, University of the Western Cape 2010) at 140, De Visser (2005) at 170.

¹⁹ Chigwata & De Visser (2018) at 170.

²⁰ Zimbabwe Institute *Local government policy review*, (unpublished, Cape Town 2005) at 8.

²¹ UN-Habitat *International guidelines on decentralisation and the strengthening of local authorities* (Nairobi: UN-Habitat 2007) at 7.

²² See De Visser (2005) at 170, Machingauta (2010) at 140.

²³ Resnick (2014) at 8.

²⁴ Resnick (2014) at 8.

political motivations.²⁵ The tactics include: converting opposition run capital cities into administrative cities directly managed by the centre,²⁶ the nomination of a certain number of councillors by the centre,²⁷ the deployment of centrally appointed public officials to manage local affairs alongside democratic councils, the arbitrary dismissal and/or suspension of local officials, the merger or division of councils,²⁸ the unjustified delaying or blockage of intergovernmental grants, the recentralisation of key responsibilities that appeal politically, and the restriction of budget autonomy through unnecessary approval requirements. In such circumstances, the constitutional protection of local autonomy may be the most viable mechanism for defence against advances against local democracy. Constitutional protection offers perhaps the highest level of protection given the stringent procedures that usually apply when amending constitutional rather than legislative provisions. It provides a “basis for judicial enforcement of constitutional limits”.²⁹ However, constitutional protection is likely to be effective only in an environment where there is respect for the rule of law. Otherwise, constitutional or legislative provisions and court judgements given to protect local autonomy can simply be ignored by national elites.³⁰

Constitutional protection can be afforded to safeguard in many ways selected local officials from over-assertive higher authorities. First, the grounds for suspension or removal of locally elected officials from office must be clearly and constitutionally defined. The guiding principle is that the use of supervisory powers should be kept in proportion to the importance of the interests which are intended to be protected.³¹ The suspension and/or removal of elected officials from office should be undertaken in accordance with due process of law. Secondly, the period for which a mayor or councillor can be placed under suspension should be limited to avoid a situation where these local officials are suspended for an extended period or even indefinitely. The law should provide for the immediate resumption of duties by those local officials who have been suspended but found to be not guilty of any transgression. The suspension or dismissal of local officials should also be exercised subject to oversight by other independent bodies, such as, parliament and/or the judiciary.³² For instance, the suspension of local officials by the national executive can be reviewed by parliament or the courts to which appeal may be made. The role of such independent bodies can be effective in detecting and preventing abuse of supervisory powers.

²⁵ Resnick (2014) at 8.

²⁶ For instance, in 2009, Uganda adopted legislation which converted the capital city of Kampala into an administrative city managed by the centre.

²⁷ This is a common practice in Botswana and Zimbabwe (before the adoption of the 2013 Constitution).

²⁸ See Resnick (2014) at 10, where he discusses the subdivision of urban councils in 2009 by President Wade of Senegal following their takeover by an opposition coalition.

²⁹ Chigwata & De Visser (2018) at 167.

³⁰ Chigwata & De Visser (2018) at 167-168.

³¹ Council of Europe *“European Charter for Local Self-Government”* European Treaty Series No. 122 (Strasbourg: Council of Europe Publishing 1983) at 3.

³² UN-Habitat (2007) at 7, Chigwata & De Visser (2018) at 170-171.

3. AN OVERVIEW OF THE SYSTEM OF LOCAL GOVERNMENT IN ZIMBABWE

In 1980, Zimbabwe inherited a system of local government in which local authorities enjoyed a mixture of delegated and devolved functions and powers. Local authorities were merely creatures of the national government and without constitutional recognition.³³ This changed when the new Constitution of Zimbabwe (Constitution) was adopted in 2013, and, among other things, provides for a multilevel system of government. Under the new system, government is organised at the national, provincial and local levels with the provincial tier constituted by provincial and metropolitan councils while the local tier is composed of local authorities.³⁴ The new Constitution requires devolution of powers, responsibilities and resources to these local authorities to attain a variety of objectives linked to development, democracy and peace.³⁵ The Constitution further grants local authorities the right to govern their respective communities with little involvement of the national government.³⁶ Thus, the new Constitution has elevated the status of local government.

The Constitution recognises two types of local government – urban and rural local authorities – which existed in Zimbabwe prior to its adoption.³⁷ Urban local authorities enjoy greater autonomy and status than rural local authorities both in law and practice.³⁸ Within the urban and rural forms of local government, several categories of local authorities can be established. Currently, there are three legally recognised categories of urban local authorities, namely: municipal councils (including cities), town councils and local boards – ranked in terms of powers, finance and discretion.³⁹ All rural local authorities are of the same status – implying that they have equal powers and responsibilities. It is with regard to urban local authorities, particularly city and municipal councils, that there is provision for the role of a mayor, while in town councils, local boards and rural local authorities, the office of the chairperson is the equivalent. The institution of the office of mayor is recognised in section 277(2) of the Constitution, highlighting its significance in Zimbabwe. The Constitution permits the establishment of executive mayors, ceremonial mayors, or both. Executive mayors must be directly elected by the citizens of the relevant communities.⁴⁰ Currently, mayors are ceremonial and are elected by councillors from the members of a council. While the legislative regime suggests that mayors do not have executive powers, in practice, especially in big cities, such as Harare and Bulawayo, they play a significant role and are quite influential.

The Minister responsible for local government (Minister) is empowered by various pieces of legislation to supervise local government, including mayors. The

³³ Zimbabwe Institute (2005) at 6.

³⁴ Constitution s 5.

³⁵ Constitution s 264(1).

³⁶ Constitution s 276.

³⁷ Constitution ss 274 & 275.

³⁸ Zimbabwe Institute (2005) at 7.

³⁹ Chakaipa (2010) at 36.

⁴⁰ Constitution s 274(5).

Minister can institute an investigation into council affairs, issue policy directives to local government, and rescind or suspend council resolutions and decisions.⁴¹ Before the adoption of the new Constitution in 2013, the Minister could both suspend and dismiss councillors and mayors. The Local Government Amendment Act of 2016 restricts the power of the Minister to only suspending councillors and mayors while the dismissal function is undertaken by an independent tribunal that the Minister establishes.⁴² While the disciplinary procedures have been reviewed, the bulk of the legislative provisions regulating local government still afford the Minister unfettered supervisory powers.⁴³

The exercise of these supervisory powers in practice has been controversial in many respects.⁴⁴ Some of the supervisory mechanisms adopted, such as the power to issue directives, are sometimes exercised outside the legislative boundaries.⁴⁵ For instance, just a week before the 2013 harmonised presidential, parliamentary and local elections, the then Minister, Ignatius Chombo, relying on section 313 of the Urban Councils Act,⁴⁶ issued a directive to local authorities instructing them to write off debts owed by ratepayers.⁴⁷ The provision empowers the Minister to issue a policy directive of a general character when it is desirable to further national interests. This directive was issued outside the law as section 313 of the Urban Councils Act does not permit the national government to issue directives of such a specific nature.⁴⁸ Jonga and Chirisa argue that directives have often been used by the national government as a major tool to amass political advantage.⁴⁹ Their claim could be accurate given that the directive to write off debts seemed to have had a hidden objective of mobilising support for the ruling party, if its timing and illegality are taken into account. Another example of the lack of compliance with the rule of law relates to the practice of appointing commissions to administer local affairs in place of elected councils in Harare, Mutare and Chitungwiza between 2002 and 2007.⁵⁰ The commissions had their respective terms of office continuously renewed even though the Urban Councils Act was clear that they can only be appointed for a limited period.

Even in cases where there was a legal basis for the use of some of the supervisory powers, they were implemented inconsistently in respect of more or less the same type of failures or problems without offering any adequate explanation

⁴¹ Zimbabwe Institute (2005) at 4-5 and 8; Machingauta (2010) at 143-145; Chakaipa (2010) at 33.

⁴² Local Government Amendment Act of 2016 ss 2 & 3.

⁴³ Chigwata & De Visser (2018) at 174, 179 and 184.

⁴⁴ See Jonga W "Prioritizing political banditry than good governance: rethinking urban governance in Zimbabwe" (2012) 2(24) *International Journal of Humanities and Social Science* 117 at 117-133.

⁴⁵ Chigwata TC, Muchapondwa VV & De Visser J "Ministerial directives to local government in Zimbabwe: top-down governance in a decentralised Constitution" (2017) 61(1) *Journal of African Law* 41 at 51-54.

⁴⁶ Chapter 29:15, Act 24 of 1995.

⁴⁷ Government of Zimbabwe, "Ministry of Local Government: Directive to write off debts, to all local authorities, 23 July 2013" (on file with the authors).

⁴⁸ See Chigwata, Muchapondwa & De Visser (2017) at 47-50.

⁴⁹ Jonga & Chirisa (2009) at 173.

⁵⁰ See Muchadenyika & Williams (2016) at 262, Jonga & Chirisa (2009) at 178, Chakaipa (2010) at 40.

thereof.⁵¹ Between 2002 and 2007, Minister Chombo dissolved a number of opposition party led councils on various allegations of corruption, abuse of office and mismanagement. These were replaced by administrators who were perceived to be sympathetic to, or supporters of, the ruling ZANU-PF.⁵² While these problems were rampant in all councils, including those administered by ZANU-PF led councils, very few councillors and mayors aligned to the ruling party were suspended and/or dismissed.⁵³ Thus, the extent to which some of the supervisory measures were undertaken to promote genuine local or national objectives is debatable. This is partially the reason why some scholars, such as, Makumbe, Jonga and Chirisa, are in agreement that since independence the supervision of local government has largely been influenced or motivated by ZANU-PF's desire to gain a political advantage.⁵⁴ The article demonstrates how mayors in Zimbabwe have been vulnerable to an over-assertive national government that seems to have little regard for democratic governance. The adverse impact of such over-assertiveness on local democracy has been huge.

Under the previous constitutional order, section 114 of the Urban Councils Act provided for the suspension and dismissal of mayors on various grounds, such as corruption and mismanagement. The Act did not permit the Minister to suspend or dismiss mayors where there was no legal basis for doing so. It further limited the suspension period to 45 days, therefore preventing a situation where a mayor could be suspended indefinitely. However, the safeguards provided by the law against arbitrary removal of mayors were, weak given that the Urban Councils Act lent itself to broad interpretation of the power to suspend or dismiss mayors, and provided scope for potential abuse.⁵⁵ This weakness was to a certain extent resolved by the 2013 Constitution which seeks to safeguard locally elected officials from arbitrary suspensions and/or dismissals.⁵⁶ The safeguards are provided for in two ways. First, the Constitution provides for the removal of mayors and councillors only by an independent tribunal. Secondly, it explicitly defines the substantive grounds upon which mayors and councillors may be removed from office. These are: inability to perform the functions of their office due to mental or physical incapacity, gross incompetence, conviction of an offence involving dishonesty, corruption or abuse of office, or wilful violation of the law, including local authority by-laws. In 2016, the Local Government Amendment Act attempted to bring the Urban Councils Act in line with these new constitutional requirements in as far as the disciplining of local politicians is concerned. The Act, however, fails to provide full protection for locally elected officials as it, among other weaknesses, provides an expansive role for the Minister in the disciplinary procedures

⁵¹ Magaisa A "Welcome to the 'rule of law': made in Zimbabwe" (2016) available at <https://www.bigsr.co.uk/single-post/2016/06/29/Welcome-to-the-%E2%80%9Crule-of-law%E2%80%9D-made-in-Zimbabwe>

(accessed 10 March 2019), Zimbabwe Institute (2005) at 8.

⁵² Jonga & Chirisa (2009) at 167 and 177.

⁵³ Jonga (2012) at 126.

⁵⁴ Makumbe J "Chombo destroying councils" (2006) 1(1) *The Crisis Informer* 3 at 3, Jonga & Chirisa (2009) at 168, Jonga (2012) at 122-123, Machingauta (2010) at 147.

⁵⁵ See Chakaipa (2010) at 40.

⁵⁶ Chigwata & De Visser (2018) at 176.

relating to councillors and mayors which the 2016 Constitution does not seem to permit.⁵⁷ Under the Act, the Minister retains the power to suspend mayors and councillors. The Minister is also empowered to appoint an independent tribunal, which decides on whether or not a councillor or mayor should be dismissed. Thus, as the following discussion will show, whereas constitutional and legislative safeguards are there, there are still loopholes available for potential abuse of the supervisory powers over mayors.

4. THE TOLERANCE OF MAYORS BUT FOR PATRICK KOMBAYI (1980-1989)

From 1980 to 1989, city and municipal councils in Zimbabwe were presided over by ceremonial mayors who had very limited powers. Executive powers were shared between the Minister and the Town Clerk in whose appointment national government is involved. As a consequence, the Minister could determine policy priorities in the administration of cities and towns and control their day-to-day activities.⁵⁸ A major downside of this system was that it limited the role and influence of mayors, creating a leadership vacuum that national government was happy to fill. Naturally, the ZANU (PF) led government managed to acquire the allegiance of mayors even in those urban councils controlled by the opposition – the Zimbabwe African People’s Union-Patriotic Front (PF-ZAPU). The exception was Patrick Kombayi, mayor of the City of Gweru, who was dismissed under controversial circumstances soon after independence.⁵⁹ The mayor, who was a ZANU-PF member, was dismissed by the Minister on allegations of gross mismanagement of council funds.⁶⁰ On the contrary, it is argued by some that Kombayi’s dismissal was nothing other than a political gimmick orchestrated by then Prime Minister Robert Mugabe himself.⁶¹ In response, the whole council resigned in solidarity with the mayor, which suggests that the dismissal was widely disapproved of.⁶²

The dismissal of Kombayi raised eyebrows considering that he was a senior ZANU-PF member who had worked hard in the liberation struggle and had earned the trust of the ruling party.⁶³ During the liberation struggle, Kombayi was already a thriving businessman, who could afford to generously support the liberation movements with funds and important resources. It is alleged that due to these activities,

⁵⁷ Chigwata & De Visser (2018) at 177-178.

⁵⁸ See Chakaipa (2010) at 33.

⁵⁹ Mhlahlo S R “Assessment of urban governance in Zimbabwe: case of the city of Gweru” (2007) XX111(1) *EASSRR* 107 at 116.

⁶⁰ Dzehonye E *The dynamics of decentralisation on development planning in urban local authorities: a case study of Harare City Council* (unpublished MA thesis, Midlands State University, Zimbabwe, 2013) at 7.

⁶¹ See Karekwaivanane GH *Struggle over state resources in Zimbabwe: law and politics since 1950* (Cambridge: Cambridge University Press 2017) at 92.

⁶² Chakaipa (2010) at 40.

⁶³ Parliament of Zimbabwe “National Assembly Hansard - 28 July 2009 Vol. 35 NO. 39” available at <https://www.parlzim.gov.zw/national-assembly-hansard/national-assembly-hansard-28-july-2009-vol-35-no-39> (accessed 04 August 2019).

he was seen as harbouring ambitions to lead ZANU-PF, especially during *détente*.⁶⁴ After independence, his business activities in the City of Gweru strategically positioned him for a senior council position as ownership of immovable property was a required qualification that most blacks did not meet. During his tenure as mayor of Gweru, he was committed to local development, participating in a number of projects that elevated the development status of the city, including construction of Kudzanai bus terminus, a number of road networks, and establishment of Iveme Township.⁶⁵ Accordingly, by the time he was ousted, rumours of him overshadowing senior party members with his popularity in the City of Gweru were circulating.⁶⁶ The protest by his fellow councillors was an unusual display of insubordination and acrimony where junior members of the party (ZANU-PF councillors) openly disapproved the decision of their superior (the Minister). This suggests that the mayor's dismissal had undertones of power politicking by senior members of the party and might accordingly have been something less than a matter of genuine local government supervision. The developments in Harare City Council ten years later equally support this argument as the Minister was reluctant to dismiss a mayor who had presided over deplorable service standards and alleged corrupt activities; a sign that the government was inconsistent.⁶⁷

5. TOLERANCE OF MAYORS UNDER *DE FACTO* ONE-PARTY RULE (1990-1999)

The period between 1990 and 1999 saw a shift in government's decentralisation policy in Zimbabwe.⁶⁸ There was a move towards democratising and empowering local government, with one of the most significant changes being the 1996 amendment to the Urban Councils Act, which provided for directly elected executive mayors. Since independence, political competition was mainly between ZANU-PF and ZAPU. In 1987, the two parties entered into an agreement that saw them merging into a single party – ZANU-PF. Dubbed the Unity Accord, this agreement signalled the birth of a *de facto* one-party State. In the subsequent elections, opposition to ZANU-PF became so weak that in 1995, 55 out of 120 members of parliament were elected unopposed.⁶⁹

In 1996, the government conferred executive powers on mayors, changing the power structure in urban local government. Whereas ceremonial mayors stayed clear of the management of a city, executive mayors were involved in its day-to-day running. Under the ceremonial mayoral system, major council decisions took the form of full council resolutions. Conversely, in the executive mayoral system, local authorities did

⁶⁴ Parliament of Zimbabwe (2009). *Détente* was a period during the liberation struggle (1974-1976) when most ZANU-PF leaders were incarcerated, creating a leadership vacuum that almost crippled the struggle.

⁶⁵ Parliament of Zimbabwe (2009).

⁶⁶ Parliament of Zimbabwe (2009).

⁶⁷ See Kamete A "In defence of national sovereignty? Urban governance and democracy in Zimbabwe" in Melber H (ed) *Limits to liberation in Southern Africa: the unfinished business of democratic consolidation* (Cape Town: HCRC Press 2003) at 60.

⁶⁸ Conyers D "Decentralisation in Zimbabwe: a local perspective" (2003) 23 *Public Administration and Development* 115 at 115.

⁶⁹ Laakso L "Opposition politics in independent Zimbabwe" (2003) 7(2&3) *African Studies Quarterly* 119 at 127.

not have to wait for a full council resolution to make important decisions.⁷⁰ Working through the executive committee, which was chaired by the mayor, the council could make major decisions ahead of full council sittings. The executive committee consisted of the mayor and all chairpersons of council committees.⁷¹ Contrary to their ceremonial counterparts who were mere signatories, convenors of council meetings and guests of honours at council events, executive mayors had an elevated level of influence and control because of their executive powers. With this new range of influence and control over cities and municipal councils with huge budgets, large staff establishments and a wide array of functions, the mayoral position became a competing centre of power. The power and strategic importance of the position was perhaps vividly demonstrated in the appointment, rise and fall of Solomon Tawengwa, mayor of the City of Harare.

From 1981, Tawengwa was a councillor in the City of Harare. He rose to the position of ceremonial mayor in 1986, a position he abandoned in 1988 when he opted for a more prestigious position as a Member of Parliament.⁷² He returned to the Harare City Council in 1995 when the position of executive mayor was introduced, becoming the first executive mayor of Harare. The decision to abandon a parliamentary position for a local government mayoral position attested to the powerfulness of local government under an executive mayoral system. If Tawengwa's decision was a calculated move then he was not far off the mark. The appointment earned him a promotion to ZANU-PF's highest decision-making authority - the Politburo- as deputy secretary for finance.⁷³

Although the introduction of executive mayors had strengthened local government, it was not followed by an improvement in service delivery.⁷⁴ The City of Harare, for instance, often went for weeks without water, refuse collection was erratic, potholes were not repaired, and council was months behind in its salary obligations.⁷⁵ Even though Tawengwa presided over deteriorating service delivery, corruption and scandals, there was reluctance on the part of the Minister to dismiss him. One of the factors protecting him was the important role he played as a senior member of ZANU-PF's Politburo.⁷⁶ It was not until 1998 that a commission of inquiry was established to investigate the state of service delivery and administration in the City of Harare - the Thompson Commission. The Commission found the mayor guilty of "gross dereliction of duty and mismanagement" of council affairs.⁷⁷ He was eventually ousted together with his council for gross dereliction of duty and mismanagement of the affairs of the City of Harare. Unlike Kombayi's dismissal, the demise of Tawengwa was largely engineered by

⁷⁰ Zimbabwe Institute (2008) at 9.

⁷¹ Zimbabwe Institute (2008) at 9.

⁷² The Herald "Cde Tawengwa stood for social justice, welfare" *The Herald* 30 July 2014 available at <https://www.herald.co.zw/cde-tawengwa-stood-for-social-justice-welfare/> (accessed 01 July 2019).

⁷³ Madanhire N "The mayor who is milking Harare" (1998) available at <https://mg.co.za/article/1998-11-27-the-mayor-whos-milking-harare> (accessed 01 July 2019).

⁷⁴ Kamete (2003) at 58.

⁷⁵ Ndudzo M "Getting our cities to work again" (2014) available at <https://www.sundaymail.co.zw/getting-our-cities-to-work-again> (accessed 05 July 2019).

⁷⁶ Madanhire (1998).

⁷⁷ Chakaipa (2010) at 40.

the Combined Harare Residents Association whilst the Ministry for Local Government appeared to turn both a blind eye and a deaf ear to the “elephant in the room”.⁷⁸ The only explanation then was that Tawengwa had maintained cordial relations with the national government and had been immune to its sweeping supervisory powers.

After the dismissal of Tawengwa and his entire council, the national government was reluctant to replace him with another mayor elected by residents. Instead, it opted for a centrally appointed commission (the Elijah Chanakira Commission) to take over the management of the city.⁷⁹ The Commission consisted of persons who were perceived to be sympathisers of ZANU-PF. It was not given a time frame within which to turn around service delivery and set the council on a healthy path. Elections to fill the position of executive mayor were suspended indefinitely. Without an elected council in place, the national government was able to exercise direct control of the city without being held to account by residents. Save for the case of Tawengwa, the relationship between the national government and mayors was cordial throughout the 1990s. This can be attributed to the fact that Zimbabwe was essentially a one-party State with no competitive opposition political parties. However, relations became acrimonious when a strong opposition – the MDC - emerged in 1999.

6. THE RISE OF OPPOSITION MAYORS (2000-2008)

The application of central government supervision in a ubiquitous and blatant manner came to the fore in 2000. The sparks that ignited the inferno were the 2000 and 2002 local government elections held across the country and in Harare, respectively. For the first time in the electoral history of post-independence Zimbabwe, all urban wards and city councils were won by mayors and councillors representing the new opposition MDC. In Harare, Elias Mudzuri of MDC defeated Amos Midzi of ZANU-PF to become the first elected executive mayor of the capital city representing an opposition political party. However, as soon as Mudzuri settled into his influential position, a bruising power struggle commenced with Minister Ignatius Chombo. At its centre was the question of national government allocating to executive mayors more powers than necessary which were now “open to abuse”. The role of national government was confined largely to the management of the macro-environment whilst the opposition aligned executive mayors took effective control of matters at the local government level. This was not to be, as the Minister continued to follow the old practice in which he influenced the affairs of the city through various mechanisms, such as ministerial directives.⁸⁰

On 15 April 2003, the Minister suspended Mayor Mudzuri and ordered him to vacate his office and council house within seven days. The Minister relied on section 54(2) of the Urban Councils Act which at the time empowered him to suspend a mayor if he was satisfied that the mayor was guilty of a conduct that rendered him unsuitable to occupy that office. The reasons for the suspension of Mayor Mudzuri were given as

⁷⁸ Kamete (2003) at 60.

⁷⁹ Chakaipa (2010) at 4.

⁸⁰ See Jonga & Chirisa (2009), Muchadenyika & Willimas (2016) at 261-263.

being: corruption, abuse of power, improper dismissal of council staff, improper tender procedures, and failure to cooperate with national government.⁸¹ These reasons were not substantiated and the mayor was not given an opportunity to defend himself. The dismissal caused outrage as the Minister's compliance with due process of law was in question, furthering suspicions that his intervention might have been politically motivated.⁸² In the wake of the suspension of the Mayor, the Minister set up a nine member Commission chaired by Jameson Kurasha to commence investigations.⁸³ In a move that raised rule of law questions, the Kurasha Commission continued with its investigation even though a High Court ruling had declared that the Commission was improperly established and that its findings could not be used to relieve the Mayor of his duties. To circumvent the ruling, the Minister appointed another Commission headed by Johannes Tomana to investigate the Mayor. The three member Commission was tasked with considering allegations against the mayor and recommending whether to relieve him of his duties. The Commission was constituted of members who were seemingly sympathetic to the Minister. Thus, the independence of the Commission and, therefore, its ability to preside over a just and fair process was compromised. It is for this reason that the Mayor refused to appear before the Commission. The Commission, nevertheless, recommended his dismissal. The recommendation was troubling if the Commission's failure to follow due process of law is taken into account. The appointment of numerous investigation bodies and the ease with which due process of the law was not followed, among other reasons, suggested that the national government was determined to dismiss the Mayor for what seemed to be political reasons rather than public interests.⁸⁴

With Mudzuri removed from the mayoral office, national government appointed deputy mayor, Sekesai Makwavarara, as acting mayor. Although Makwavarara was being investigated for corruption by her party, the MDC, the Minister elevated her to be chairperson of the Commission running the affairs of the City of Harare.⁸⁵ The legality of the Makwavarara Commission came under scrutiny when the Commission fired Harare Town Clerk Nomutsa Chideya on allegations of incompetence. Chideya took the case to court arguing that the Commission could not dismiss him because it was not an elected council and that its chairperson could not exercise that authority as she was not an elected mayor.⁸⁶ Agreeing with Chideya, Justice Lawrence Kamocha ruled that the Commission was illegal and that it did not have the authority to make any decisions adversely affecting the contractual rights, statutory rights and powers of Chideya in his position and capacity as town clerk.⁸⁷ However, in spite of the ruling and contrary to the

⁸¹ Kamete A Y "For enhanced civic participation in local governance: calling tyranny to account in Harare" (2009) 21(1) *Environment and Urbanisation* 59 at 64.

⁸² Chakaipa (2010) at 40.

⁸³ Mukaro A "Acting mayor absolves Chombo of blame" (2005) available at <https://www.thestandard.co.zw/2005/04/08/acting-mayor-absolves-chombo-of-blame/> (accessed 06 July 2019).

⁸⁴ Makumbe (2006) at 3, Jonga & Chirisa, (2009) at 68.

⁸⁵ Makumbe (2006) at 3.

⁸⁶ *Chideya v Makavarara & others* (HC 5604/06) [2007] ZWHHC 13 (01 March 2007) at pp. 13.

⁸⁷ *Chideya v Makavarara & others* at 8-10.

court order, Chideya was not reinstated. The term of office of the Commission was continuously renewed against provisions of the Urban Councils Act. Thus, elections, a viable tool available to local residents to replace dismissed local leaders, were unavailable due to this unlawful conduct.⁸⁸

The national government's compliance with due process of law was also questioned with respect to the suspension and dismissal of other mayors aligned to the MDC. This was evident in the decision by the Minister to forcibly evict Misheck Kagurabadza, as the executive mayor of the City of Mutare, in 2005.⁸⁹ Kagurabadza, like Mudzuri, was accused of corruption and abuse of mayoral powers. None of the accusations were substantiated or investigated by an independent body as provided by law. Kagurabadza was not given an opportunity to defend himself in court. Soon after the removal of Kagurabadza, the Minister further dismissed all the elected councillors of the City of Mutare and replaced them with a five member Commission headed by Kenneth Saruchera. Both dismissals raised questions about the parameters within which decisions relating to suspension and dismissal were framed and implemented.

In Chitungwiza, the Minister sacked Executive Mayor Gilbert Shoko (also of the MDC), and a pro-ZANU-PF politician who was appointed to take over in 2006.⁹⁰ In Chegutu, another MDC affiliated mayor, Francis Dhlakama, was similarly dismissed. The template for the dismissals of Shoko and Dhlakama was almost identical to that used in the dismissals of the mayors of Harare and Mutare. The practice of appointing non-elected people, in place of democratically elected officials, to administer councils, which was challenged in the courts several times,⁹¹ raises questions about ordinary citizens wielding influence over local politics. The same apply to the fact that the decisions of the Minister on suspension and dismissal were arbitrary and not subject to oversight by either Parliament or the courts. It would appear that the Minister was emboldened in deciding who was to be suspended and dismissed. Although mayors Abel Chayamiti and Japhet Ndabeni-Ncube of the cities of Masvingo and Bulawayo, respectively, were not dismissed, they were harassed.⁹²

From 2005 national government created the position of governor for the metropolitan cities of Harare and Bulawayo which were also gazetted as provinces, bringing to ten the number of provinces in the country. Despite the fact that all parliamentary constituencies and local government wards in the two metropolitan cities had been won by the opposition, the national government, nevertheless, appointed ruling party members as provincial governors (now re-named ministers of State for provincial affairs). A number of scholars perceive the introduction of the governors in the two metropolitan cities to be a move which was designed to neutralise the influence of the opposition and to regain control of these cities.⁹³ Thereafter ,

⁸⁸ Zimbabwe Institute (2005) at 14.

⁸⁹ See Muchadenyika & Williams (2016) at 262.

⁹⁰ Muchadenyika & Williams (2016) at 262.

⁹¹ See *Stephenson v Minister of Local Government & National Housing and others* (SC38/02) [2002] ZWSC 38 (29 May 2002); *Chideya v Makavarara & Others*.

⁹² Makumbe (2006) at 3.

⁹³ See Zimbabwe Institute (2005) at 9, Jonga & Chirisa (2009) at 177.

national government created the positions of district and provincial administrator for these metropolitan cities. Government's explanation was that these officials would facilitate residents of the metropolitan cities becoming more involved in local government affairs. What was not explained was the rationale for appointing provincial governors given that coordination was already a function assigned to provincial administrators. There seem to have been no valid rationale for appointing district administrators when metropolitan cities already had officials responsible for coordinating service delivery in their areas of jurisdiction.

Provincial and district administrators are responsible for coordinating the activities of the Ministry responsible for local government at the provincial and district level, respectively.⁹⁴ In reality, however, they coordinate the functions of all government ministries at their respective levels. They all have a role to play in the supervision of local authorities in their respective jurisdictions. Provincial governors, like provincial and district administrators, report to national government. However, whereas the administrators report to national government through the Minister, provincial governors reported directly to the president. By appointing so many officials, national government was over-emphasising its statutory use of supervisory powers to achieve firm control over local authorities.⁹⁵ These administrative measures were complemented by legal reform which saw national government abolishing, through amendment of the Urban Councils Act, the post of executive mayor in 2008. Legal reform then provided for the post of ceremonial mayor, elected from amongst or outside the membership of the council, reverting to the pre-1996 situation. A number of scholars argue that this legal re-engineering was invoked not necessarily to improve local governance but insidiously to "dehorn" (opposition) mayors and make them as "toothless" as possible.⁹⁶ Thus, the period 2000-2008 is perhaps one of the darkest seasons for mayors in Zimbabwe with profound adverse effects on local democracy in Zimbabwe.

7. NO RESPITE FOR MAYORS NOTWITHSTANDING THE GOVERNMENT OF NATIONAL UNITY (2009-2013)

Following a disputed presidential election in 2008, ZANU-PF and two MDC political formations (MDC-T and MDC-M) entered into a power sharing arrangement under a Government of National Unity (GNU). When the GNU was established in 2009, Ignatius Chombo of ZANU-PF retained his position as the Minister responsible for local government and a new Deputy Minister, Sesel Zvidzai, representing the MDC was appointed. The representation of both ZANU-PF and the MDC in government and the spirit of working together usually associated with power sharing arrangements suggested a moratorium on the excessive use of supervisory powers. Despite the coalition government, a number of mayors, the majority of whom were aligned with the MDC, were suspended and/or dismissed on the basis of various allegations. For

⁹⁴ Chakaipa (2010) at 34, Zimbabwe Institute (2005) at 4.

⁹⁵ See Jonga & Chirisa (2009) at 177, Zimbabwe Institute (2005) at 9.

⁹⁶ Muchadenyika & Williams (2016) at 264, Jonga & Chirisa (2009) at 177.

instance, in 2009, the Mayor of Chitungwiza Municipality, Israel Marange, was dismissed for corruption. He was later convicted and sentenced to a prison term.⁹⁷ The case of Mayor Marange demonstrates that supervisory powers are necessary to deal with errant local officials. Early in 2012, the Minister suspended Mutare Mayor, Brian James, on allegations of misconduct. The Mayor of Gwanda, Lionel De Necker, was also dismissed for his failure to comply with a ministerial directive to appoint an individual widely perceived to be a ruling party functionary, as the Chamber Secretary of the council. The Mayor and Deputy Mayor of Chinhoyi Municipality were also suspended in the same year on various allegations.⁹⁸ As Zimbabwe moved towards adoption of a new constitution and as another election beckoned on the horizon, the Minister's use of supervisory powers to achieve certain political outcomes which favoured his party was seemingly re-activated. The directive to write off debts discussed above is one example of abuse of supervisory powers. However, the suspension and/or dismissal of mayors during the period 2009 to 2013 did not reach a high level, at least in comparison with the period 2000-2008. Thus, there was relative stability at the local level.

8. CONTINUATION OF VULNERABILITY DESPITE CONSTITUTIONAL PROTECTION (2013-2018)

Following the adoption of a new Constitution in May 2013, preparations got underway for another set of harmonised presidential, parliamentary and local government elections. These elections were won by ZANU-PF with a majority in both houses of Parliament, and with Robert Mugabe acquiring 61 percent of the presidential vote.⁹⁹ At the local level, ZANU-PF won 1493 of 1958 wards, but failed to secure majorities in the councils of Harare, Gweru, Bulawayo and Chitungwiza.¹⁰⁰ The MDC acquired a majority in most local councils in major urban areas. After a cabinet reshuffle, Chombo was redeployed to the Home Affairs portfolio while the then ZANU-PF political commissar, Savior Kasukuwere, was appointed as the new Minister responsible for local government. Like his predecessor, Kasukuwere continued with the politicisation of supervisory powers over local government, purportedly to protect the interests of citizens.

The first casualty of the Kasukuwere era was Hamutendi Kombayi, the Mayor of Gweru, who in 2015 was suspended together with the Deputy Mayor and other councillors on allegations of gross incompetence, mismanagement and corruption.¹⁰¹ In suspending the MDC aligned Mayor and councillors, the Minister relied on the powers granted to him under section 114 of the Urban Councils Act, which then was not as yet

⁹⁷ Chakaipa (2010) at 4.

⁹⁸ See Muchadenyika & Williams (2016) at 265.

⁹⁹ Zimbabwe Electoral Commission (2013) "Zec 2013 harmonised elections report" available at http://www.zec.gov.zw/2015-05-12-09-57-26/2013-harmonised-election-reportZimbabwe_Electoral_Commission/

at 62-64, 66 (accessed 01 June 2019).

¹⁰⁰ Zimbabwe Electoral Commission (2013) at 60-61.

¹⁰¹ Veritas Zimbabwe (2016) "Local Government Laws Amendment Bill fast-tracked through Parliament" available at <http://www.veritaszim.net/billwatch?page=2> (accessed 01 July 2019).

aligned with the new Constitution. In September 2015, the suspended Mayor and the councillors approached the courts seeking an order declaring their suspension unlawful. They argued that the Minister no longer has the power to discipline locally elected officials under the new constitutional order, and that thus they should be reinstated in their respective positions.¹⁰² The Court made an interim order in their favour. The order was confirmed in January 2016 by the Bulawayo High Court which ruled that the Minister no longer has the power to suspend or dismiss locally elected mayors as that is reserved for an independent tribunal provided for by section 278 (2) of the Constitution.¹⁰³ The Court further set aside the suspension and ordered the reinstatement of the mayor and councillors.¹⁰⁴ Initially, the Minister did not implement this court order arguing that he had appealed the decision to the Supreme Court of Appeal.¹⁰⁵ He later withdrew the appeal but still failed to implement the judgment of the Court. The conduct of the Minister in this case raises rule of law questions as the judgment was never overturned by a higher court – the only circumstance under which the non-implementation of a court order is acceptable and legal. This leads to the conclusion that the Minister's actions were largely informed by an ulterior motive related to the settling of political scores. In 2017, the Court (re)directed the national government to reinstate Mayor Kombayi and some councillors to their respective positions.

On 20 April 2016, the Minister suspended the Mayor of Harare, Bernard Manyenyeni (also of the MDC), for his alleged failure to follow the prescribed legal procedure when the city appointed James Mushore as its town clerk.¹⁰⁶ Manyenyeni contested his suspension in court, arguing that the Minister no longer had the power to suspend and dismiss mayors under the new constitutional order.¹⁰⁷ The Court dismissed the application. It held that the Minister could still suspend mayors but what he could not do was to dismiss them.¹⁰⁸ This court ruling is controversial in many respects, especially in the light of earlier judgments handed down by it in a similar case – the Gweru case. The judgment was viewed as a threat to local democracy as it legitimises the power of national government to suspend locally elected officials at will, powers which it does not seem to have under the new constitutional dispensation.¹⁰⁹ The Court, however, declared that the suspension of the Mayor lapses after 45 days if the grounds for dismissal have not been established by an independent tribunal. In this case, the 45-day prescribed period lapsed before the tribunal was put in place even though the government tried to fast track the passage of a bill through Parliament

¹⁰² *Hamutendi Kombayi & others v Minister of Local Government, Public Works & National Housing* 2015 (unreported).

¹⁰³ *Hamutendi Kombayi & others v Minister of Local Government, Public Works & National Housing* (2015).

¹⁰⁴ *Hamutendi Kombayi & others v Minister of Local Government, Public Works & National Housing* (2015).

¹⁰⁵ Veritas Zimbabwe (2016).

¹⁰⁶ Veritas Zimbabwe (2016).

¹⁰⁷ *Bernard Gabriel Manyenyeni v Minister, Local Government, Public Works & National Housing & another* (HH 274-16 HC 4161/16) [2016] ZWHHC 274 (11 May 2016).

¹⁰⁸ *Bernard Gabriel Manyenyeni v Minister, Local Government, Public Works & National Housing & another* (2016).

¹⁰⁹ Magaisa (2016).

providing for the establishment and role of the tribunal. Manyenyeni returned to occupy the position of Mayor of Harare on 6 June 2016.

Manyenyeni was served with another suspension letter immediately after resuming his duties as mayor. The circumstances under which the mayor was re-suspended are remarkable. First, he was re-suspended not on the basis of the earlier grounds but for his alleged failure to implement the findings of a two-year old audit report which exposed corruption. Secondly, he was re-suspended not by Minister Kasukuwere but by Minister Jonathan Moyo, who was the acting Minister for local government at that time. After the re-suspension, the Mayor approached the courts for an order declaring his re-suspension unlawful. He argued that section 114 of the Urban Councils Act did not allow the Minister to (re)suspend a mayor on grounds which were already known when the initial suspension occurred.¹¹⁰ The Court ruled in his favour and further interdicted the Minister from suspending him.¹¹¹ This Court judgment was a victory for local democracy in Zimbabwe. The celebration of this court victory was, however, short-lived as the Mayor was arrested and detained by the Zimbabwe Anti-Corruption Commission (ZACC), as soon as he left the court chambers.¹¹² It was the first time that the Commission had actually arrested and charged any person in such a manner, giving weight to the argument that the arrest may have been politically motivated. When the mayor was brought to court on charges of criminal abuse of office, the judge dismissed the case. The Court bemoaned the manner in which the case had been handled by ZACC, the police and the prosecuting authority, particularly the arrest of the mayor in the absence of solid incriminating evidence. Moreover, he had been detained for more than 48 hours before being brought before a competent court as required by the Constitution, and therefore he had to be released immediately.¹¹³

What is clear from Mayor Manyenyeni's case, which is similar to the case of Mayor Mudzuri discussed above, is that the ZANU-PF led government was determined to suspend Manyenyeni at all costs and possibly remove him from office. Neither the basis for the suspensions nor who suspended him was of any importance. Thus, the ZANU-PF led national government's motive might not have been genuine supervision to protect the interests of Harare residents but a well-calculated move to harass political adversaries as has been common since independence.¹¹⁴ Minister Kasukuwere went on to suspend the deputy mayor of Bulawayo, together with four other councillors on corruption related charges. Evidence suggested that the intolerance of mayors was likely to continue for as long as the political environment remained unchanged. The environment changed with the resignation of President Robert Mugabe in November 2017. Emmerson Mnangagwa, who took over the leadership of both ZANU-PF and the government, committed himself to adopt a new course in a bid to transform the political

¹¹⁰ *Bernard Gabriel Manyenyeni v Minister of Local Government, Public Works & National Housing & another* (2016).

¹¹¹ *Bernard Gabriel Manyenyeni v Minister of Local Government, Public Works & National Housing & another* (2016).

¹¹² Veritas Zimbabwe (2016).

¹¹³ See Constitution s50.

¹¹⁴ Magaisa (2016).

and economic landscape. The new President, Emmerson Mnangagwa, was re-elected in the July 2018 harmonised elections, although under disputed circumstances, as has been the case since the MDC entered the political arena. The new Minister responsible for local government in Mnangagwa's Cabinet, July Moyo, although from ZANU-PF, declared that he would follow a path different to that of his predecessors regarding the disciplining of local political officials. It is, however, still too early to conclude whether July Moyo's reformist stance will improve local government.

9. CONCLUSION

As is the case in most parts of the world, mayors are the face of urban local government in Zimbabwe. In the first two decades into independence, the ZANU-PF led national government was largely tolerant of mayors, the exception being Patrick Kombayi. After the formation of a strong opposition, the MDC, and its subsequent hold on power at the local level, the ZANU-PF led national government began to utilise a number of procedures meant to weaken the institution of the mayoral office, including the abolition of the executive mayoral system in 2008. The stature of the mayoral office was, however, not significantly dented by this process as mayors remain influential. In response, the ZANU-PF led national government has largely been intolerant of mayors, especially those aligned to the MDC, at the expense of public service delivery. Mayors are often suspended and/or dismissed. Most of the suspensions which took place between 2000 and 2008 were followed by dismissals without due process of law being properly followed. The spirit of working together during the term of the GNU (2009-2013) was not enough to prevent the suspension and/or dismissal of mayors arbitrarily.

The adoption of the new Constitution in 2013 did not end such arbitrary suspensions and dismissals. This is mainly due to three factors. First, legislation adopted to implement the 2013 Constitution does not give adequate protection to locally elected officials as required by the 2013 Constitution. The suspension and dismissal of mayors after the adoption of the new Constitution in 2013 demonstrate that the Local Government Amendment Act of 2016 falls short of preventing the arbitrary removal of mayors. Secondly, a culture of exercising supervisory powers to target political "enemies" continues to be a defining feature of the system of local government under the new constitutional dispensation. Lastly, the practice of disregarding the objective of legislative provisions when it suits the interests of national politicians continues to thrive unabatedly. The selective exercise of the powers to suspend and/or dismiss mayors before and after the adoption of the new Constitution supports these claims. Therefore, it appears that the supervision of mayors in Zimbabwe has become enmeshed in an intricate web of power politics where political expediency appears to be trumping democratic decentralisation, particularly where there is vertically divided authority. This problem can be addressed by fully implementing the 2013 Constitution, including enacting legislation which protects and promotes local autonomy fully. However, such strong legislative provisions on local autonomy will mean very little unless they are respected in practice and court judgements protecting local autonomy are respected. There is a need to develop a

political culture under which opposition political parties are not perceived as inherently bad. Thus, tolerance of opposition politics is the first step towards promoting real democratic decentralisation in Zimbabwe and other African countries.

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