

The Devolution Debate and the New Constitution of Zimbabwe: An Exploratory Evaluation

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Abstract

At the centre of the devolution debate are issues of spatial and territorial organisation, natural resources management and fiscal resource allocation. Devolution protagonists argue for space for increased popular participation and substantive powers to the local people in their quest for identity and self determination. Nevertheless, fears against the adoption of devolution emerge from the viewpoint of regional disparities and unevenness. To understand the devolution debate in the Zimbabwe constitution making process, we draw parallels from a number of countries where the devolutionist agenda has constituted significant root as well as contestation – Brazil, India, Kenya, Ghana and the United Kingdom. Through textual and discourse analysis, we find a common ground upon which the devolution thrust as now enshrined in the new constitution can bring harmonious development in the unfolding Zimbabwe. Critical to note are issues of diamond and other mineral ‘discoveries’ in the period of the debate, the long-time debates of the underdevelopment of Matabeleland region, and the new concept of community ownership trusts. We conclude that devolution is challenging to implement on a radical scale since the elites in power should be the ones to give up functions and resources.

Key Words: devolution, constitutionalism, community, ownership

Introduction

This article interrogates the devolution thrust in light of spatial and territorial organisation, natural resources management and fiscal resource allocation. It critically examines these questions contextualizing the new constitution of Zimbabwe in the global devolution practice thereby mapping the way forward the devolution route. It notes that popular participation and the transfer of powers to the local people in their quest for identity and self-determination are integral to the devolution philosophy. However, there are also fears that the adoption of devolution exposes centre-local conflict as the state’s interests often collide with the interests of local communities. By textual and discourse analyses, the article seeks to find a common ground upon which the devolution thrust as now enshrined in the New Constitution can bring harmonious development in the country.

A constitution is a legal tool that organizes and manages governance and state power (Bruch, Coker, and VanArsdale, 2001; Kersting, 2009). It defines, distributes and organizes the use of state power to govern the society and running the state affairs at large. There are two approaches on governance and management of state powers: the single-dimensional approach, which articulates a single horizontal dimension producing a centralized government system and is characterised by the concentration of power (Kangu, 2011) and the multi dimensional approach, which organizes and manages state power in multiple lines. Multi-dimensionalism combines the vertical and horizontal levels in governances thereby

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forming the foundation of devolved systems and government structures. It is the one based on the devolution concept (Kangu, 2010).

At the centre of local development are questions of decentralisation in its various forms including deconcentration, delegation, privatisation or divestment and devolution. It is clear that deconcentration (also referred to as administrative decentralisation) is the common form of decentralisation in most African countries. For instance, passport offices are located in the provincial centres of the country. De-concentration means that critical decisions are the only ones which will be referred to the headquarters. On the other hand, delegation is about the passing of responsibilities of administration and finance to semi autonomous bodies (not wholly controlled by government) like parastatals and the state universities. Divestment or privatisation normally involves the government handing over its responsibilities to private companies. Of all these forms of decentralisation, devolution is considered by scholars and think tanks as decentralisation in its truest sense (World Bank, 2003; Norman and Massoi, 2010; Cabral, 2011). Theoretically, devolution has been interpreted as the creation of relatively autonomous realms of authority, responsibility and entitlement, with a primary accountability to the localities themselves. Rihoy (2009) notes differences in the narrative of devolution which is concerned with autonomous entities that do not have to be situated within the central government administrative hierarchy. It is characterised as an authoritative surrender of function by the central government to the local authorities that is complete, permanent and of a constitutional magnitude. It brings winners and losers, the potential losers are the politically powerful tyrants, who in defence of their status quo, always advocate for centralisation of power (Tannenwald, 1998a; Agrawal and Ostrom, 2001). The next section will provide the context of the devolution thrust.

Context of the Devolution Debate

The bulk of Africa's population relies on exploitation of natural resources for its livelihoods. These natural resources are located in specific local areas depending on hydrological, climatologically, geological and sometimes ecological qualities of the areas. This makes the issue of use and governance of natural resources hence resource distribution central in most African societies. Pre-colonial post-colonial and colonial state and local community discourse is thus ridden with puzzles to find a sustainable path in resolving challenges in the use and management of resources (Kilonzo, 2011). Nationally, devolution of power has long been a subject of interest to many including politicians, policy makers, academics, international watchdogs, civil society groups and local communities themselves. In the constitutional debate that characterised Zimbabwe under the Global Political Agreement (2009 to August 2013), devolution has been discussed as a pillar for local development. Advanced by the formation of the Movement for Democratic Change (MDC) party, the concept has been contested strongly by ZANU PF. The controversies that characterised the constitutional making process have provoked some developmental questions. For example, how is the framing of devolution an aspect of institutional and democratic constitutionalism? What ought to be exact elements of devolution of power with respect to natural resources and management of territorial sub-national units? How best are complexities arising to be resolved? While devolution must be carefully planned in Zimbabwe, it has been hijacked by leaders for political expediency. Two previous constitutional drafts, the Kariba Draft and the Law of Zimbabwe Model Constitution both contained the quest for devolution.

Literature Review and Conceptual Framework

Devolution is conceived as the most extensive form of decentralisation given its emphasis on increased empowerment of local organisations having no direct government interference and increased public sector efficiency (Lessmann and Markwardt, 2011). It is defined as the transfer of power and authority from central governments to legally established, locally elected political authorities within a country for political and developmental motives (Johnson et al., 2005). A devolved system is expected to have clear and legally recognised geographic boundaries to exercise power and perform public function. Hence, devolution is envisaged as a facilitating tool towards effective local participation, good governance and democratisation of development processes.

Theoretically, devolution takes many forms - administrative, executive and legislative (Tannenwald, 1998b). Protagonists argue that devolution promotes control by citizens over decisions that affect them thereby facilitating equity and participatory approaches to development within local arenas (Jacobs and Chavunduka, 2003). In natural resource management and development, devolution focuses on the transfer of natural resource management to local individuals and institutions located within and outside of the central government (Yuliani, 2004). In Zimbabwe one tool that has emerged in the management of natural resources has been the Communal Areas Management Programme for Indigenous Resources (CAMPFIRE) which was started in the late 1980s. This was the government commitment towards localised planning and implementation in which full control of wildlife management to rural communities was granted to promote sustainable use of wildlife by the communities.

Overall, there are a number of challenges that militate against the effective implementation of devolution. Jacobs and Chavunduka, (2003) have observed that most of the developing countries are riddled with authoritarianism, the maintenance of traditional leadership and play to the tune of colonial legacy. In addition, and in general, societal structures in the developing world, as argued by Chirenje et al., (2013) revolve around small clusters of communities that are characterised by geo-political, economic and cultural bonds, typical of rural areas. Such settings imply top-down decision-making regimes (Chirenje et al., 2013). Governmental accountability at local level is critical in local and regional development. Nonetheless, apathy and domination of local governance by national agendas are critical hurdles militating against devolution in developing countries. Overall, developing countries adopt models of developed nations leading to 'decision wars' between western and eastern models. Western models tend to publicize the notion that democracy is the root to achieve development, but the eastern model holds that democracy is the result of development. These challenges combine to dampen the support for devolution.

Chambers (1983) argues that centralised approaches to development impose ideas, hence development, on people without their consent. He argues for the recognition of the fundamental importance of rural poor hence the bottom-up approach to rural development, a variant of devolution. Centralised systems work on disciplinary specialisation using tools to examine the rural situation. Devolved systems on the other hand depart from analysis of the condition of poor people, their resources, aspirations and problems entailing focus from within thereby giving a better conceptualization and a rich ground for democratic development (Chambers, 1983). Yet there are also controversies on the fruits of devolution in developing countries have been a holdback to its constitutional enshrinement. Lessmann and Markwardt (2011) and Smith (1997) observe that in developing countries, decentralisation

tends to promote parochial and separate tendencies thereby deepening authoritarianism and exacerbating inequalities. Thus, rather than devolution empowering the local marginalised communities, the powerful elites tied to the central government hierarchies still control development on behalf of the local communities and thus a critical sign of political reform challenges.

Case Studies in the Devolution Debate and Practice

Globally, the recognition of devolution initiatives in the constitution process has been remarkable. Even ostensible unitary government systems such as Japan, France, and Italy adopted the devolution to allow local communities full responsibility for managing local resources and political control of developmental processes at local (Carroll, 2012). The following are case studies of the devolution thrust.

The United Kingdom (UK)

The UK is experienced devolution in its early years basing on the model that democracy is the pathway to development. Its devolution system was asymmetric having different levels of devolved responsibilities with no common pattern. Scotland, Wales and Northern Ireland all have different forms of devolution. Scotland has a Parliament and an Executive developed from the Westminster model. Under the Scotland Act 1998, the Parliament can pass statutes and the executive can make secondary legislation in areas other than those that are reserved for Westminster. Kincaid concludes that what is currently referred to as devolution is more accurately called “restoration” or “rebalancing” of powers between the federal government and the states to conform more closely to what the authors of the constitution had in mind. In the case of Wales, there is a consultative steering group spearheading consultation on the working of the local parliament. The case of the UK is indicative of the general pattern of local development in developed countries. States (the equivalent of Zimbabwean provinces), districts and counties have the powers to formulate own policies and statutes to direct and control this development. However, central governments normally have to trust that the actors who wield the devolved power are trustworthy and do not work against national interest.

Brazil

Brazil has had a long history of federalism. This dates back 1889 when a federal republic was established (Chotreva, 2009). Since then, the devolutionary shifts have largely followed political cycles, where authoritarian trances favouring a greater centralization of power and democratization was being closely associated with devolution (Chotreva, 2009). The constitution of increased the political influence and fiscal autonomy of state and municipal governments. This devolutionary trend was accompanied by a high growth in the share of federal tax transfers to sub national governments, which rose from 18 percent in 1980 to 44 percent in 1990. As a result, the sub-national governments are accounting for almost half of public expenditure (Chotreva, 2009; Swenson and Deller, 2001). The Brazilian case is important to note given the increase in local revenues that it has created for the sub-national level of government. No doubt that the availability of such great resources is instrumental in improving infrastructure provisioning and maintenance as well as the general well being of the local communities.

India

India is a quasi-federal; it is neither unitary nor federal but a combination of both. During its devolution process, the central government maintained its influence as well as managing the devolutionary initiatives largely to its own advantage (Mirafior, 2013). After realising the overconcentration of power on few national elites until the early 1980s, there was strong drive to redress the power imbalances. The devolutionary federal policy of self-determinism for Indian tribes which was adopted in the mid-1970s shaped sustainability, economic prosperity and eradicating poverty in local communities in India (Cornell and Taylor, 2000; Mohan and Shyjan, 2009; Vischer, 2001). Poverty eradication is at the centre of devolution. To achieve this goal redistributive policies have to be clear and articulate clearly the notion of social justice. Moreover, the policies must transparently deal with the problem of elite capture as done in the Indian devolution thrust.

Ghana

Ghana's contemporary devolution process arose prior to the democratic transition in the early 1990s. When the government introduced the Local Government Law as a legislative reform in 1988, 110 districts were created in Ghana's ten regions operating on democratic platforms of governance (World Bank, 2003). The 1992 constitution consolidated the aim of devolution. The objectives of devolution were centred on concretising and expanding local democracy, facilitating social and economic development; eradicate poverty as well as enhancing people's choice (Government of Ghana, 2008). This constitution recognised the diversity of local government system by decentralisation of "the administrative and financial machinery of government to the regions and districts and by affording all opportunities to the people to participate in decision-making at every level" (Government of Ghana, *ibid*). Yet crucial democratic elements remained compromised, especially through the retention of presidential appointments and non-partisan local elections (Government of Ghana, *ibid*).

Kenya

Kenya is one of the African countries where devolution process was born out of political turmoil. It is characterised by a diverse population with ten major and more than thirty minor ethnic groups and geographically varying needs across the arid, semi arid north, the highlands, the rural northern Rift and the various urban centres (FDKP, 2012). Historically, Kenya has been characterised by centralisation of political and economic power in the hands of the elites in an uneven and unfair resource distribution and access to social services defusing the aspect of inclusivity within one nation (Kangu, 2010; Nyanjom, 2011). Kenya's devolution process generated remarkable hope within the local communities. The constitution provided the local institutions with the responsibility for service delivery in keeping with the principle of subsidiarity. The principle of subsidiarity states that local government is closer to the everyday needs of the communities hence ought to have oversight in the provision of those needs. The Kenyan central government remains with the critical role of oversight over the national budget and national priorities. Considering the long-standing history of distrust between the national government and the local stakeholders, Gikonyo (2013) observes that the absence of such levers, gave equality among all government structures since no level of government became superior to another. The 2008 post-election violence preceded the adoption of the constitution that healed the decade of failing devolution attempts (Government and Transparent Fund, 2011). The constitution dramatically devised a new Kenya through enactment of transparent and accountable institutional frameworks (Kangu, 2010) that guaranteed unconditional transfer of certain minimum powers to counties.

The Zimbabwean Devolution Debate

Structurally, Zimbabwe is a two-tier system of government comprising of the central government and the local government emanating from the Prime Minister's Directive of 1984 to governance. During the pre-colonial era Zimbabwe, comprised several chiefdoms that ruled across the country. Each tribe governed its own territory without a 'national' overseer of all these tribes. While the local people depended on exploiting the local natural endowments, the powers to control natural resources usage were vested in the kings in an autocratic system. Contemporary cases needing attention in the mantra of devolution include budgeting, regional marginality and the exploitation of mineral and other resources in local areas.

Budgetary Process and Outcomes in Zimbabwe

The budgetary system in Zimbabwe is largely top-down. It follows statutory provisions but the power to make the budget work eventually lies with the responsible minister. In the are of local government, while urban ratepayers are given a platform to participating in formulating the budget, they play a mannequin role as the central government sometimes meddles capriciously in the affairs of local communities. Consequently, financial allocation indicates the goals of the central government rather than the local communities' needs.

The Matabeleland Marginalisation

Matabeleland has suffered neglect of its many developmental projects over the years. The Matabeleland region comprises of three provinces of Zimbabwe- Matabeleland North, Matabeleland South and Bulawayo and contributes 15 to 20 percent of the total population of the country. The region is marginalised and underdeveloped; regardless of whether the government adopts the bottom-up or top-down approaches to development. While there is turmoil cross cutting political, social and economic spheres, the case of Matabeleland is facing internal colonisation which is aggravating its marginalisation (Mabhena, 2010). It would be extremely difficult to understand the socio-economic and political dynamics of southern Matabeleland without recognizing the role of ethnic conflict and persecution in the making of this region. While the politics of domination shaped the development agenda of Matabeleland, critical issues remained undermined as the 1980s conflict left the region devoid of development initiatives stirred from the central government.

The Chiadzwa Diamond Debate

In the making of the new constitution (2009-2013), the discovery of Marange diamonds in the Manicaland province became a critical issue in the management of mineral resources. Instead of pushing the agenda of devolution in the new constitution, the discovery of diamond resources in Marange might have become a political tool against devolution in the name of regional resource imbalance. While the Manicaland region has become the source of income of the nation localisation of local resources has remained a nightmare. The discovery of the precious mineral, which has the potential to contribute more than half of the country's GDP, has had the effect of entrenching centralised approaches to harnessing the revenues.

Discussion and Policy Alternatives

Zimbabwe has unevenly distributed natural resources across the country. It has burning regional disparities whose local communities have been used as a tool to lobby for devolution. The question has been whether lack of devolution has caused the regional disparities or devolution will exacerbate the already existing disparities. The perceived failure to develop the Matabeleland region during the 1980s when infrastructural advances

were being made in other parts of the country is linked to the Gukurahundi massacres (Solidarity Peace Trust, 2011). Mabhena (2010) argues that whether a bottom-up or a top down approach is coined in Zimbabwe, the status quo in Matabeleland will largely remain the same. Regardless of the shift in development thinking and practice since independence which created the populist stance of bottom-ups, grassroots governance systems solutions to underdevelopment and power struggles continue to elude the nation. Community Based Natural Resource Management (CBNRM) has been one of true decentralisation initiatives that relates to communal natural resources management. Conceptually CBNRM is a shift in decision-making from centre to periphery, which gives decision-making and implementation responsibilities to the local communities themselves (Chirenje *et al*, 2013).

The governing system of Zimbabwe clearly presents a paradox. While it is easy to justify devolution through interrogating the failing of the centralised system in Zimbabwe, it is difficult to conceptualise what way it would take in practice. At the same time without endorsing the centralised system, it is crucial to highlight the political and administrative challenges of devolution in the rough patches of Africa at large. Devolution does not just happen; the involved actors need to embrace multifaceted strategies to take control of all possible challenges along the way. Hence, there is need for robust support structures to facilitate the transformation. This facilitation encompasses capacity building, dispute resolution strategies and fiscal empowerment among others. While noting the robust justification for devolution to improve governance, the empirical evidence from the global scan has not been supportive. In the implementation of the process, there is also the possibility of transferring the challenges of the central government such corruption and inefficiency to the lower levels of the nation. Relating to the geography of Zimbabwe, the antagonists have argued that the country is too small for devolution, and it is characterised by regional natural disparities. On the other side, the devolution protagonists argue on the benefits of local communities' participation in managing their affairs of which transparency and accountability ought to be the guiding principles. In reality, conceptualisations of devolution in Zimbabwe are merely political and economic. To harness the lessons drawn from the case studies, Zimbabwe needs to enshrine the devolution driving mechanism in the legislative framework, including local capacity building strategies, financial appraisal, and public awareness. In addition, there is need for clear institutional and legislative reforms fostering participatory approaches.

Conclusion

Conceptualising the controversies of devolution in Zimbabwe cutting across political, economic and social edges the article explicated several observations. It pointed out that while the protagonists and antagonists of devolution are busy in an intellectual tug-of-war, the politics and economic transformations are shaping the devolution debate in a hilarious manner thereby complicating its enshrinement into the African constitutionalism at large. It notes the fears held about adopting devolution as regional disparities, resource distribution inequities. The article has noted that while the Zimbabwean constitution was in the crucible of its making, lessons could have been drawn from other countries that have gone through the devolution process. Three major lessons derive from the global cases. Firstly, devolution is challenging to implement on a radical scale since the elites in power should be the ones to give up functions and resources. Secondly, the success of devolution is based on its centrality to the constitution, supported by robust legal institutional frameworks. Lastly, the devolution drive requires a strong transparency framework backed by robust participation in the process to create an inclusive devolution process.

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