SCHOOL OF LAW

# ASSESSING THE LEGAL CHALLENGES FACED BY LOCAL GOVERNMENTS IN ZAMBIA: A CRITICAL ANALYSIS OF THE IMPACT OF DECENTRALIZATION AND DEVELOPMENT IN COMMUNITIES

**By:**

**LUKUNDO NAMBELA**

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## DECLARATION

I LUKUNDO NAMBELA declare that this dissertation entitled, "**ASSESSING THE LEGAL CHALLENGES FACED BY LOCAL GOVERNMENTS IN ZAMBIA: A CRITICAL ANALYSIS OF THE IMPACT OF DECENTRALIZATION AND DEVELOPMENT IN COMMUNITIES"** which is hereby submitted to the University of Lusaka is my own original work and it has not been previously submitted for the award of a degree at this university or any other tertiary institution.

I understand what plagiarism entails and I am aware of the Universities policy in this regard. Therefore, where other peoples work is cited, I have duly acknowledged. The errors or omissions in this work are solely mine.

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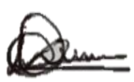

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## RECOMMENDATION

**I MRS. KASWALALE KAKUWA MWAULUKA** recommend that this dissertation was prepared under my supervision by **LUKUNDO NAMBELA,** entitled **ASSESSING THE LEGAL CHALLENGES FACED BY LOCAL GOVERNMENTS IN ZAMBIA: A CRITICAL ANALYSIS OF THE IMPACT OF DECENTRALIZATION AND DEVELOPMENT IN COMMUNITIES** be accepted for examination. I have checked it carefully and I am satisfied that it fulfills the requirement pertaining to the format laid down in the regulations governing directed research.

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**2025**

## DEDICATION

I dedicate this work to my lovely parents Felix Sulanji Sinkala and Lister Muchinga Nachande Sinkala, whose unwavering belief in me, constant support, and wise counsel have been the cornerstone of this achievement. I also extend this dedication to my elder siblings whose steadfast support and encouragement have been invaluable throughout this journey. Finally to my younger siblings whose love and presence have continually been an inspiration.

## ACKNOWLEGMENTS

Above all, I give thanks to God Almighty for His grace, guidance, wisdom, strength and favor throughout this journey and made this work possible.

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## ABSTRACT

This study provided a critical analysis of the legal and institutional framework of decentralization in Zambia. It focused on the challenges that arise due to jurisdictional overlaps, legislative incoherence and administrative fragmentation. Drawing on doctrinal analysis and case based inquiry; the study explores the gap that is between constitutional provisions, statutory instruments such as the Local Government Act, and The National Decentralization Policy. The study argued that decentralization in Zambia remains largely theoretical than fully implemented as it is hindered by weak enforcement mechanisms, broad ministerial control and limited legal capacities within local authorities. It also recommended several reforms, which include constitutional amendments to strengthen local autonomy, statutory revisions to clarify institutional mandates, and the creation of independent oversight bodies too, which will ensure compliance and resolve disputes. Ultimately, the purpose of this study was to promote a unified legal framework and stronger accountability mechanisms to enhance democratic governance and the practical realization of decentralized development in Zambia.

## Contents

**GENERAL INTRODUCTIONS**

**CHAPTER ONE**

## 1.0 INTRODUCTION

Local governments play an essential role in the governance system, serving as a bridge between the central government and the communities they are meant to serve[1]. In Zambia, the adoption of decentralization has been a key strategy aimed at enhancing democratic governance, improving the delivery of public services, and promoting development that is responsive to local needs. This process involves handing over authority, responsibility and resources which altogether enable communities to participate more directly in decisions that affect their development.[2]

The government of Zambia has made substantial efforts to establish a decentralized system through legal reforms, which include the enactment of the Local Government Act No. 2 of 2019[3], and it has amendments to several statutes which affect local governance. The purpose of these legal instruments is to promote local autonomy, accountability, and efficiency in the way public resources are used. However, it should be noted that despite all these efforts, there are still ongoing concerns about the actual functionality of local government institutions, particularly in relation to their legal and operational capacity to carry out their mandates effectively.

In addition, this piece of writing will assess the legal challenges that local governments in Zambia face and it will pay particular attention to how these challenges affect the implementation of decentralization and the overall impact that they have on community development. This study will critically examine the legal framework, institutional dynamics, and practical realities of decentralization, and its aim is to contribute to the broader understanding of local governance in Zambia and to explore what potential reforms can strengthen the role of local authorities in national development.

[1] University of Pretoria, The Role and Purpose of Local Government

[2] https://www.mlgrd.gov.zm/wp-content/uploads/2013/06/National-Decentralisation-Policy-2023.pdf

[3] *Local Government Act,* No 2 of 2019

## 1.1 STATEMENT OF THE PROBLEM

Decentralization in Zambia is constitutionally and legislatively recognized as a way to promote efficient and inclusive governance, nonetheless it is worth noting that in practice, its implementation has continued to face serious legal and institutional barriers. This study points out that local authorities are hindered by unclear legislative provisions, restrictive financial frameworks, and a lack of actual administrative autonomy. And from a legal perspective, these issues are not only structural but are also deeply embedded in the framing and application of current laws, which constitutes a serious barrier to effective governance and localized development. The constitution of Zambia (Amendment) Act No.2 of 2016, the Local Government Act No. 2 of 2019, and the Decentralization Policy (2002, revised in 2013) altogether recognize and provide a legal framework for the autonomy of local governments. However, practical implementation of decentralization remains fraught with limitations that restrict the capacity of local authorities to fulfill their mandates effectively.

A core issue lies in the limited autonomy of local governments. While legal provisions affirm their independence, the central government has continued to exercise substantial control over critical functions such as financial management, policy direction, and administrative oversight.[4] Local governments largely depend on central governments due to their constrained revenue generating capacity. This situation is worsened by the provisions of the Public Finance Management Act of 2018,[5] and this financial dependence is further strained by delays in fund disbursement, bureaucratic inefficiencies, and, in some cases, mismanagement of resources all which are factors that directly affect service delivery and development outcomes.

The Local Government Act[6] outlines the functions and powers of local authorities; however, it does include provisions that subject key decisions to ministerial approval or override. This contrast in legal authority time and again results in overlaps, administrative delays, and misunderstanding over jurisdictional boundaries. In addition, political interference in appointments and also in governance processes weakens local government independence. While the legal framework provides for citizen participation, in practice, weak enforcement

[4] https://www.sacities.net/wp-content/uploads/2022/04/s4-Challenges-and-issues-facing-government.pdf

[5] *Public Finance Management Act,* No 1 of 2018
[6] *Local Government Act*, 2019

mechanisms, limited public awareness, and poor accountability have created a gap between local authorities and the communities they are supposed to serve.

These challenges call into question the adequacy of Zambia's legal and institutional framework in facilitating genuine decentralization and the benefits that decentralization intends to make available such as improved accountability, service delivery, and citizen participation have not been fully achieved. In light of this, this study sets out to identify and analyze the legal deficiencies impeding local government performance and assess how these barriers impact broader goals of decentralization and development at the community level.

## 1.2 GENERAL OBJECTIVE

To critically examine the legal challenges faced by local government authorities in Zambia and to assess how these challenges affect the implementation of Decentralization and the promotion of sustainable community development.

## 1.3 SPECIFIC OBJECTIVES

i. To study the legal framework governing local governments in Zambia and analyze its overall effectiveness in facilitating decentralization and local governance.
ii. To examine the main legal issues that local governments in Zambia face in relation to financial constraints, administrative inefficiencies, central government interference, and to evaluate their impact on community development.
iii. To determine potential legal strategies and mechanisms capable of enhancing the functionality and accountability of local government institutions within a decentralized system.

## 1.4 RESEARCH QUESTIONS

i. What are the legal framework governing local governments in Zambia and its effectiveness in facilitating decentralization and local governance? To support the effective implementation of decentralization and promote accountability
ii. What are the key legal challenges that local governments in Zambia encounter in relation to financial constraints, administrative inefficiencies, and central government interference and the impact that it has on community development?

iii. What legal and institutional framework can be implemented in Zambia to enhance to enhance the autonomy, capacity, and developmental impact of local government institutions under a decentralized system?

## 1.5 SIGNIFICANCE OF THE STUDY

Firstly, this study provides a critical analysis of the framework governing local governments in Zambia. It highlights the practical challenges that hinder effective decentralization as well as community development. By reviewing the existing gaps and challenges within the current legal and institutional structures, this research will contribute to the academic world on governance, decentralization and local reform.

Secondly, the results of this study will, therefore be useful to policymakers, legislators, and local government administrators in that, it will offer evidence based recommendations that can strengthen legal and institutional mechanisms. Also Improvement of the legal framework can empower local authorities, better service delivery, and foster participatory developments.

To sum it up, this piece of writing will serve as an important reference point for future researchers in the field and legal scholars who may be interested in issues of decentralization, local governance, and public administration in Zambia and other similar contexts. It contributes toward current national and regional efforts aimed at fostering good governance, accountability, and sustainable development through effective local government systems.

## 1.6 SCOPE OF THE STUDY

This study falls within the field of Public Law, specifically concentrating on Constitutional and Administrative law, in so far as it relates to decentralization and local governance in Zambia. It further examines the legal framework that governs local authorities, especially constitutional provisions and statutory instruments, and it further assesses how these laws affect the autonomy, effectiveness and the accountability of local government institutions.

## 1.7 LITERATURE REVIEW

**Haqu, Adnan ul,** defines Local Governments as decentralized units of governance that operate with a degree of legal and operational independence under the central government. Local governments are emphasized as key to achieving good governance, which involves: Legitimacy, Accountability, Management effectiveness and Transparency. The study further states that local governments contribute to democratization by:

Providing a platform for political education and leadership development

Enhancing government accountability and reducing centralization of power

Promoting public participation in decision-making processes

However, the role of local governments is particularly crucial in contexts where they act as intermediaries between the central government and citizens, especially in areas such as service delivery and infrastructure development.[7]

**Bornwell Chikulo**, Chikulo provides a detailed analysis of local governance reforms from independence in 1964 upto 2008, he traces four major phases of decentralization. The article discusses the enactment of key laws which granted local councils wide ranging responsibilities including service delivery and development planning, such as the Local Government Acts of 1965 and 1991. In his study, he points out that despite these legal frameworks, implementation in practice was constrained by overlapping roles, limited autonomy, and inconsistent central support. A major point made is that, though local authorities are empowered by law, they are often constrained by central governance interference. The article further explains that most council in Zambia lack sufficient local revenue sources and because of that, they remain financially dependent on central government transfers. These transfers are often erratic, delayed or Politically controlled, weakening local governments' ability to fulfill their legal mandates.[8]

**Daniel chulu, Zuwa Sinkamba and Saviour Hamvula,** in their case study showed how decentralization reforms face practical implementation issues, especially in the local government work force regardless of them been well intentioned. The article also highlights how there are ambiguities in roles and responsibilities, limited decision making authority, and inadequate capacity building for transferred staff. These challenges reflect weaknesses in the legal and institutional frameworks meant to support local governance. The further study confirms that despite the policy shift toward devolution, the central government continues to

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[7] A. ul. Haque, *Theoretical Perspective of Local Government- Literature Review*, Research Institute of Behavioural Psychology, MPRA

[8] Bornwell Chulu., 'Local Governance Reforms in Zambia: A Review', Commonwealth Journal of Local Governance, 2(2009), 98-106.

exert significant control, particularly in areas such as policy direction, finance and staffing.[9]

**Prisca Kimario,** in her study stated that; while local governments in Tanzania just like in Zambia are expected to play a critical role in service delivery and development under a decentralized system, their limited revenue generation and over dependence on central governments transfers constrain their performance. [10] Although the focus of Kimario's study is administrative, it also points to institutional weakness related to lack of capacity, outdated by-laws, and unclear or inconsistent enforcement mechanisms that are directly tied to legal structures. Kimario's study also notes the presence of low public awareness and participation in local revenue processes, which undermines accountability and trust.

The study by **Phineas Bbaala** explores program implantation challenges, citizen engagements in local projects, and the extent to which the public is sensitized. Her study highlights that despite various legislative reforms like the Local Government Acts of 1965, 1980, and 1991, Zambia remains highly centralized. Her study argues that decentralization policies have often been rhetorical, serving political expediency rather than actually strengthening local authorities. The study identified key challenges which include:

The persistence of centralized governance structures inherited from colonial rule

Limited autonomy of local governments, with provincial and district structures still under central control

Inefficiencies in resource allocation and decision making at local level

Lack of clear organizational structures to support effective decentralization[11]

**Mulenga Chonzi Mulenga and James Mulenga,** in their research emphasize the persistent

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[9] Daniel Chilu, Zuwa Sinkamba, and Saviour Hamvula. '*Challenges Faced by Transferres Staff in Local Auth orities: A Case Study of Chongwe Municipal Council, Lusaka Zambia',American Reaearch Journal of Humanities & Social Science*

[10] Prisca Kimario, *Challenges Faced by Local Government Authorities (LGAs) in implementing strategies to Enhance Revenues: The Case of Dar es Salaam Municipal Councils.* Published 2014.

[11] Phineas Bbaala*., Local Government reforms and the Challenge of Local Development in Zambia,* University of Zambia

financial constraints of local authorities, including diminished revenues and rising operational costs during the COVID-19 pandemic. It mentions the Local Government Act No.2 of 2019, which lays the foundation for Zambia's decentralization policy. The study discusses issues with the implantation of this framework, including the reliance on government grants and delays in disbursements. The study notes that local governments play critical roles in enforcing COVID-19 measures due to their proximity to communities. However, it draws attention to the gaps in community engagement such as reduced operations and services influencing the mechanisms of local participation.[12]

**Tembo and Mwanaumo** present an analysis of the constraints that imped the process of decentralization in Zambia. Drawing on survey data from local government officials, their research identifies seven major barriers, which are: delayed transfer of functions by central government, lack of political will, failure to provide decentralized structures, central government retention of revenue sources, unclear policy guidance, absence of uniform monitoring mechanisms, and too little local revenue generation.[13] Their study contends that decentralization implementation in Zambia has been slow, and it requires more effort from national government. They also argue that for decentralization to succeed there is a requirement for a clear policy framework, strong institutional capacity as well as genuine fiscal devolution. The analysis of their study further reveals hat central government's failure to operationalize decentralization structures has a statistically significant impact on their governance failures, including limited accountability and weak financial oversight. Finally, they argue that empowering local governments require more than legal reforms, it requires continuous political will, financial independence, and institutional strengthening.

**Siachisa et al.** provide a historical and theoretical overview of Zambia's Decentralization journey, it describes how it has evolved across the first, second, and third republics.
They explain that Zambia's Decentralization system has manifested in several forms such as

[12] M.C. Mulenga and J. Mulenga, *Assesing the perfomance of Local Authorities in Zambia During the Covid 19 pandemic,* working paper No 51

[13] Tembo, M.and Mwanaumo, E.M.,2022. Constraints in Implementing Decentralization in Zambia. *International Journal of Scientific Research and Management (IJSRM)*, 10(6), pp.PS-2022-32-43.

political, administrative (including the delegation of authority, devolution and other forms of power distribution), fiscal, and economic/market based (via privatization and deregulation) each shaped by the political environment of its time.[14] The First Republic (1964-1972) introduced political and administrative decentralization through The Local Government Act of 1965 which replaced colonial native authorities with elected councils. The Second Republic (1973-1990), the one party state placed decentralization under party control, limiting genuine autonomy. In the Third Republic (1991 to present) marked a shift towards democratic local governance and fiscal decentralization, as the 1991 Local Government Act re introduced elected councils and separated political from administrative functions. [15] These authors approached the topic from a localism theoretical standpoint; they argued that decentralization depends on devolution, community participation and institutional independence. The authors conclude that, despite Zambia making notable progress, Zambia's decentralization process remains incomplete and requires new commitments to democracy and local empowerment.

**Nyirongo** examines decentralization from the perspective of public financial management, focusing on how local authorities in Lusaka, Kafue and Chongwe handle public funds. In her study, she points out the most important short comings as far as budget planning, transparency, and audit compliance, all of which undermine the effectiveness of decentralization. Referring to the Auditor General's 2021 reports, she highlights instances of misappropriated funds, stalled community projects, and weak financial oversight. She further argues that for decentralization to be effective there should be stronger fiscal governance systems. She calls for improved transparency, capacity development, and the adoption of digital financial systems to strengthen accountability. [16] The findings of her study indicate that, in practice, still, decentralization has not yet translated into better service delivery or real financial autonomy for local authorities, but instead, it has exposed them to challenges such as political interference and resource mismanagement. She concludes that effective decentralization must not only transfer responsibilities or functions but also the institutional

[14] Siachisa, M., Mate, N., Kanyense, J., Nguluwe, P.R., Mulima, S.S. and Chikampa, V., 2025. A Drive Towards Decentralization: Zambia's Success Story. *International Journal of Research and Scientific Innovation (IJRSI),* 12(7), pp.498-503.
[15] Ibid
[16] Nyirongo, R.T., 2024. *Evaluation of Fund Management in Zambia's Local Government: A Case Study of Chongwe, Lusaka, and Kafue.* MBA Dissertation. University of Zambia.

capacity to manage resources efficiently.

**Mushimbwa** explores the difficulties of local revenue collection in Gwembe District Council, offering a detailed case study on fiscal decentralization. He observes that local authorities are still heavily dependent on central government transfers because they lack capacity to mobilize their own source revenue's. In his research he refers to institutional challenges such as outdated tax payer data bases, insufficient training of the revenue collectors, and lack of sensitization. He also argues that these issues reflect deeper structural and social economic limitations that hinder the efficiency of local governance. To address these gaps he proposes targeted reforms that involve the establishment of a Multi sectorial revenue tax force, out sourcing collection remote areas, and strengthening institutional capacity through training and digital tools in order to improve financial performance.[17] His study contributes to the decentralization debate by emphasizing that its goals cannot be achieved without empowered and well equipped local institutions, the promise of decentralization remains elusive.

This research defers in that it goes beyond the description of these challenges to give a doctrinal legal analysis of Zambia's constitutional and statutory framework. Unlike previous studies which have focused largely on administrative and policy perspectives, this work interrogates the adequacy, contradictions and overlaps within legally binding instruments themselves, reviewing how they either facilitate or frustrate decentralization in practice. In doing so this research seeks to bridge the gap between legal provisions and their practical implementation.

**METHODOLOGY**

This study will use the following research methods to carry out the necessary research

### 1.7.1 RESEARCH APPROACH

The approach to be used in this research will be qualitative. It will utilize primary data such as

[17] Mushimbwa, K., 2020. *Examination of Strategies of Local Revenue Collection in Local Government Authorities in Zambia: A Case Study of Gwembe District Council.* MSc Dissertation. University of Zambia.

statute law and it will make use of secondary sources in the form of books, journal articles, dissertations, textbooks, published legal and non-legal reports, working papers, thesis, law reviews and various electronic sources.

### 1.7.2 RESEARCH DESIGN

The study uses a doctrinal legal research design, which involves analyzing legislation, constitutional provisions, case law, and policy documents. This design allows for a detailed and critical evaluation of Zambia's legal framework on decentralization and the identification of legal gaps or inconsistencies.

### 1.7.3 RESEARCH TYPE

This study is qualitative, analytical and partly exploratory. It focuses on interpreting and critically examining legal texts related to decentralization and local governance in Zambia. The research seeks to understand how laws are structured and how they impact the autonomy and effectiveness of local governments.

### 1.7.4 SAMPLING TECHNIQUE

This study uses purposive sampling, selecting legal texts, statutes, policy documents, and academic literature that are directly relevant to decentralization and local government in Zambia. Key sources include the Constitution[18], Local Government Act No.2 of 2019, and the Public Finance Management Act, among others. Materials were chosen for their importance in analyzing the legal challenges facing local authorities. Collection of data will also involve interviews and questionnaires with respective ministry of the study as well as relevant employees and employers.

### 1.7.5 ETHICAL CONSIDERATIONS

All sources of legal texts, policy documents, case law and academic literature used in this study have been properly acknowledged and cited using the appropriate referencing approved by the University and not falsify information in the study. The researcher has taken care to avoid

[18] *The Constitution of Zambia (Amendment) Act,* No.2 of 2016

plagiarism, misrepresentation of legal content, or distortion of information. Moreover, this analysis is conducted objectively and fairly, with respect for differing legal scholarly opinions. Any secondary data or previously published materials have been used solely for academic purposes and in accordance with the principles of fair use.

## 1.8 CHAPTER OVERVIEW

**Chapter One:** This chapter introduces the concept of this study, outlining the role that local governments have in Zambia, along with the intended purpose of decentralization in strengthening governance, ensuring effective service delivery and community development. The chapter will provide the background of the research, the statement of the problem, research objectives, and research questions. It will also include significance of the study as well as the scope of the study. Further it will highlight the gap that is between the legal provisions and their practical implementation.

**Chapter Two:** This chapter critically exams the Constitution, the Local Government Act, the Public Finance Management Act and the National Decentralization Policy. It will further assess their effectiveness in facilitating decentralization and promoting local governance that is accountable. The chapter will identify contradictions, overlaps and gaps within the legal framework existing, which subsequently undermine the independence and effectiveness of local authorities, contrasting legal provisions with practical realities.

**Chapter Three:** This chapter will discuss the major legal, financial and administrative challenges faced by local authorities, including interference by central government, fiscal dependency, and institutional overlaps. Drawing on case studies and examples, it will evaluate how these affect service delivery, citizen participation, as well as local economic development.

**Chapter Four:** Addressing the third objective, this chapter considers legal and institutional reforms that could enhance the autonomy, accountability and capacity that local governments have. It will explore possible amendments to the current laws, improved enforcement mechanism, and strategies for aligning policy aspirations with binding legal provisions. It's focus will be on actionable legal measures that can bridge the gap between constitutional commitments and effective decentralization in practice.

**Chapter Five:** this chapter will combine the findings from the previous chapters and reaffirm the central issues seriously hindering meaningful decentralization in Zambia. It will present evidence based recommendations in respect of strengthening the legal and institutional framework for local governance, improving fiscal dependency, and citizen participation. The chapter then concludes by emphasizing the potential of a truly decentralized system to dive sustainable community development.

**CHAPTER TWO**

**EXAMINING THE LEGAL FRAMEWORK GOVERNING LOCAL GOVERNMENTS IN ZAMBIA AND ASSESS ITS EFFECTIVENESS IN FACILITATING DECENTRALIZATION AND LOCAL GOVERNANCE.**

## 2.0 INTRODUCTION

This chapter examines the major laws and policy instruments that define the organization, powers, and responsibilities of local governments, with a specific focus on how they encourage decentralization and support transparent, participatory governance.

This research maintains that success of decentralization and local governance in Zambia largely depends on the strength and clarity of the legal framework that regulates the operations of local authorities.

At the center of this discussion is the Local Government Act.2 of 2019,[19] supported by related legislation such as the Constitution (Amendment) Act No.2 of 2016[20], the Public Finance Management Act No.1 of 2018[21], and the National Decentralization Policy[22]. These instruments taken together form the legal foundation for the autonomy, accountability, and functionality of local government institutions, and so this chapter will critically examine whether Zambia's current legal framework actually furthers the objectives of decentralization by granting local authorities sufficient law making power, financial independence, and institutional capacity. This research also considers the alignment between the legal texts and practical realities on the ground, identifying key gaps or contradictions that may undermine the intent of the law. Through this analysis, this chapter seeks to establish whether Zambia's legal environment truly supports effective, community driven local governance.

## 2.1 CONCEPTUAL FRAMEWORK: UNDERSTANDING DECENTRALIZATION AND LOCAL GOVERNANCE

Decentralization and local governance through various sources are believed to be closely connected ideas that support modern democratic administration. In a legal and governance context, decentralization refers to the transfer of authority, responsibilities, and resources from

[19] *Local Government Act*, 2019
[20] *The Constitution Act*, 2016
[21] *Public Finance Management Act*, 2018
[22] *Nation Decentralization Policy*

the central government to subordinate or semi-independent governmental units such as local councils or municipal authorities. Its main objective is to bring government closer to the people by improving citizen participation, accountability, and responsiveness in public service delivery.[23] Through various researches it is believed that there are generally three recognized forms of decentralization:

- Administrative decentralization, which involves the transfer of planning, financing, and management responsibilities to lower levels of government;
- Political decentralization, which empowers citizens and their elected representatives to participate more directly more in public decision making;
- Fiscal decentralization, which allows local authorities to access and manage financial resources to meet their development priorities.[24]

In accordance with Zambia's legal framework and policy landscape, decentralization is not merely a developmental strategy but a constitutionally recognized governance principle. The constitution (Amendment) Act No. 2 of 2016[25] enshrines the existence and autonomy of local authorities. The National Decentralization Policy (2023)[26] puts into effect these principles by outlining the delegation of administrative, fiscal, and political functions to the local level. These provisions embed decentralization within the country's legal and institutional structures, emphasizing the need for clear roles, effective accountability systems, and active community participation in local development.

Local governance, on the other hand, refers to processes, institutions, and legal frameworks through which local authorities exercise power and deliver services. It focuses on how local governments engage with citizens, manage resources, and implement policies that address community needs.[27] It is believed that for local governance to be effective, it requires not only capable institutions but also a sound legal framework that clearly defines roles, responsibilities, and accountability mechanisms.

In theory, decentralization is expected to enhance local governance by increasing efficiency, promoting development that reflects local priorities, and improving transparency. However it

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[23] A. ul. Haque, *Theoretical Perspective of Local Government- Literature Review*
[24] ibid
[25] *Constitution Act*, 2016
[26] *National Decentralization Policy*
[27] University of Pretoria, *the Role and Purpose or Local Government*, Chapter 3, 50-89.

can be observed that in practice the success of this relationship heavily depends on the existence of an enabling legal framework. Where laws are vague, overlapping, or inconsistently applied, decentralization efforts may be undermined, leading to weak institutions and limited citizen involvement.[28]

This conceptual understanding forms the foundation of this chapter's analysis of Zambia's legal and institutional framework for local authorities and it is within this context that the subsequent section conducts a doctrinal examination of the laws governing decentralization to determine whether they facilitate or hinder local governance.

## 2.2 DOCTRINAL ANALYSIS OF ZAMBIA'S LEGAL FRAMEWORK ON DECENTRATION

A doctrinal analysis of the decentralization framework in Zambia reveals that there is determined tension between the constitutional commitment to local autonomy and statutory mechanisms through which decentralization is implemented. Decentralization is legally recognized as a pillar of governance, however the laws which are designed to realize it usually reproduce centralized control, and this weakens the autonomy and effectiveness of local authorities. It is believed that the Legal Framework of Zambia's decentralization system presents a combination of progressive constitutional ideas and restrictive statutory provisions which result in an arrangement that is more rhetorical than transformative.

### Constitutional Commitment and Structural Ambiguities

The Zambian Constitution of 2016 anchors decentralization within the governance system. Article 147[29] recognizes local government as an independent tier of governance, granting it autonomy in administrative and financial matters, reflecting an intention to bring governance closer to communities. However the constitutional framework falls short with regards to proving a strong foundation for genuine devolution. The absence of explicit constitutional mechanisms for financial autonomy and administrative independence allows other legislation to limit or reverse decentralization in practice. This creates uncertainty whereby local governments exist in principle meanwhile there is lack of constitutional protection needed to function as independent entities. It can therefore be observed that the decentralization agenda is highly

[28] Bornwell Chikulo, 'Local Governance Reforms in Zambia: A Review' (2009) 2 *Commonwealth Journal of Local Governance* 98.

[29] *The Constitution Act*, art 147

dependent on executive discretion than constitutional mandate.

### Ministerial Oversight, Fiscal Centralization and Legal Dualism

At statutory level decentralization is constrained by the scope of ministerial powers and the continued dominance of central authorities in financial management. For example, section 16 of the Zambia Local Government Act of 2019[30] allows the minister to issue binding directions to councils 'in the national interest'. In as much as these powers are justified as necessity for policy coordination, they serve as instruments of control, which allow central authorities to get involved in local decision making. This creates a system of legal dualism, whereby councils poses theoretical independence but actually remain subordinate to ministerial discretion.

In the same way, the Public Finance Management Act of 2018 embeds fiscal centralization by making it a requirement for local authorities to align their financial activities with national standards that set by the Ministerial of Finance. Sections 25 and 36 of the act compel councils to submit financial plans and reports to the ministry of finance. This is meant to ensure transparency and uniformity; it however limits councils' flexibility to respond to local priorities. Due to the absence of constitutionally protected mechanisms for generating their own source revenues, the dependence on central government transfers is further entrenched. In consequence, Local Governments remain accountable to ministries rather than the people.

### Jurisdictional Overlaps, Legislative Gaps and Institutional Fragmentation

In addition to the challenges related to autonomy and finance, it appears that the legislative framework is hindered by deficiencies in legal coordination and institutional clarity. The Local Government Act does not distinctly outline the respective functions and responsibilities of local councils in relation to provincial administrations. Although both entities are legally empowered to engage in development planning, it is recognized that the law does not provide mechanism for intergovernmental coordination, supervision or conflict resolution which leads to functional overlaps. This vagueness seems to create a duplication of functions, bureaucratic conflicts and delays in service delivery.

From a doctrinal standpoint these shortcomings reflect the absence of legislative alignment between the Constitution, the Local Government Act, and the National Decentralization Policy. This paper contends that, in the absence of harmonization, Decentralization remains

[30] *Local Government Act*, s16

fragmented more of a normative goal, rather than a binding legal reality. Therefore, in order to strengthen the Decentralization framework, Zambia must pursue constitutional amendments entrenching local autonomy and implementing statutory reforms that limit arbitrary ministerial control, and establish precise jurisdictional boundaries across the tiers of government.

## 2.3 CONSTITUTION AND LEGAL BASIS FOR LOCAL GOVERNMENT IN ZAMBIA

The legal foundation for local government in Zambia is firmly established in the constitution of Zambia (Amendment) Act No.2 of 2016, particularly in Part IX and Part XI. Article 147(1) which provides that "the management and administration of political, social, legal and economic affairs of the state shall be devolved from the national government level to local; government level".[31] It enshrines decentralization as a constitutional governance principle rather than a mere policy choice.

Article 147(2)[32] further recognizes the exclusive and concurrent functions of national, provincial, and local government levels, as listed in the Annex, while Article 147(3) [33] sets out key principles including good governance, respect for constitutional jurisdiction, autonomy of sub structures, and equitable distribution of resources. Article 148(2)[34] obligates the Government to make available adequate resources for the performance of the functions of the sub structures, signaling a constitutional commitment to resource allocation for decentralized governance.

The structure and mandate of local government are outlined under Article 151,[35] which provides for a system of local government based on the transfer of functional responsibilities and resources to local authorities, promoting active citizenship by participation, strengthening planning capacity at the district level, and establishment of a sound financial base for councils. Article 152[36] places responsibility on local authorities to administer the district, oversee programs and projects, make by-laws, and perform such other functions as may be prescribed, whereas forbidding the national and provincial governments from interfering with their ability to exercise such functions.

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[31] *The Constitution Act*, 2016 art. 147(1).
[32] Ibid Art. 147(2) and Annex.
[33] Ibid Art. 147(3).
[34] Ibid Art. 148(2).
[35] Ibid Art. 151(1).
[36] Ibid Art. 152(1)-(2).

Annex to Article 147(2)[37] enumerates the exclusive functions of local authorities, which include district planning, building regulation, local tourism, public health, water and sanitation services, refuse collection, street lighting, and licensing functions, among others. These provisions cumulatively establish the constitutional jurisdiction, functions, and autonomy of local government, forming the bedrock for legislative instruments such as the Local Government Act No.2 of 2019.

### 2.4 THE LOCAL GOVERNMENT ACT NO.2 OF 2019: POWERS AND LIMITATIONS

The Local Government Act No.2 of 2019 is the principle statute operationalizing the constitutional provisions on local government. It was enacted to give effect to the decentralization of functions, responsibilities and services, and to ensure democratic participation in decision making at local level.[38] The Act repealed and replaced the Local Government Act, Cap.281 to align with the Constitution of Zambia (Amendment) Act No.2 of 2016, consolidating the legal framework for the establishment, powers and operations of councils.[39]

#### 2.4.1 POWERS AND FUNCTIONS

Section 16 of the Act provides that local authority shall discharge functions conferred on it within its jurisdiction, as outlined in the first schedule.[40] These functions span general administration, agriculture, road and street maintenance, community development, public amenities, public health, public order, sanitation, drainage, water supply, waste management, and local economic development.[41]

Under section 25, local governments may impose levies on persons or businesses within their jurisdictions, while section 27 empowers them to impose fees and charges for services, licenses, and permits.[42] The Act also institutionalizes community participation through Ward Development Communities (sections 36-39). Which are mandated to prepare annual ward development plans, identify local revenue sources, and monitor development projects.[43]

[37] Ibid Annex, Part C (Local Authorities Exclusive Functions).
[38] *Local Government Act* 2019
[39] Ibid s. 81.
[40] Ibid s. 16(2)
[41] Ibid First Schedule.
[42] Ibid ss. 25.27.
[43] Ibid ss. 36-39

### 2.4.2 LIMITATIONS AND CENTRAL OVERSIGHT

Despite granting extensive powers, it is believed that the Act imposes significant limitations on local authority autonomy. This is said because several provisions require ministerial approval before councils can act such as section 3 on establishing councils, section 23(3) on fees, and section 62 on by-law confirmation.[44]

Further. Section 56 authorizes the Minister to suspend a council and appoint a Local Government Administrator if the council fails to perform its functions adequately, effectively centralizing oversight powers.[45] The Minister may also amend or revoke council by-laws under section 63, and issue binding guidelines under section 79.[46]

In financial matters, while councils may impose levies and collect fees. Borrowing powers under section 48[47] and receipt of foreign grants under section 49[48] requires ministerial consent, making fiscal independence limited.

### 2.4.3 ASSESSMENT OF EFFECTIVENESS

The Local Government Act No.2 of 2019 has a progressive scope in its provisions. Clearly defining functions and embedding participatory structures like Ward Development Committees. However, this study contends that the continued need for ministerial approval in core operational areas and power to suspend councils reflect a centralized model of decentralization. It can be seen that, this tension between local autonomy and central oversight has continued to defy the realization of effective self-governance.

## 2.5 THE NATIONAL DECENTRALISATION POLICY (2023): OBJECTIVES AND LEGAL ALIGNMENT

The National Decentralization Policy 2023[49] outlines the political commitment of Zambia to devolved governance for the purpose of improving service delivery, strengthening accountability and promoting grassroots participation. It is understood that, even though the policy provides strategic direction, its success actually depends on how effective existing legal

44 Ibid ss. 3, 23(3), 25(3), 27(3), 62.
45 Ibid s. 56
46 Ibid ss. 63.79.
47 Ibid s. 48
48 Ibid s. 49.
49 Government of the Republic of Zambia, *National Decentralization Policy 2023,* Ministry of Local Government and Rural Development, 4.

frameworks reflect and enforce its objectives.

It is also important to note that the policy is not binding law as it does not create enforceable rights or duties and obligations, and cannot override nor amend existing legislation. This distinction plays a critical role in determining whether the law is practical. Further, if laws are not amended in order to support the policy's goals, decentralization remains aspirational rather than functional.

From a legal standpoint, the Constitution and the Local Government Act forms a binding legal framework for decentralization. And it is important to underline that even though the National Decentralization Policy encompasses how the government aims to further deepen devolution; it is believed that its effectiveness heavily depends on how it aligns with the existing legal instruments. In several respects, however, the policy's aspirations for least central interference and the broader fiscal autonomy remains unrealized under the current statutory regime.

The disconnect arising between policy aspirations and existing legal provisions clearly create a gap between intension and implantation. For example, while the policy advocates for broader autonomy, such as revenue raising powers and reduced ministerial interference these goals lack a firm legal foundation. With that said, implementation remains inconsistent and susceptible to political interference. Therefore, although the policy provides valuable guidance for decentralization reform, it cannot replace the authority of binding law and for decentralization to be sustainable, policy objectives must be translated into enforceable legal standards that clearly define and project the functions.

## 2.6 FISCAL LEGAL FRAMEWORK: THE PUBLIC FINANCE MANAGEMENT ACT NO. 1 OF 2018

The Public Finance Management Act No. 1 of 2018[50] plays an essential role in regulating the collection, management and disbursement of public funds in Zambia. The primary aim is to ensure accountability and transparency in the use of public funds; however it appears that the Act also creates a framework that significantly influences the financial autonomy of local authorities.

[50] *Public Finance Management Act* 2018

### 2.6.1 CENTRALISED CONTROL OF PUBLIC RESOURCES

Despite local authorities collecting their own source revenue, their financial autonomy is still limited by the central government. The Public Finance Management Act subjects public bodies to Treasury oversight. Under section 7 the Secretary to the Treasury is empowered to supervise, coordinate and control the financial affairs of public entities.[51] To be specific, they have a mandate to open, maintain, and close accounting units in local authorities under S7 (1) (k), second accounting and internal audit staff to those units under S 7(1) (l), and to monitor how funds are used and inspect decentralized accounting systems underS7 (1) (r). These powers ensure that local authorities remain firmly within the national financial management framework.

It is believed that this centralized supervision means that local authorities cannot make their own independent decisions with regards to the funds they generated locally. Hence, the requirement for the Treasury to oversee issues to do with budget preparation, financial reporting, and expenditure approvals delays and restrict the councils' ability to make timely and independent financial decisions.

### 2.6.2 IMPLICATIONS FOR LOCAL AUTONOMY

The legal effect of this centralized fiscal model is dependency culture, where local authorities rely on central government grants and approvals to implement programs, even where local revenue has been raised. This dependency undermines the spirit of decentralization which is embedded in Article 147 of the constitution, which promotes the devolution of functions and responsibilities the local level.

In addition, although the Local Government Act (under section 25)[52] allows councils to impose levies, section 48[53] permits borrowing, these actions often require ministerial or Treasury approval, further constraining local fiscal space.

Due to absence of direct control over their own resources, the ability of local authorities to engage in long term planning, respond to local priorities, or hold themselves meaningfully accountable to their constituents is weakened. Therefore, the legal framework presents a structural challenge to the financial viability of decentralized governance.

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[51] ibid s. 7.
[52] *Local Government Act*, s.25
[53] Ibid s.48

## 2.7 LEGAL AND INSTITUTIONAL OVERLAPS: CHALLENGES AND IMPLIMENTATION

Although Zambia has a constitutional and statutory framework for decentralization, the implementation process faces significant legal and institutional overlaps. These overlaps create uncertainty in the exercise of local government functions and weaken the autonomy envisaged under Articles 147-152 of the Constitution.[54]

One important issue is the scope of ministerial powers under the Local Government Act, which grants the Minister of Local Government authority:

Approve or reject council by-laws (s.62),[55]

Suspend councils and appoint administrators (s.56)[56]

Issue binding guidelines to local authorities (s.79)[57]

The provisions are intended to ensure oversight, however, in practice they often result in ministerial overrides of council decisions, thereby undermining Article 152(2)[58] of the constitution, which expressly prohibits interference or council functions.

Another layer of institutional overlap arises from existence of sector-specific statutory bodies, such the water utility company, housing authority, and health boards- whose functions sometimes can duplicate or bypass those of the councils. This fragmentation does not only confuse lines of accountability it also weakens the ability that councils have to coordinate and deliver services effectively.

For example, Councils are legally mandated to manage solid waste under the First Schedule of the Local Government Act, [59] but waste management in Lusaka is largely contracted through Lusaka Water Supply and Sanitation Company, which then creates a parallel system that is not directly accountable to the council.

Such inconsistencies between law and practice reveal that legal authority alone is not enough without clear institutional mandates and enforcement mechanisms.

## 2.8 EFFECTIVENESS OF THE LEGAL FRAMEWORK IN PRACTICE

The effectiveness in practice of Zambia's decentralization framework is mixed. On paper, the

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[54] *The Constitution Act*, arts,147-152
[55] *The Local Government Act,* s.62
[56] Ibid s.56
[57] Ibid s.79
[58] *The Constitution Act*, art.152(2)
[59] *The Local Government Act* First Schedule, para 7

Constitution and the Local Government Act establish a devolved governance structure with defined functions, participatory mechanisms such as Ward Development Committees under ss. 36-39[60], and also financial powers. However, the reality is that centralized control for both fiscal and administrative remains entrenched.

A practical example can be drawn from Mazabuka district, the decentralization of teacher deployment was intended to enhance transparency as well as responsiveness. However, in a research paper by Hamayuni,[61] it was revealed that the process was hampered by poor capacity building, capacity building and external interference which led to inefficiencies therefore undermining the objectives of decentralization. Additionally, Resnick et al. [62] argues that the Ministry of Local Government retains substantial control over key decisions, reinforcing upward accountability and limiting genuine devolution.

All these structural limitations suggest that decentralization in Zambia has not yet translated into effective local governance, which in turn weakens its potential impact on community development. Therefore, while legal framework acknowledges decentralization, it cannot be said that it fully facilitates genuine devolution, persistent centralized fiscal controls, broad ministerial powers, and overlapping institutional mandates limit the autonomy of local authorities and weaken their capacity to deliver on their statutory functions. This results in Zambia's decentralization remaining more of a formal constitutional commitment than a fully realized system of governance, with a noticeable gap between theoretical framework and practical implementation.

## 2.9 CONCLUSION

This chapter has examined the legal framework governing decentralization and local governance in Zambia, focusing mainly on the Constitution provisions, statutory instruments, fiscal laws that define the powers as well as the functions that local authorities have. This analysis made demonstrates that while the Constitution[63] and the Local Government Act[64] formally recognize local governments and participatory mechanisms, the practical realization of

[60] Ibid ss.36-39

[61] Immaculate Hamayuni, *An Assessment of the Effectiveness of Decentralization in the Deployment of Teachers in Mazabuka District*, 2020,pp.45-47. Available at: UNZA Repository

[62] Danielle Resnick et al., *Deepening Decentralization in Zambia*, working Paper, 2019, pp.18-21. Available at: International Growth Centre

[63] *The Constitution Act*, 2016

[64] *Local Government Act*, 2019

decentralization is constrained by centralized fiscal controls, broad ministerial powers and overlapping institutional mandates.

This has further shown that the Public Finance Management Act[65] also plays a significant role in shaping local government finance, often reinforcing dependence on the central government. Examples such as ministerial overrides of council decisions, illustrate the persistent gap between the legal intent of decentralization and its implantation in practice.

Overall, the findings highlight that decentralization in Zambia though comprehensive on paper; it is actually partially effective in achieving its intended objectives.

[65] *Public Finance Management Act*, 2018

## CHAPTER THREE

## TO EXPLORE THE KEY LEGAL CHALLENGES THAT LOCAL GOVERNMENTS IN ZAMBIA ENCOUNTER IN RELATION TO FINANCIAL CONSTRAINTS, ADMINISTRATIVE INEFFICIENCIES, CENTRAL GOVERNMENT INTERFERENCE, AND EVALUATE THEIR IMPACT ON COMMUNITY DEVELOPMENT.

### 3.0 INTRODUCTION

The previous chapter has examined the legal framework that governs local government in Zambia, highlighting to what extent the Constitution, the Local Government Act, the Public Finance Management Act and the National Decentralization Policy provide a legal basis for decentralization. These instruments collectively established a framework for decentralized governance, their effectiveness in practice is constrained by contradictions, overlaps and limitations.

This chapter however moves further than the provisions of law to focus on what are the practical challenges that local authorities encounter in implementing decentralization. Even though the constitution recognizes local autonomy under Articles 147- 152,[66] as well as the statutory framework that outlines their functions, local government institutions continue to face barriers that weaken their ability to perform effectively. These challenges are reflected in central government interference, fiscal dependency, administrative inefficiencies, and institutional overlaps, which collectively frustrate the realization of meaningful decentralization.

For example, the Local Government Act[67] establishes participatory structures, but their operations are often undermined by weak financial support and poor citizen awareness which therefore limits their effectiveness. Likewise, councils remain financially dependent on central government grants that are frequently delayed, unpredictable and politically influenced. [68] These factors have a direct impact on how services are delivered in sectors such as waste disposal, infrastructure upkeep and community health.

### 3.1 CENTRAL GOVERNMENT INTERFERENCE IN LOCAL GOVERNANCE

One of the key challenges in implementing decentralization is the ongoing involvement of the

[66] *The Constitution Act*, arts.147-152
[67] *Local Government Act*, 2019
[68] Bornwell Chikulo, 'Local Governance Reforms in Zambia: A Review' (2009)

central government in the day to day operations of local councils. Although the constitution enshrines the principle of devolution and expressly prohibits the central government from interfering in the execution of local government functions, the reality is that councils remain subject to extensive central control. This interference occurs through law provisions, political pressure as well as administrative practices, all of which weaken the independence that Aticle152 was meant to protect.

### 3.1.1 Political Interference and Control

A clear example of this interference is the role of District Commissioners, who are appointed by the central government and report directly to the president instead of locally elected councils, this creates parallel structures of authority. Scholars have argued that this arrangement allows political elites to exercise disproportionate influence at the district level, often pushing councils to serve party or government interests instead of focusing on the needs of their communities**.**

**Tembo and Mwananaumo,** highlight that local authorities are bogged down by limitless political interferences" which restrict their ability to make decisions freely. [69] This political control does not only block genuine local decision making but it also erodes citizen trust in councils the reason for this is citizens begin to see them as powerless or politically biased instead of seeing them as true representatives of their communities**.**

### 3.1.2 Ministerial Oversight in Practice

Although the Local Government Act grants councils significant powers on paper, their practical autonomy is constrained by ministerial oversight. [70] In theory, councils have been empowered to enact by-laws, manage local resources, and oversee development initiatives. Yet in reality these functions are subject to approval. For example, in order for by-laws to become enforceable, they must first be approved by the minister, and the minister also retains discretionary powers to suspend councils and appoint administrators. This has at times been viewed as politically motivated. Concurrently, qualitative data reviews how bureaucratic processes, such as staffing and transfers, remain under central government control. The central government often issues or halts local policy decisions without clear justification, and sectors such as education, health, and

[69] M Tembo and E Mwanaumo, 'Achieving Fiscal Sustainability in Zambia's Local Government Framework:Designing a Local Government Framework' (2022) *International Journal of Recent Research in Interdisplinary Sciences* 33,36.

[70] *Local Government Act*, 2019 ss 56,62.

agriculture remain operated under the jurisdiction of national ministries rather than devolved to the councils.[71] As a result, councils often adopt a cautious approach to governance, which in turn limits innovation and responsiveness to community specific needs.

### 3.1.3 Consequences for Local Democracy and Development

The cumulative effect of political interference and ministerial oversight is the weakening of local democracy. Instead of serving as responsive institutions that reflect the priorities of their constituents, are often than not compelled to align their decisions with central directives. This dynamic therefore redirects accountability from downwards been the citizens to upwards towards ministers and central executive authorities, which subsequently weakens the direct link between councils and the communities they are meant to serve. This erodes the democratic character of local governance, reducing councils to implementers of centrally determined agendas rather than autonomous bodies capable of shaping development in line with local realities.[72] The suspension or dissolution of councils which is mostly triggered by political or administrative disputes further disrupts service delivery. During these periods, development projects are delayed or abandoned and administrators appointed may actually lack the contextual knowledge or community trust necessary to sustain progress.[73] Ultimately, the effect of this is that decentralization remains largely rhetorical, with local councils operating primarily as implementers of central government objectives rather than autonomous engines for community led development.

## 3.2 LEGAL CAPACITY AND HUMAN RESOURCE CONSTRAINTS IN LOCAL AUTHORITIES

A frequently overlooked obstacle is the limited legal capacity and persistent human resource constraints within local government institutions. Despite the clarity on mandates provided by instruments such as the *Local Government Act and the Public Finance Management Act,* many councils struggle to interpret, implement and enforce these laws due to lack of qualified personnel and institutional expertise.

Many local authorities' personnel seem to operate without qualified legal officers or staff

[71] *The politics of strengthening local governments: Lessons from Zambia* (International Growth Centre, 2025).
[72] M Tembo and E Mwanaumo, 'Achieving Fiscal Sustainability in Zambia's Local Government
[73] A Chisanga and others, 'Examining the Impact of Equalization Funds on Service Delivery by Local Authorities: A Case Study of Chongwe District Council in Zambia' (2023) *International Journal of Research and Innovation in Social Science 878, 882.*

proficient in statutory interpretation and administrative procedure. This gap in legal competence often results in frequent procedure irregularities, misapplication of legal provisions, and a general reluctance to assert institutional autonomy. These challenges are aggravated by broader human resource challenges, including understanding, limited professional development opportunities, and high turnover of skilled personnel. In rural councils such a Gwembe and Luangwa, administrative staffs often lack formal training in public law or financial management, leading to weak institutional performance and increased vulnerability to central control. The evidence indicates that even in more developed councils such as Lusaka, the absence of dedicated legal departments inhibits proactive planning and ability to safeguard institutional interests.

Addressing these challenges requires the establishment of legal advisory units, national capacity building programme, and partnerships with academic institutions to for training. Strengthening legal and human resource capacity is essential to making decentralization a functional and accountable governance system.

### 3.3 FINANCIAL CONTRAINTS AND FISCAL DEPENDENCY

Another pressing challenge faced by local governments in Zambia is regarding their limited financial capacity. Although councils are empowered by law to raise their own income through property rates, market levies, licenses, and service charges, these avenues yield minimal income in practice. Councils are mandated to provide services such as waste collection, road maintenance and market regulation; however their operational capacity to do so is undermined. The committee on Local Governments Accounts has observed that many councils are unable to meet their statutory functions and this is because their own source revenue is insufficient.[74] As a result, councils are heavily reliant on central government transfers to meet their obligations.

To address this imbalance, the Local Government Equalization Fund (LGEF) was created as part of the 2015 national budget. The Minister of Finance in his budget address announced that a portion of income tax revenue would be allocated to councils through the LGEF, with funds distributed using a formula that considers population size and poverty levels.[75] The Fund was

[74] Policy Monitoring and Research Centre, *Revenue Mobilization and Utilization in Local Authorities* https://pmrczambia.com/wp-content/uploads/2020/03/Committee-on-Local-Government-Accounts-Parliamentary-Submission.pdf [accessed 07/09/2025]

[75]Ministry of Finance, *2015 Budget Speech* https://www.parliament.gov.zm/sites/default/files/images/publication_docs/2015%20Budget%Speech_0pdf [accessed 09/09/2025]

intended to provide a predictable stream of resources which strengthen local governance. However, in practice much of the LGEF is spent on salaries and recurrent costs, leaving minimal funding for capital investment or service enhancement. [76]

Research has confirmed that this is widespread problem. In a study conducted on Chongwe District Council, it was revealed that most of the equalization funds were used for personal emoluments, which as a result limited amounts directed to infrastructure or service delivery.[77] This trend is mirrored across numerous councils, where routine administration absorbs the largest share of funds.

The consequences of service delivery are clear. Waste management is a particularly vivid example of financial strain.by the law, councils are responsible for solid waste management under the environmental management Act. However, in practice when residents default or transfers are insufficient, there is a struggle to meet this obligation due to the persistent funding gaps. When residents fail to pay user fees, councils subsequently lack the resources to maintain regular collection, which leads to widespread indiscriminate dumping. Media reports as well as council statements that have been made highlight the consequences: garbage accumulates in public spaces and because of that the cost of emergency cleanups is very high and this diverts funds from other services. The Lusaka City Council has repeatedly warned that such dumping undermines service delivery and this places additional pressure.[78]

Interviews with council officials further highlight the human and institutional dimensions of these financial constraints. One senior officer explained that even when funds from the LGEF are received, they are sometimes insufficient to meet payroll obligations, forcing councils to operate at a deficit or cut back on important services. She also pointed out that many councils lack proper office infrastructure, with stuff working in overcrowded and improvised conditions.[79]

In sum, local governments in Zambia continue to function without a sound financial base envisioned in the constitution. Until funding is sufficient and predictable, the practical implantation of decentralization remains constrained, making it difficult for councils to meet the expectations placed upon them.

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[76] Policy Monitoring and Research Centre, *Revenue Mobilization and Utilization in Local Authorities*

[77] A Chisanga and others, '*Examining the Impact of Equalization Funds on Service Delivery by Local Authorities*: (2023) pp. 878, 882.

[78] *Lusaka Times*, 'Pay for Solid Waste Collection, Lusaka City Council Urges Residents' (26 April 2023)

[79] Interview with Council Official, Zambia (Chongwe, 25th August 2025).

## 3.4 ADMINISTRATIVE INEFFICIENCIES

Besides, financial constraints, local councils also struggle with administrative inefficiencies that effectively hinder the effectiveness of their operations. These delays go beyond bureaucratic delays because they affect how decisions are made, how staff performs and how services reach their communities.

One major concern is the weakness that exists on internal controls and oversight mechanisms. In a stud of Lusaka city council it was revealed that even though internal control systems exist, they are only moderately effective. Specific shortcomings include failure to properly maintain financial statements, delayed or unremitted statutory contributions, lack of clear asset management policies, and inadequate planning.[80] These gaps make it hard for councils to manage its resources efficiently, enforce accountability or simply hold departments accountable when things go wrong.

The Auditor General's *Accounts (Local Government Report 2022)* documents systemic administrative failings across many councils.[81] These include unpaid statutory obligations, misapplication or ambiguous counting of public funds, and failure to submit or properly maintain records. These conditions subsequently slow down tasks such as file keeping, writing reports and coordinating the department.

Qualitative data from interviews has also revealed very practical inefficiencies. A senior council noted that in many councils, staff outnumber the available office infrastructure. Offices are often overcrowded, sometimes no adequate furniture or equipment, causing staff to operate from improvised settings, which therefore impairs routine tasks such as record keeping, interdepartmental coordination and report writing. These physical constraints slow down administrative processes.

Due to these administrative inefficiencies, even when councils receive funding, service delivery is delayed or compromised. Projects are delayed because paperwork isn't done on time or approvals are held up. Poor record management makes it difficult to track expenditures, whether infrastructure is maintained or asses project implementation. As one report states, "ineffective implementation of internal control systems impairs the performance of Lusaka City Council on

[80] https://rsisinternational.org/journals/ijriss/Digital-Library/volume-9-issue-3?3273-32888.pdf [accessed 11/09/25]
[81] The Auditor General of Zambia *Accounts (Local Government Report 2022)* (2023) 15-30 https://acazambia.org/wp-content/uploads/2023/12/LOCAL-GOVERNMENT-REPORT-2022.pdf [accessed 11/09/25]

service delivery."[82]

In summary, administrative inefficiency remains a serious barrier to effective local governance in Zambia. Financial resources and legal mandates alone are not enough. Councils must also be equipped with good internal systems, enough skilled staff, adequate infrastructure, as well as reliable oversight mechanisms. Without these fundamental elements, even well-funded councils lag behind in delivering services, upholding accountability and responding to the needs of their communities in timely and transparent way.

### 3.5 INSTITUTONAL AND FUNCITIONAL OVERLAPS

Local governance in Zambia also suffers from significant institutional and functional overlaps. The National Decentralization policy, [83] explicitly acknowledges that there is need to avoid duplication of functions across levels of government (MLGRD, 2023). Yet in practice, overlaps persist, particularly between central agencies and councils. A clear example is in the waste and landfill regulation. While the policy mandates that local authorities manage solid waste, the ministry and regulatory bodies retain roles in permits and oversight. This dual authority creates ambiguity, where both councils and ministries believe they have jurisdiction. The policy calls for clear delineation, however, implementation at local level often falls short. Similarly, revenue functions are affected. In the Attorney General's 2022 report, many councils had not updated their valuation report, which weakened their ability to generate local revenue.[84] At the same time, central agencies still collect charges related to land, business, and trade areas that overlap with local permits. The lack of current valuations often leads to confusion amongst citizens, making citizens pay to central authorities for the same services or simply just confusion about where to pay.

These overlapping mandates disrupt service delivery. The AG report documents Constituency Development Fund (CDF) and local work projects that are stalled due to weak coordination and supervision between councils and central ministries.[85] In many cases, incomplete drainage works, feeder roads, or market shelters are often a result of unclear responsibility. When citizens

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[82] https://rsisinternational.org/journals/ijriss/Digital-Library/volume-9-issue-3?3273-32888.pdf

[83] Government of the Republic of Zambia, *National Decentralization Policy 2023.* P5

[84] The Auditor General of Zambia *Accounts (Local Government Report 2022)* (2023) Appendix 26-27, also discussion on valuation rolls.

[85] Government of the Republic of Zambia, *National Decentralization Policy*, Sections on project supervision and coordination (CDF projects)

see no actions, they typically blame the nearest authority which happens to be the council, even though the root cause is overlapping designs.

### 3.6 IMPLICATIONS FOR COMMUNITY DEVELOPMENT

The institutional overlap has noticeable consequences for community development. Firstly, it results in weak service delivery. The AG report lists failures in waste sorting, failure to provide waste receptacles and incomplete infrastructure works especially in low income areas. This negatively affects health and livelihoods.

Secondly, it weakens the participation of citizens. Although the decentralization policy envisions Ward Development Committees (WDCs) as a bridge between councils and communities, overlaps in function dilute their role. When citizens perceive that real decisions lie with central agencies, they disengage at ward level. Also, many councils have failed to allocate funds or operationalize WDCs, which sidelines community voices further.[86]

Finally, repeated governance failures foster public distrust in local authorities. When citizens encounter uncompleted projects drainages still flooding, and inconsistent services, they question the council's capacity and authority. Because overlapping mandates obscure accountability, council's bears public blame even for functions beyond their control.

### 3.7 CONCLUSION

This chapter has highlighted the persistent challenges faced by local government in Zambia. Auditor General Reports consistently reveal recurring problems such as inadequate revenue collection, failure to update valuation rolls, and failure to remit to statutory provisions, and all these are factors that weaken financial accountability.[87] Additionally, councils face functional overlaps with central ministries and utility providers, which lead to duplication of functions and blurred responsibilities.[88]

On the ground, it is seen that local authorities face significant operational hurdles, which include limited infrastructure and capacity gaps. Many councils rely on under qualified personnel and lack proper office facilities, at the same time Ward Development Committees remain under

[86] Government of the Republic of Zambia, *National Decentralization Policy*
[87] The Auditor General of Zambia *Accounts (Local Government Report 2022)* (2023)
[88] Government of the Republic of Zambia, *National Decentralization Policy*

resourced and poorly integrated into council activities.[89] These weaknesses altogether erode citizen trust and limit meaningful participation in governance.

Further, the National Decentralization Policy[90] acknowledges these gaps and advocates for stronger accountability, clearer functions and strengthened institutional capacity. However, tangible progress in addressing these issues is limited. The findings of this chapter therefore point to the urgent need for far reaching legal and institutional reforms, which will be focus of chapter four.

[89] Auditor General of Zambia, *Report of the Auditor General on the Accounts of Local Authorities for the Financial Year Ended 31st December 2023* (Office of the Auditor General 2024)

[90] *National Decentralization Policy,*2023

**CHAPTER FOUR**

**EVALUATING HOW THE LEGAL AND INSTITUTIONAL FRAMEWORK CAN BE IMPLEMENTED IN ZAMBIA TO ENHANCE THE AUTONOMY, CAPACITY, AND DEVELOPMENTAL INPACT OF LOCAL GOVERNMENT INSTITUTIONS UNDER A DECENTRALIZED SYSTEM**

## 4.0 INTRODUCTION

Chapter three outlined the key institutional, legal and fiscal barriers which all hinder decentralization in Zambia. This includes the overbearing role of central governments, the dependency of local governments on national transfers as sell as the weak enforcement of local authority powers. As a result, many councils function as administrative extensions rather than independent actors of local development.

The purpose of this chapter is that it shifts the focus from identifying problems to providing solutions. It evaluates legal and institutional reforms aimed at strengthening local government functionality and accountability within a decentralized framework.

## 4.1 STRENGTHENING LEGAL FOUNDATIONS: CONSTITUTIONAL, STATUTORY, AND FISCAL REFORMS

### 4.1.1 Constitutional Reforms

The constitution (Amendment) Act importantly recognizes local governance through Articles 147 to152, [91] which promote decentralization, and they guarantee a sound fiscal base and prohibit central interference. However, these provisions remain theoretical because they lack enforceability in practice.

The following constitutional reforms are proposed in order to strengthen the local autonomy:

- Making the requirement to provide “adequate resources” under Article148 (2) legally enforceable, which will allow councils to challenge under funding in court.
- Revising Article 151 (1) (f), which requires a “sound financial base,” to mandate a constitutionally guaranteed minimum share of national revenue for local governments.
- Strengthening the clause that prohibits interference in Article 152 by requiring clear limits on council suspension or dissolution by central executive, by requiring judicial or independent

[91] *The Constitution Act,* 2016

commission oversight before any council can be dissolved or suspended.

- Introducing into the constitution the principle of subsidiarity, this should ensure that functions are devolved unless there is a compelling reason that justifies central control. This would prevent overreach from central ministries.[92]

These reforms would promote local government powers form delegated privileges into constitutionally protected rights, in that way reducing the risk of arbitrary central intervention.[93]

### 4.1.2 Statutory Reforms: Local Government Act No.2 of 2019

The Local Government Act was intended to implement decentralization; however, several of its provisions reassert central control to ministerial and central offices.

- Section 3 empowers the Minister to create, abolish or modify councils by order, which subjects structural changes to executive rather than democratic processes.
- Section 62 to 63 vests in the Minister power to approve by-laws which limits the autonomy of local legislation.[94]
- Section 56 grants the Minister broad powers to suspend a council and appoint an administrator without transparent processes.
- Sections 48 and 49 both require ministerial consent for borrowing and accepting grants, limiting financial independence.[95]
- Other provisions that require councils to submit information or undergo ministerial review further reduce local decision making authority.

Proposed Reforms include:

- Allowing by-laws to take effect after local enactment and official gazettal, subject only to judicial review after been implemented.[96]
- Restricting suspension of councils to cases where there is serious misconduct that can be proved, and should be proven before an independent commission or court.[97]
- Easing ministerial controls or consent as a requirement for borrowing and grant acceptance, subject to transparent approval as well audit processes.

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[92] United Nation Human Settlement Programme (UN-Habitat), *Fiscal Decentrlisation in Zambia* (2021).
[93] International Growth Centre (IGC), *Decentralisaion in Zambia: Accountability and Governance Analysis* (2019).
[94] Local Government Act No 2 of 2019(Zambia), ss 3, 62-63.
[95] Public Finance Management Act No 1 of 2018 9 (Zambia) s16(1)
[96] Public Management Research Centre (PMRC), *Analysis of the Public finance Management Act of 2018* (2020)
[97] Government of the Republic of Zambia, *National Decentralization Policy* (2023)

- Embedding statutory protections for Ward Development Committees (WDC), which will make them essential to local planning and budgeting rather than just having them as advisory organs.[98]
- Establishing clear procedures and timelines for ministerial oversight in order to prevent unlimited delays or arbitrary instructions. [99]

These statutory reforms aim to rebalance the relationship between local and central governance by replacing discretionary control with structured accountability.

### 4.1.3 Fiscal Reforms: Public Finance Management Act No.1 of 2018

Although the Public Finance Management Act seeks to promote financial discipline and transparency, a closer reading suggests that there are certain provisions that inadvertently enforce centralization:

- Section 7 of the Act empowers the secretary to the Treasury to assign financial control officers to public bodies, including local governments, and this therefore limits financial autonomy.
- The Act does not provide clear safeguards or timelines for transferring of funds to local governments which also contributes to the delays in funding.
- Although oversight mechanisms are strong, they lack uniform enforcement across councils and often lack effectiveness at local level too.

To remedy these issues

- Section 16 must be amended to allow councils to retain certain or specific revenues, such as (property taxes and service charges) in dedicated local accounts.
- Establishing a Local Government Finance Commission which will distribute intergovernmental grants transparently, based on objective criteria such as population, property levels and performance.
- Enforcing statutory deadlines for transfers such as, the Local Government Equalization Fund, with penalties or interest for delays.
- Strengthening local audit offices and internal financial controls to complement national oversight, which will ensure local accountability.

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[98] Zambia Institute for policy Analysis and Research (ZIPAR), *Local Government Debt and Arrears Analysis Report* (2025)

[99] Auditor General of Zambia, *Report of the Auditor General on the Accounts of Local Authorities 2023* (2024)

Together, these economic reforms would empower councils financially, reduce their vulnerability to central delays, and promote sustainable decentralization.

## 4.2 INSTITUTIONAL REFORM AND CAPACITY BUILDING

Legal reform alone will not be enough; therefore In order for the expanded legal powers to translate into real capacity, there is need for institutional reforms and capacity building strategies at the local level.

### 4.2.1 Establishing a Local Government Service Commission

A statutory Local Government Service Commission (LGSC) would professionalize local government staffing and administration, and may include the following functions.

- Recruiting, promoting as well as discipline of council officers under consistent criteria.
- Management of training and career development parts in local services.
- Ensuring that there is mobility of skills across councils, which will prevent capacity gaps in areas that are less resourced.
- Serving as a protective layer in order to reduce clear political interference in hiring local personnel.

By separating personnel control from political influence the LGSC can contribute to administrative steadiness and institutional integrity.

### 4.2.2 Enhancing Administrative Systems and Digital Governance

To modernize local administration

- There should be a mandate adoption of integrated digital systems for record keeping, financial management, procurement and public service delivery.
- There should be a requirement of councils to prepare standard operating procedures (SOPs) for main administrative functions, reporting lines and monitoring performance.
- Also promoting contracts based on performance for senior local government managers which are tied to delivery matrix and citizen satisfaction.
- Encouraging resource sharing or combined services such as regional procurement shared auditing in order to reduce costs and improve efficiency.

These reforms will enable local authorities to realize the autonomy's granted to them through legal reforms by improving data management, internal processes and responsiveness.

### 4.2.3 Strengthening Ward Development Committees (WDCs) and Local Participation

WDCs are vital in linking with committees, however currently they are under resourced and luck statutory weight.

- Include guaranteed operational funding for WDCs in legislation which will enable them to hold meetings, monitor projects and contribute to planning processes.
- Making a requirement to local councils to incorporate WDCs proposals and feedback into budget preparation and service plans.
- Introducing legal provisions for public consultations, participatory budgeting as well as social audits at ward and council levels.
- Establishing processes for citizens to oversee and monitor activities, such as mandatory publications or financial reports and performance dashboards, to ensure that there is transparency and accountability.

Through establishing stronger WDCs and making public involvement a standard practice, this study believes local authorities will become more accountable and responsive to the communities which they save.

## 4.3 LEGAL ENFORCEMENT AND INSTITUIONAL SAFEGUARDS FOR DECENTRALIZATION

The findings of this study support the view that statutory reform must be complemented by enforceable mechanisms that will guarantee the practical realization of decentralization. As things stand, Zambia's current legal framework lacks strong institutional safeguards capable of restraining executive interference and mitigating bureaucratic inertia. To address this deficiency a viable reform initiative would be the establishment of a Decentralization Enforcement Commission, created by statute and mandated with monitoring adherence to decentralization laws, investigating violations of local government autonomy, and publishing annual compliance reports. Functioning independently from both central and local authorities, such a commission would provide neutral and objective oversight.

In addition, decentralization can be strengthened through constitutional litigation mechanisms. The Constitution can be amended to allow local authorities to petition the constitutional Court in instances of unlawful ministerial control or delayed financial transfers and this would introduce an enforceable legal remedy currently unavailable. Besides that, embedding mandatory decentralization audits within the Public Finance Management Act would add accountability by necessitating that there are periodic reviews of central ministries as well as local councils. These decentralization audits should not only examine financial compliance but also institutional performance, citizen participation, and the quality of service delivery, thus ensuring that decentralization is perused with transparency and measurable impact.

## 4.4 ENHANCING CITIZEN PARTICIPATION AND DEMOCRATIC ACCOUNTABILITY

The argument advanced here is that, for decentralization to thrive there must be active citizens' involvement as well as well-established accountability mechanisms. Although Article 205(d) of the Constitution of Zambia (Amendment) Act No. 2 of 2016[100] recognizes the right to participate in governance, it appears that this remains largely aspirational without clear statutory mechanism. The National Decentralization Policy (2023) [101] emphasizes that inclusive participation is indispensible to responsive local government.

### Participatory Budgeting:

Legal amendments need to compel councils to hold annual public consultations on the budget, allowing communities to identify priorities and monitor fiscal allocations.[102] Zambia's Ministry of Finance already publishes Citizens Budgets each year, but participation remains mostly at national level. Therefore, this model extended by the district through requiring local "citizens' budgets" under section 46 of Local Government Act of 2019 would enhance inclusiveness and promote transparency.

### Social Audits and Public Oversight

The Law should compel authorities to facilitate annual social audits in collaboration with community groups and faith based organizations.[103] Evidence from CIVICUS has shown that when there is community monitoring, project completion rates are increased and this prevents corruption when citizens verify expenditure at ward level.

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[100] *The Constitution Act*, 2016
[101] National Decentralization Policy
[102] Southern African Regional Poverty Network, *Civil Society Engagement in the National Budget Process: Enhancing transparency and Accountability in Zambia* (Lusaka, 2005) pp.6
https://sarpn.org/documents/d0001599/Zambia_civil-society_budget.pdf
[103] CIVICUS, Zambia *Accountability Case Study Fina*l (Johannesburg, 2006) pp. 11-12
https://www.civicus.org/images/stories/csi/csi_phase2/zambia%20accountability%20case%20study%20final.pdf

### Mandatory Consultations

Introducing a statutory requirement for councils to hold open hearings before adopting policies on taxation, land use or infrastructure would align Zambia with regional base practice.[104] This could mirror s 16 (1) of South Africa's *Municipal Systems Act 2000,* which obligates municipalities to encourage public participation.

### Empowering Ward Development Committees (WDCs)

WDCs remain the most direct link between councils and citizens. To strengthen their role, s33 of the Local Government Act 2019 should be revised to give them defined oversight and reporting authority. [105] Guaranteed operational budgets would allow regular meetings and support citizen project monitoring.

Through these reforms participation would move from rhetoric to enforceable practice, which would ensure that decentralization is grounded in community ownership as well as accountability.

## 4.5 REGIONAL INSIGHTS FROM KENYA, UGANDA AND SOUTH AFRICA

Experiences across the region have demonstrated that constitutional safeguards and clear statutory frameworks are important for decentralization to be effective.

### Kenya

The Constitution of Kenya (2010) devolves power to forty seven counties (Articles 174 to 175) and it guarantees fiscal transfers of not less than 15% of its national revenue (Article 203(2)).[106] The County Governments Act 2012, sections 87 to 91, obliges councils to establish frameworks to enhance citizen participation.[107] Studies show that participatory budgeting at county level has improved transparency as well as service delivery in counties like Makueni and Kisunu.

### Uganda

The Constitution of Uganda (1995) article 176 (2),[108] and the Local Governments Act Cap 243 (1997) mandates elected local councils at every level from village to district. Sections 35-36 of

[104] Local Government: *Municipal Systems Act* No. 32 of 2000 (South Africa), s 16(1).
[105] *Local Government Act*, 2019
[106] *Constitution of Kenya* (2010)
[107] *County Government Act* No.17 of 2012 (Kenya)
[108] *Constitution of the Republic of Uganda* (1995)

the Local Governments Act require local authorities to hold public meetings and citizen inputs in development planning.[109] However, limited financial autonomy and political interference have undermined meaningful participation, offering Zambia a cautionary example of the risks of unfunded mandates.

### South Africa

The Constitution of the Republic of South Africa (1996) defines Local Governments as a distinct sphere (sections 151 and 152(1) (e)) and commands community involvement.[110] The Municipal Systems Act 2000 (sections 16 to 19), institutionalizes participatory planning through Integrated Development Plans (IDPs).[111] Ward committees enhance the relationship between citizens and councils, by ensuring continuous consultation and community oversight.

These comparative experiences review that genuine decentralization requires:

- Constitutional entrenchment of local authority
- Statutory guarantees for public participation and
- Financial frameworks that is secure.

Zambia can draw from these lessons by constitutionalizing participation rights and legislating community based budget forums.

## 4.6 BUILDING A COHESIVE LEGAL FRAMEWORK FOR DECENTRALIZATION IN ZAMBIA

The analysis in the preceding sections highlights the importance of establishing more coherent and integrated legal framework that brings together constitutional guarantees, legislative consistency, strong institutional safeguards.

### Constitutional Entrenchment

The Constitution should clearly affirm the obligation to provide sufficient resources to local authorities as outlined under Article 148(2), and this obligation should be legally enforceable through the courts. Furthermore, Article 151(1) (f) could specify a minimum revenue allocation for councils, while art 228 could be expanded to create an *independent Local Government Service Commission,* with the mandate to professionalize local administration and ensure that

[109] *Local Governments Act* Cap 243 (Uganda), sections 35-36
[110] *Constitution of the Republic of South Africa* (1996)
[111] Local Government: *Municipal Systems Act* (South Africa)

there is merit based recruitment and performance.[112]

### Harmonization of Sector Laws

To reduce the overlaps and ensure that there is better coordination in planning, consultation, and auditing, it is essential to harmonize the Local Government Act 2019, the Public Finance Management Act 2018, and the Planning and Budgeting Act 2020. It is believed that bringing the statutes listed above into alignment would simplify administrative processes and would also improve accountability. Additionally, a possible way forward would be the development of a Local Government Finance and Planning Act, which would unify financial management and planning procedures across all councils.

### Institutional Safeguards

To ensure that there is prudent financial management and transparency within local authorities, will require strengthening the oversight mechanism. The Auditor General's 2023 report on Accounts from local authorities [113] showed the continuing weaknesses in local governments, such as poor internal controls, delayed reporting, and the slow implementation of audit recommendations. All these lingering problems speak to deeply entrenched governance challenges that threaten the effectiveness of decentralization. For that reason, it can be argued that addressing this will require legislation to establish an **independent Local Government Audit Tribunal** with powers to assess compliance, enforce audit recommendations and hold those officials that fail to comply with them accountable. Additionally, the Parliamentary Committee on Local Government Accounts has also emphasized that there is need for binding follow up mechanisms to ensure that councils take timely corrective action.[114]

## 4.7 CONCLUSION

This chapter has discussed the key legal and institutional reforms needed to improve performance and accountability of local governance within Zambia's decentralized framework. It argued that while decentralization is recognized both in the Constitution and supporting statutes, local authorities continue to face several limitations, such as excessive ministerial control, financial dependence on the local government, and weak mechanisms for enforcement.

[112] *The Constitution Act*, 2016
[113] Auditor General of Zambia, *Report of the Auditor General on the Accounts of Local Authorities 2023* (2024)
[114] Ibid pp. 7-8

Hence, to address these challenges, this chapter therefore proposed specific constitutional, statutory reforms, along with measures for promoting financial independence. These include the establishment of a **Local Government Service Commission**, implementing **digital financial management systems**, and strengthening **Ward Development Committees.** This will be done to enhance efficiency and enhance citizen engagement. In addition, Insights from Uganda further illustrated how the value of legally enforceable participation and accountability structures can improve local governance.

Finally, it argued that the success of decentralization does not rest only on comprehensive legal reforms but also political will, effective financial management, and capacity building at local level. The next chapter consolidates the key findings from this study and presents the overall conclusions, emphasizing their implications for Zambia's decentralization process.

**CHAPTER FIVE**
**SUMMARY, CONCLUSION AND RECOMMENDATIONS**

## 5.0 INTRODUCTION

In this chapter there is a presentation of the general conclusion drawn from the current research and it reiterates the principle aim, which was "to assess the effectiveness of Zambia's decentralization framework in strengthening the functionality and accountability of local government institutions." It will summarize the key findings from the preceding chapters and propose practical recommendations for legal, fiscal as well as institutional reforms which are aimed at improving the decentralization process.

## 5.1 SUMMARY OF FINDINGS

This research has established that, although Zambia's decentralization framework is well articulated in law, its implementation has remained inconsistent and is largely ineffective. The Zambian Constitution (Amendment) Act No.2 of 2016 enshrines decentralization as a guiding principle under Articles 147 to 152[115], symbolizing the countries commitment to devolution. However, based on the findings of this study, these provisions have not as yet been fully enforced in practice, and constitutional guarantees alone so far have proved not enough to ensure real local autonomy. Similarly, the Local Government Act No. 2 of 2019,[116] was enacted to operationalize decentralization, however, the findings suggest that it simultaneously entrenches central oversight by vesting extensive powers on the Minister, such as the authority to amend by-laws, dissolve councils and control borrowing. Based on the anonymous survey done in different parts of Zambia this study conducted, it was found that the legal arrangement has limited the ability of councils to function as independent corporate entities. The Public Finance Management Act has tight central oversight because it subjects local revenues and financial operations to Treasury oversight, which significantly enfeebles the local financial autonomy.

From a practical perspective, this study has found that decentralization is constrained by weak citizen participation, limited fiscal capacity, apart from the inadequate institutional strength. This study also found that most local authorities remain dependent on central transfers, especially the

[115] *The Constitution Act*, 2016
[116] *The Local Government Act*, 2019

Local Government Equalization Fund, usually underfinanced and disbursed late to meet operational needs. Ward Development Committees though designed to promote participation, are nonetheless underfunded and they lack the statutory protection needed, which therefore limits their impact on local planning and oversight.[117] Audit reviews, such as the Analytical Brief on the Report of the Auditor General on Accounts of Local Authorities for the financial year Ended 31 December 3023,[118] continue to expose recurring weaknesses such as delayed financial reporting, internal control weaknesses, and noncompliance with audit recommendations signs of deeper governance challenges.

Therefore to address these shortcomings, this research proposes a more comprehensive, constitutional, statutory, and institutional reforms, and these include amending Article 148(2) that will restrict ministerial discretion under the Local Government Act,[119] establishing statutory bodies such as a **Local Government Service Commission** and a **Local Government Audit Tribunal** which will enhance professionalism and transparency. Fiscal autonomy should be strengthened further through amendments, and this should allow councils to retain a percentage of their locally generated revenues and through transparent intergovernmental transfers managed by a Local Government Finance Commission. As demonstrated under Article 176(2) of the Constitution[120] and sections 5 to 36 of the Local Governments Act.[121] Comparative insights drawn from Uganda have illustrated that decentralization can actually thrive where accountability, participation and fiscal empowerment are embedded in the law. This study has demonstrated that effective decentralization requires legal clarity.

## 5.2 GENERAL CONCLUSIONS

To conclude, this study has found that Zambia's decentralization remains largely nominal; it is more of a legal formality than practical reality. Although the Constitution formally recognizes the principle of devolution, the dominance of the central government, both administratively and fiscally, continues to weaken local self-governance. As a result, local authorities often function as extensions of central ministries rather than independent decision making bodies.

[117] Caritas Zambia, *Policy Brief-Resourcing Ward Development Committees* (Lusaka,2023) pp. 5-6 https://caritaszambia.org/phocadownload/policy_briefs/Policy-Brief-Paper-on-Resourcing-WDCs.pdf
[118] Auditor General of Zambia, *Report of the Auditor General on the Accounts of Local Authorities 2023* (2024)
[119] *Local Government Act*, 2019
[120] *Constitution of the Republic of Uganda* (1995)
[121] *Local Governments Act* Cap 243 (Uganda)

To achieve a decentralization system that is effective, it would be best for power relations between central and local authorities to be redefined. Further, the results emerging from this research underlined that decentralization just a statutory undertaking but it is a complex, interdependent process that involves political, fiscal, and institutional alignment. Therefore, where there is no real dedication on the part of central governments towards transfer of power and resources, legislative reforms risk remaining merely symbolic. In order to bridge the gap between policy intent and implementation, it is important to strengthen local capacity, improve oversight mechanisms, and ensure that there are reliable resource flows.

Further, decentralization should simply be an administrative strategy but rather a cornerstone of democratic governance that enhances citizen participation. This is said because local authorities are the closest institutions to the people, and they are central to translating national development policies into meaningful local outcomes. Besides, sustainable development is achievable at local level, only when decentralization is anchored in the principles of accountability, transparency and inclusive participation.

## 5.3 RECOMMENDATIONS

To achieve meaningful decentralization, this research has suggested a combination of legal, fiscal, and institutional reforms. Article 148(2) of the constitution (Amendment) Act No. 2 of 2016[122] should be amended in a way that will render fiscal transfers to local authorities legally enforceable and to entrench the principle of subsidiarity. Similarly, the Local government Act 2019 [123] should be revised to remove excessive ministerial oversight, particularly in relation to the approval of by-laws and the suspension of councils.

Fiscal reforms are equally significant. The establishment of the Local Government Finance Commission would enhance transparency in the distribution of grants and enforce timelines for disbursement. Local councils should be empowered to retain certain revenues to strengthen financial independence, while the Public Finance Management Act should be amended to allow for limited fiscal discretion at local level.

Furthermore, statutory reforms should be complemented by enforceable institutional and legal safeguards. The study proposes the creation of an independent Decentralization Enforcement

[122] *The Constitution Act*, 2016
[123] *The Local Government Act*, 2019

Commission to monitor compliance to decentralization laws, investigating violations of local government autonomy, and publish regular enforcement reports.

At the institutional level, establishment of **Local Government Service Commission** would improve professional standards of staffing, and it would reduce political interference in recruitment processes. Similarly, a **Local Government Audit Tribunal** could ensure follow up and enforcement of audit recommendations, which will strengthen accountability and reduce the misuse of public resources. The capacity of Ward Development committees must also be legally recognized and supported through dedicated budgets and structured capacity building initiatives that assure that there is genuine community participation.

Besides, technological modernization is also significant for efficiency; hence the need for digitized governance tools in financial management, procurement and service delivery will improve transparency, reduce corruption, and allow real time oversight of Council activities.

### 5.4 CONTRIBUTION TO LEGAL SCHOLARSHIP

This study contributes to the legal and governance scholarship as it provides a critical, doctrinal, and comparative assessment of the laws on decentralization in Zambia. It allows for an informed understanding of how constitutional principles are often weakened by statutory inconsistencies and administrative practices. The analysis of this research bridges theoretical discourse and practical reform through the proposal of a model of decentralization which is anchored in legal enforceability, accountability and fiscal empowerment.

This study contributes to the broader discussion on decentralization in Africa by placing Zambia's experience within a regional context. It further demonstrates that successful decentralization relies on harmony between political will, foundational legal structure, and implementation within institutions. Reforms that have been proposed can therefore serve as valuable reference points for policymakers, civil society organizations and legal reform Advocates seeking to strengthen the local governance framework in Zambia.

### 5.5 FINAL REFLECTIONS

This study has contended that, Decentralization in Zambia has gained formal legal recognition, but its practical impact is still limited. The long term success of a decentralized system depends upon a transformation of legal provisions into enforceable realities, and it depends on consistent implementation of laws, proper fiscal support, and the political leaders' genuine willingness to respect local autonomy. Moreover, to make any real progress, it will require collaboration between central government, based on transparency and mutual accountability between authorities and communities.

Collectively these points show that, decentralization should go beyond policy statements and become a lived governance principle that empowers citizens and strengthens democracy. It is believed that with persistent dedication, sound legal reform and strong institutional foundations, Zambia has the potential to move towards a truly decentralized system that aligns with principles of its constitution and equitable national development.

## REFERENCES


STATUTES

*The Constitution (Amendment) Act No 2 of 2016*

*The Local Government Act No.2 of 2019*

*The Public Finance Management Act No.1 of 2018*

*The Constitution of Kenya 2010*

*The Constitution of the Republic of Uganda 1995*

*The Constitution of the Republic of South Africa 1996* Local Government: Municipal Systems Act No. 32 of 2000 (South Africa)

*County Government Act No.17 of 2012 (Kenya)*

*Local Governments Act Cap 243 (Uganda)*

ARTICLES

University of Pretoria, *The Role and Purpose of Local Government*, Chapter 3, Pretoria: University of Pretoria, pp.50-89.

Haque, A.ul., Theoretical Perspective of Local Government- Literature Review, Research Institute of Behavioral Psychology, MPRA Paper No. 45868, 12 May 2012, available at https://mpra.ub.uni-muenchen.de/45868/ [assessed [17/04/25]

Chikulo, Bornwell C. (2009) 'Local Governance Reforms in Zambia*:* A Review'. *Commonwealth Journal of Local Governance,* 2 pp.  98-106.

Chulu, Daniel, Zuwa Sinkamba, and Saviour Hamvula. (2024) 'Challenges Faced by Transferred Staff in Local Authorities: *A Case Study of Chongwe Municipal Council, Lusaka, Zambia'*. American Research Journal of Humanities & Social Science, 7.9: pp. 16-20.

Kimario, Prisca. (2015) Challenges Faced by Local Government Authorities (LGAs) in Implementing Strategies to Enhance Revenues: *The Case of Dar es Salaam Municipal*

*Councils*. MA dissertation, The Open University of Tanzania.

Bbaala, P., *Local Government Reforms and the Challenge of Local Development in Zambia*, University of Zambia, Lusaka, 2025.

Mulenga, M.C and Mulenga, J., *Assessing the Performance of Local Authorities in Zambia During the Covid-19 Pandemic*, Working Paper No. 51, The Program on Governance and Local Development, 2021.

Government of the Republic of Zambia, *National Decentralization Policy 2023,* Ministry of Local Government and Rural Development, 4.

M Tembo and E Mwanaumo, 'Achieving Fiscal Sustainability in Zambia's Local Government Framework: Designing a Local Government Framework' (2022) *International Journal of Recent*

*Research in Interdisplinary Sciences* 33, 36 *the politics of strengthening local governments: Lessons from Zambia* (International Growth Centre, 2025).

*Lusaka Times*, 'Pay for Solid Waste Collection, Lusaka City Council Urges Residents' (26 April 2023)

Auditor General of Zambia, *Report of the Auditor General on the Accounts of Local Authorities for the Financial Year Ended 31st December 2023* (Office of the Auditor General 2024)

United Nation Human Settlement Programme (UN-Habitat), *Fiscal Decentrlisation in Zambia* (2021).

International Growth Centre (IGC), *Decentralisaion in Zambia: Accountability and Governance Analysis* (2019).

Public Management Research Centre (PMRC), *Analysis of the Public finance Management Act* *of 2018* (2020)

Zambia Institute for policy Analysis and Research (ZIPAR), *Local Government Debt and Arrears Analysis Report* (2025)

Southern African Regional Poverty Network, *Civil Society Engagement in the National Budget Process: Enhancing transparency and Accountability in Zambia* (Lusaka, 2005) pp.6 https://sarpn.org/documents/d0001599/Zambia_civil-society_budget.pdf [accessed 15/25]

Tembo, M.and Mwanaumo, E.M.,2022. Constraints in Implementing Decentralization in Zambia. *International Journal of Scientific Research and Management (IJSRM)*, 10(6), pp.PS-2022-32-43.

Siachisa, M., Mate, N., Kanyense, J., Nguluwe, P.R., Mulima, S.S. and Chikampa, V., 2025. A Drive Towards Decentralization: Zambia's Success Story. *International Journal of Research and Scientific Innovation (IJRSI),* 12(7), pp.498-503.

<u>THESIS AND DISSERTATIIONS</u>

Immaculate Hamayuni, *An Assessment of the Effectiveness of Decentralization in the Deployment of Teachers in Mazabuka District*, 2020, pp.45-47. Available at: UNZA Repository.

A Chisanga and others, (2023) 'Examining the Impact of Equalization Funds on Service Delivery by Local Authorities: A Case Study of Chongwe District Council in Zambia' *International Journal of Research and Innovation in Social Science.* pp *878, 882*

Nyirongo, R.T., (2024). *Evaluation of Fund Management in Zambia's Local Government: A Case Study of Chongwe, Lusaka, and Kafue.* MBA Dissertation. University of Zambia.

Mushimbwa, K., 2020. *Examination of Strategies of Local Revenue Collection in Local Government Authorities in Zambia: A Case Study of Gwembe District Council.* MSc Dissertation. University of Zambia.

WORKING PAPERS

Danielle Resnick et al., *Deepening Decentralization in Zambia*, working Paper, 2019, pp.18-21. Available at: International Growth Centre

INTERNET SOURCES

https://www.mlgrd.gov.zm/wp-content/uploads/2013/06/National-Decentralisation-Policy-2023.pdf [accessed 14/04/25]

https://www.sacities.net/wp-content/uploads/2022/04/s4-Challenges-and-issues-facing-government.pdf [accessed 17/04/25]

Https//www.freiheit.org/yangon/what-local-government
[Accessed] 17/04/2025

Policy Monitoring and Research Centre, *Revenue Mobilization and Utilization in Local Authorities* https://pmrczambia.com/wp-content/uploads/2020/03/Committee-on-Local-Government-Accounts-Parliamentary-Submission.pdf [accessed 07/09/2025]

Ministry of Finance, *2015 Budget Speech* https://www.parliament.gov.zm/sites/default/files/images/publication_docs/2015%20Budget%Speech_0pdf [accessed 09/09/2025]

https://rsisinternational.org/journals/ijriss/Digital-Library/volume-9-issue-3?3273-32888.pdf
[accessed 11/09/25]

The Auditor General of Zambia *Accounts (Local Government Report 2022)* (2023) 15-30 https://acazambia.org/wp-content/uploads/2023/12/LOCAL-GOVERNMENT-REPORT-2022.pdf [accessed 11/09/25]

CIVICUS, Zambia *Accountability Case Study Final* (Johannesburg, 2006) pp. 11-12 available at:
https://www.civicus.org/images/stories/csi/csi_phase2/zambia%20accountability%20case%20s

tudy%20final.pdf [accessed 15/10/25]

INTERVIEWS

Interview with Council Official, Zambia (Chongwe, 25th August 2025).

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2 SCHOOL OF LAW ASSESSING THE LEGAL CHALLENGES FACED BY LOCAL GOVERNMENTS IN ZAMBIA: A CRITICAL ANALYSIS OF THE IMPACT OF DECENTRALIZATION AND DEVELOPMENT IN COMMUNITIES By: LUKUNDO NAMBELA LLB212483835 AN OBLIGATORY ESSAY SUBMITTED TO THE UNIVERSITY OF LUSAKA IN PARTIAL FUFILMENT OF THE REQUIREMETS FOR THE AWARD OF THE BACHELOR OF LAWS (LLB) DEGREE. 1 2 2025 DECLARATION I LUKUNDO NAMBELA declare that this dissertation entitled, 1 "ASSESSING THE LEGAL CHALLENGES FACED BY LOCAL GOVERNMENTS IN ZAMBIA: A CRITICAL ANALYSIS OF THE IMPACT OF DECENTRALIZATION AND DEVELOPMENT IN COMMUNITIES" 1 2 which is hereby submitted to the University of Lusaka is my own original work and it has not been previously submitted for the award of a degree at this university or any other tertiary institution. I understand what plagiarism entails and I am aware of the Universities policy in this regard. Therefore, where other peoples work is cited, I have duly acknowledged. 1 The errors or omissions in this work are solely mine. Signature: Date: 11th November, 2025 RECOMMENDATION I MRS. KASWALALE KAKUWA MWAULUKA recommend that this dissertation was prepared under my supervision by LUKUNDO NAMBELA, entitled ASSESSING THE LEGAL CHALLENGES FACED BY LOCAL GOVERNMENTS IN ZAMBIA: A CRITICAL