

# Vision 2030: Will National Development Strategies succeed without key reforms in local governance?

## INTRODUCTION

Rural communities in Zimbabwe have endured decades of economic marginalisation as a result of weak governance frameworks that are exclusionary and unsustainable. The net effect on local communities has been poor service delivery, increased poverty, and human rights violations. President Mnangagwa delivered his legislative agenda for the 1<sup>st</sup> session of the 9<sup>th</sup> Parliament of Zimbabwe on 12 September 2018. The agenda mainly sought to address policy deficiencies impacting negatively on local government. The principles of good governance are achievable when power is devolved from central government. The President therefore promised to table before the 1<sup>st</sup> session of the 9<sup>th</sup> Parliament of Zimbabwe bills on devolution such as the Provincial Councils Amendment Bill, the Urban Councils Amendment Bill, the Regional Town and Country Amendment Bill, Rural District Council Amendment Bill, and the Traditional Leaders Amendment Bill (E Mnangagwa, SONA, September 12, 2018). Devolving power to lower tiers of government is the cornerstone of democratic participation of citizens in local government practices. Devolution will transfer power to local authorities to derive equitable benefits from the exploitation of natural resources found in their localities.

Rural communities in Zimbabwe are governed by Rural District Councils (RDCs). RDCs derive their mandate from Rural District Councils Act (RDC CAP 29:13). RDCs also derive specific terms of references from over 20 pieces of legislation that more importantly include the Mines and Minerals Act (MMA CAP 21:05), Environmental Management Act (EMA CAP 20:27) Forestry Act (FA CAP 19:05) and Communal Lands Act (CLA CAP 20:04). These policies are unsynchronized and archaic.

To close these gaps, the President proposed to retable before the 1<sup>st</sup> session of 9th Parliament, the Mines and Minerals Amendment Bill (MMAB) and accompanying bills such as the Gold Trade Amendment Bill and the Precious Stones Trade Amendment Bill. The MMAB was critical in strengthening local accountability in mining contracting, taxation and local enterprise development. It was also important to address issues of farmer miner conflict and arbitrary displacements. Amendments to the trade of gold and other special stones were necessary to curb mineral leakages by addressing issues of storage, transportation and security of precious minerals.

### **CAPTURE OF LEGISLATION BY THE EXECUTIVE**

The opening of the 5<sup>th</sup> session of the 9<sup>th</sup> Parliament by President Mnangagwa on 22 November 2022 marked the beginning of the last session of the 9<sup>th</sup> Parliament of Zimbabwe. In his address to the August House, President Mnangagwa announced that the MMAB was ready for gazetting. The bill has been at the Attorney General's Office 4 years after the President withheld his assent on the bill in 2018. Parliamentary Portfolio Committee on Mines and Mining Development summoned Nelson Diaz, the Deputy Attorney General responsible for legal drafting in July 2020 to explain the delay in drafting the bill. The committee had set a deadline of October 2019 for the completion of the draft bill. In his defence, Mr Diaz pointed out that the President had identified 10 clauses of the bill that were weak and needed redrafting. He added that his office was understaffed to work on the MMAB which he considered to be highly technical. Mr Diaz however pleaded with Parliament to grant him 2 weeks to produce the final draft of the bill. Mr Diaz's promise did not materialise. The bill has not seen the light of day in Parliament 4 years after the bill was proposed for legislation by President Mnangagwa. Cabinet approved the MMAB for gazetting in July 2022 after Chamber of Mines has met President Mnangagwa in a closed door meeting to raise stakeholders concerns on the delay. The delay on the MMAB has also stalled the drafting of the Gold Trade Amendment Bill and Precious Stones Amendment bill which the President had promised to table in the 1<sup>st</sup> session of the 9th Parliament of Zimbabwe.

The President edged the 5<sup>th</sup> session of the 9<sup>th</sup> Parliament to "speedily" consider legislation on devolution by amending the Provincial Council's Amendment Bill (PCAB) and 4 other requisite bills on devolution as stated before. Parliament is empowered by the constitution to promote good governance in Zimbabwe by ensuring that all agencies of the state at every level are accountable to Parliament according to section 119 of the constitution. However the capacity of Parliament to demand executive accountability has been eroded by systemic problems. The whipping system of Parliament has been manipulated by the executive to weaken the role of Parliament. As a result, the 9<sup>th</sup> Parliament has been subjected to sustained recalls of over 40 opposition MPs. These disruptive recalls were engineered by opposition splinter groups enjoying support from the governing party. The ruling party won a two-third majority in the 2018 harmonised elections.

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With a rubber stamping parliamentary majority and a disjointed opposition, the executive has not been perturbed to account to Parliament. In all the 4 sessions of the 9<sup>th</sup> Parliament that have passed, the leader of Government business in Parliament who is also Minister of Justice Legal and Parliamentary Affairs, Mr Ziyambi Ziyambi, has been moving motions to restore lapsed bills to the Order Paper. These bills were lapsing largely because of non committal of responsible Ministers to process the bills in Parliament. With the onset of the 5<sup>th</sup> session of the 9<sup>th</sup> Parliament, some of the bills restored in the 4<sup>th</sup> session but were not processed risk being terminated because standing order 171(4) does not allow a second restoration (Veritas). Meanwhile the majority of the proposed bills intended on strengthening local government have largely remained in the custody of the executive.

A defective Provincial Councils and Administration Bill (PCAB) intended to introduce devolution was gazetted in 2021. The bill was never presented to Parliament largely because of its shortcomings. As summed up by Veritas (Bill Watch 28/2021) the bill was a telling indication of how unimportant the government considers devolution and decentralisation to be. It cannot therefore be over emphasized that the call by the President for the 5<sup>th</sup> session to expedite legislation on devolution lacks sincerity. Moreso, only 7 out the 39 bills earmarked for the 4<sup>th</sup> session of Parliament were passed. Saddled with an overload of 32 bills and a shortened life of the 5<sup>th</sup> session of Parliament, President Mnangagwa's legislative agenda seems unachievable. The life of the 5<sup>th</sup> Parliament which started late is bound to dissolve in July 2023 in time for holding of harmonised elections. A similar scenario can be tracked to 2018 when President Mnangagwa withheld assent to the MMAB and returned it to Parliament Just before the 2018 harmonised elections. Parliament couldn't convene a sitting to reconsider the bill as provided in section 131(7) of the constitution because the 8<sup>th</sup> Parliament had been dissolved as explained by Speaker of Parliament Advocate Jacob Mudenda in his address to a Parliamentary Portfolio Committee on Mines (PPCMs) workshop on the bill held in July 2019. The Speaker went on to quote section 147 of the constitution which states that "on the dissolution of Parliament, all proceedings pending at the time are terminated and every bill, motion, petition and other business lapses." This abundant evidence suggest that the 10<sup>th</sup> Parliament will be starting afresh hence renewed pressure will be required on the new government to reintroduce reforms in Parliament.

However, a closer examination on the movement of bills in the past 4 sessions of the 9<sup>th</sup> parliament indicate that government's top priority has been in railroading authoritative reforms for legislation ahead of democratic ones. Bills such as the Constitution of Zimbabwe Amendment bill (No.2), Cybersecurity and Data Protection bill, 2022, Private Voluntary Organisations Amendment Bill and the Criminal Law (Codification and Reform) Amendment Bill have either been formulated or moved for legislation at the speed of lighting. It is disheartening to realise that outstanding bills like the Precious Stones Trade Amendment Bill and the Gold Trade Amendment Bill from the 1<sup>st</sup> session have been omitted in preference for draconian laws.

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## UNBUNDLING IMPACTS OF NATIONAL DEVELOPMENT STRATEGIES ON LOCAL GOVERNANCE

In October 2019 the President launched a US\$12 billion mining industry by 2023 as part of the broader national economic vision of attaining an upper middle-income economy by 2030. The US\$12 billion mining industry is premised on gold, platinum, diamond, chrome, iron ore, coal, and lithium production among other minerals. The US\$12 billion mining target will be achieved through increased exploration and expansion projects, resuscitation of closed mines and opening of new ventures, mineral beneficiation and value addition, increased exports and foreign currency generation among other issues according to the Ministry of Mines and Mining Development policy position. Constitutionalism, devolution, rule of law, responsiveness of public institutions and participatory decision making are some of the cardinal values of vision 2030. In fulfilment of vision 2030, mining will achieve these values through “a well governed mining sector which is ethically inclusive, environmentally friendly, socially responsible and appreciated by surrounding communities” (Zimbabwe Vision 2030; September 2018) However, progress towards amending laws affecting local government with national development strategies has not been forthcoming. Needless to mention that mining in Zimbabwe has already proved to be a worst case of opacity, exclusion and disregard for human rights.

In line with realising vision 2030 government also rolled out strategies such as the Transitional Stabilisation Programme (TSP) from 2018-2020 and the National Progress Strategy 1 (NDS1) from 2021-2025 centring on public infrastructure and service delivery. TSP recognised devolution as a constitutional imperative that must empower local government to improve service delivery. TSP therefore planned to devolve powers from central government to local authorities between 2018 and 2020. Local authorities were then expected to craft their economic development plans underpinned by resource endowments in their provinces as provided in section 264 of the constitution (TSP 2018-2020). It also intended on transfer not less than 5% of national revenues raised in any financial year to local authorities in line with section 301 of the constitution. On service delivery in rural areas, TSP planned on improving water and sanitation by drilling more boreholes; upgrading health infrastructure to provide comprehensive health services; construction of teaching and learning facilities in education; undertaking rehabilitation programmes on environmental protection and rehabilitation of roads and construction of bridges. Another important aspect planned under TSP was on Children’s Rights and Development which included resource allocation to campaigns to end child marriages, sexual exploitation and abuse of children. To achieve that, TSP intended to improve rural school infrastructural facilities to ensure that all children benefit from the roll-out of the new education curricula.

Key Result Areas (KRAs) for NDS1 centres on improved environment protection and climate change sustainable natural resource utilisation, enhanced service delivery, public health and wellbeing, improved infrastructure and utilities, quality and affordable social protection and improved justice delivery among other key deliverables. NDS1 strategy is derived much from unfulfilled objectives of the TSP. 77.3% to 90% and access to improved sanitation facilities from 70.22% to 77.32% in both urban and rural areas.

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In coming out with this strategy NDS1 recognizes weak governance policy framework in the mining sector as a limiting factor in sustainability of the environment

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On roads access, NDS1 intend to increase number of kilometres of road network from 5 to 10% by 2025 with a focus on developing feeder roads in rural communities. On education NDS1 is targeting to improve access to quality, equitable and inclusive education through infrastructure development and rehabilitation of schools, water reticulation and electrification of schools and enhanced digitalisation of primary and secondary schools. On health NDS1 will improve access to primary and secondary health care including finalising and implementing community health strategy. On environment NDS1 is prioritising environmental protection through Improved Ecosystems Health. The strategy will enhance and enforce local by laws, enforce laws on rehabilitation of mined areas, capacitating of local authorities to manage environment, ratification, domestication, implementing and monitoring multilateral environmental agreements. NDS1 will also prioritise improved climate action through climate change adaptation and mitigation. NDS1 strategy on the environment is informed by the high rate of natural resources depletion and environmental degradation affecting environmental sustainability which is impoverishing vulnerable groups (NDS1 2021-2025). In coming out with this strategy NDS1 recognises weak governance policy framework in the mining sector as a limiting factor in sustainability of the environment. Hence the success in realising its objectives lies in finalisation and implementation of mineral specific policy frameworks and a comprehensive review of the Gold Trade Act, Precious Stones Trade Act and amendment of the Mines and Minerals Act (NDS1 2021-2025).

### MARANGE AND PENHALONGA

Between 2020 and 2022 CRD was able to mobilise community actors in resource rich areas of Manicaland to monitor performance of the US\$12 billion mining industry, TSP and NDS1 policies on local governance. Through community monitoring and documentation, community led audits and case studies CRD was able to gather evidence of policy impacts on service delivery and led community actors in stakeholder dialogue meetings for local governance reforms. Community led audits findings on diamond rich ward 29 and 30 of Marange in Mutare District and gold rich ward 21 of Penhalonga in Mutasa District reflect failure by local authorities to meet their KRAs on service delivery in line with TSP and NDS1 targets. In Marange 70 % of a targeted population of 26 461 (Zimstart 2022) drawn from 37 villages have no access to clean water. 61 functioning boreholes out of 120 were old, rusty and constantly on breakdown. Local authority has failed to drill new boreholes, rehabilitate existing ones and upgrade wells as part of realizing their KRA on water service provision. Alternative sources of water such as wells, rivers and mine dumps are polluted by mining chemicals. Health officials confirmed high cases of water borne diseases such as diarrhea, bilharzia and skin diseases in the area from people using untreated water. According to village health workers in ward 30, at least 3 to 4 people were treated for diarrhea every day.

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School authorities attributed increased number of absenteeism, school dropouts and poor pass rates in their schools to poor health in pupils. Water scarcity is forcing young girls to look for alternative sources of water around their communities exposing them to sexual exploitation hence the high prevalence of cases of sexual abuse, sexually transmitted diseases, early pregnancies and early marriages in the communities. In Penhalonga, CRD discovered that MRDC had not met its KRA of increasing access to clean water supply through rehabilitation of waterworks by 2020. MRDC was still buying water at exorbitant price from Mutare city because it doesn't have its own water works to treat water for supply to residents of Penhalonga. Its own 3 water reservoir tanks have low capacity to adequately serve Penhalonga. One tank at Chinyanjera currently being refurbished with devolution grants will only meet water needs for one suburb upon completion. Penhalonga is faced with persistent water cuts from Mutare city because of failure by MRDC to service mounting bills owed to Mutare city. The desperate water situation has resulted in 3879 households with a population of 14965 residents resorting to draw water from unsafe streams that are contaminated by cyanide and mercury from hazardous gold mining activities operating in Penhalonga. With legal support from Zimbabwe Lawyers for Human Rights (ZLHR) CRD mobilized Penhalonga residents in 2022 to file a High Court Application against MRDC for violating their right to clean, potable water as provided in section 71 of RDC Act 29:13 and section 77 of the constitution of Zimbabwe. Fronted by a shadow resident committee on service delivery residents won a landmark High Court mandamus for MRDC to supply adequate water to residents of Penhalonga within 60 days. Faced with high consumer demands on water service provision for its own clients against skyrocketing prices for water treatment Mutare City cannot guarantee constant water supplies to Penhalonga. MRDC has abundant natural water sources to undertake product beneficiation for its end users but lack financial resources to establish its own waterworks.

On education CRD found out that 17 schools run by local authorities in ward 29 and 30 of Marange could not meet demands of the new curriculum because of lack of infrastructure such as furniture, electricity, equipment for information and communication technology (ICT), textbooks, laboratories, libraries and reliable water supply. Resource scarcity has resulted in overcrowding, high teacher pupil ratio ranging from 1 to 84, learning in makeshift classrooms and pupils walking long distances to schools ranging from 4 to 16 kilometres. Moreso shortages of textbooks has seen 5 to 7 pupils sharing 1 textbooks in class. School improvement grants (SIG) from UNICEF and school development levies remains the only sources of funding for schools development but inadequate to meet basic requirements of the new curriculum. Worse still SIG funding ranging from US\$5000 to US\$8000 per school, is only limited to primary schools. Audits revealed failure by local authorities to fund their schools' five year development plans. The effects of poor service delivery on education has been poor pass rate ranging from 50 to 0% in the majority of the schools. In Penhalonga the local authority has not meet its KRA of increasing access to education by rehabilitating existing schools, establishment of e-learning, Early Child Development (ECDs) in council schools, opening of new schools and construction of libraries in secondary schools by 2020.

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Community led audits findings on diamond rich ward 29 and 30 of Marange in Mutare District and gold rich ward 21 of Penhalonga in Mutasa District reflect failure by local authorities to meet their KRAs on service delivery in line with TSP and NDS1 targets.

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The only 2 council schools available are currently facing high pupil enrollment forcing pupils to learn in wooden makeshift classrooms. It is also facing shortage of accommodation, textbooks, ICT material, furniture, laboratories, sanitation facilities and shortage of clean water supply. As a result of poor service delivery on education, the pass rate is poor ranging from 20 to 33% according to school authorities.

The audits also discovered that local authorities have not met their KRAs of reducing average walking distance to health centres from 15 to 5 kilometres by constructing health centres, maintenance and rehabilitation of existing health centres by 2020. Audit findings in ward 29 and 30 of Marange indicated failure by MRDC to complete construction of 3 health service centres some dating from 2016. Chiadzwa Community Health Centre (CCHC), a government clinic that was opened in 1985 remains the only health centre for a densely populated diamond community that has risen to over 14000 people. Audit found high numbers of referral cases from community health centres to mission, district and provincial hospitals because of low medical stocks, lack of infrastructure such as mother's shelter, waiting and delivery rooms and lack of specialists' medical officers. In Penhalonga ward 21 Mutasa Rural District Council (MRDC) has also not met its KRA of constructing another clinic to meet health service provision for the rising population by December 2020. Audit observed that the only local clinic in the area was understaffed. The health centre is currently facing drug shortages, non availability of a mother's shelter and ambulance in its effort to deliver health service provision. The audit also revealed that the clinic was overwhelmed with high increases of malaria cases and sexually transmitted diseases such as HIV which has increased by over 50% as a result of increased gold mining activities in Penhalonga.

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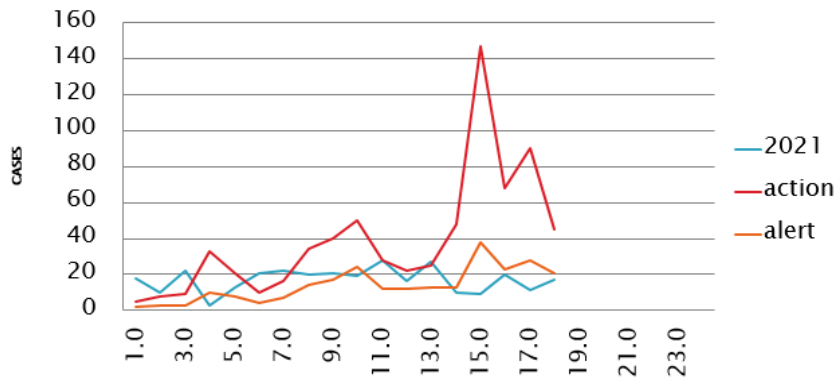
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On environment protection the audit found out that there were no rehabilitation to deep excavation mining pits in Marange. Approximately 5000 pits have also been created by artisanal diamond panners in Singwizi Valley area controlled by state security forces. These pits have become death traps to people and livestock. Information gathered from health workers indicate that ward 29 and 30 have become malarious because of mosquitoes breeding in some of the wet pits. Ministry of health sources indicate malaria outbreaks every month in the mining community. Ministry sources indicated that a high number of children including under 5 years were being affected by malaria. School authorities in Marange confirmed high numbers of children absent from school mainly in the rain season as a result of malaria. The Ministry recommended land reclamation and gully filling as a lasting solution to combat the scourge of malaria in Marange diamond community.

# CHIADZWA CLINIC TLVs.. 2021

CHIADZWA CLINIC TLVs...2021



The graph above shows the trends and patterns of malaria cases from week 1 up to week 18 in Marange diamond community

CRD case study findings on Penhalonga revealed the emergence of hazardous gold mining activities that have mushroomed around local forests, farming and residential areas around Penhalonga. These activities have had severe impacts on the environment without contributing anything significant to local taxation. CRD shared findings with relevant regulatory authorities in 2022 but their interventions to enforce miners to comply with the rule of law have been weak and insignificant. CRD also observed that there was no progress by MRDC in reducing environmental degradation through rehabilitation of gullies, management of natural resources and extraction sites as outlined in their KRAs. On road infrastructure CRD observed failure by local authority to construct and maintain roads and construct bridges in Marange for the past 10 years. Poor service delivery in road infrastructure has resulted in people walking long distances to access public transport. School children have failed to cross flooded rivers during the rainy season resulting in growing numbers of absenteeism and low pass rates in schools.

The client needs problem analysis undertaken by Mutasa and Mutare RDCs as outlined in their 2021 -2025 strategic plans validated findings by CRD. The analysis by Mutare RDC indicated that 48% of their communities had no access to clean water and 72% have no access to sanitation facilities. The local authority also pointed out that their schools and clinics needed 100% attention to meet basic health and education service delivery. Moreso Mutare RDC also stated that 72% of roads in their district were not meeting minimal standards

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The two local authorities also contributed to their failure to secure environmental health and safety for their communities to poor budget performance and competing priorities among government departments. From its findings CRD concluded that TSP failed to meet its targets on service delivery because of a weak policy governance framework and fiscal constraints. Weak governance practices have resulted in loss of accountability, increased corruption and natural resource plunder. The replacement of TSP with NDS1 in 2020 without government expediting reforms in local governance has seen NDS1 failing to meet its targets on service delivery. CRD findings on Marange and Penhalonga has already demonstrated that the implementation of the US\$ 12 billion mining industry together with National Development Strategies such as TSP and NDS1 were dominated by opacity, little regard for rule of law and worsening poverty.

## RECOMENDATIONS

Government of Zimbabwe is bound by the constitution to expedite reforms in local government in order to achieve NDS1 targets in line with the goals of vision 2030. Therefore, the legislative agenda for the 5<sup>th</sup> session of the 9<sup>th</sup> parliament must:

- Legislate devolution bills such as the Provincial Councils Amendment Bill, Urban Councils Amendment Bill, Rural District Councils Amendment Bill, Regional District Councils Amendment Bill and the Traditional leaders Amendment Bill for transfer of power and autonomy on local governance practices to local authorities. Enactment of devolution laws will achieve one of the cardinal values of vision 2030 which put emphasis on decentralisation and devolution. Devolution reforms are essential to promote democracy, transparency and accountability in local governance systems. The establishment of provincial councils under devolution will see community representatives such as traditional leaders occupying important space in the governance of their local affairs and make decisions that empower their communities. Devolution will ensure equitable revenue sharing between local and central government that will see local authorities developing sound financial capacities to deliver quality service delivery for communities in their areas of jurisdictions.
- Legislate mining reforms such as the MMAB, Gold Trade Amendment Bill and Precious Stones Amendment Bill to align with the principles of devolution on equitable sharing of resources. Reforming the mining sector will curb leakages and farmer miner conflicts. As recognised by the United Nations Declaration on the Rights of Indigenous People (UNDRIP) MMAB must in cooperate the principle of Free, Prior and Informed Consent (FPIC) to protect communities from mining induced relocations without compensation. MMAB must also provide for contract and revenue disclosure to promote transparency and accountability in the mining value chain.
- Parliament must also exercise its oversight role as obligated in section 119 of the constitution to ensure that all institutions and agencies of the state and government at every level are accountable in the implementation of the US\$12 billion mining industry by 2023 and national development strategies to realise goals of vision 2023.
- As enunciated by vision 2030, local authorities must observe the public's inalienable rights to efficient service delivery and that public servants have the responsibility to deliver mandated services according to public demand.

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in local governance?

Is available at <http://www.crdzim.org.zw>

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