

LOCAL AUTONOMY AND CENTRAL CONTROL IN ZAMBIAN
URBAN AUTHORITIES

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By

GEORGE M. PELEKAMOYO

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University of Zambia.



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P R E F A C E

This dissertation studies the nature of local government in Commonwealth Africa as reflected in Zambian urban authorities. In particular, it examines central control and local authority functions; sources of revenue and central control; and control over manpower. These are some of the main issues that shape the relationship between central government and local authorities. The existence of government ministries and local authorities, each having statutory powers, often dealing with the same matters, results inevitably in both co-operation and conflict. This is reflected in the three case studies in Chapters IV, VI and VIII.

Chapter I discusses the term "local government" and the different patterns of local government and their characteristics. The chapter reflects the fact that local government in Commonwealth Africa is based on the British system of local government and Zambia is, therefore, no exception. Chapter II and Appendix A deal with local government's place in Zambia, its development, duties, structure and its relationship to the Party, government and other institutions.

Chapter III discusses various views of local authority autonomy and central government control over local authorities, with chapter IV illustrating the problem of central control over local authorities by examining the 1972 Rent Act. Chapter V and Appendix B deal with sources of revenue and central control. It suggests that central control over sources of revenue is one of the main factors that determine how well local authorities can perform their functions. Chapter VI on the Headlease system illustrates this point. Chapter VII discusses recruitment of staff and government control in this respect. The chapter raises a point that without the required professional personnel coupled with rigid control by the Government over local authorities in the recruitment of required staff, local authorities can hardly perform their functions well; and chapter VIII on the recruitment panel demonstrates this point.

Material for this dissertation has been collected from published and unpublished articles, books, files from various organisations, the Laws of Zambia, Parliamentary Hansards, local newspapers, speeches made by leaders of the Party and Government, and interviews of a wide variety of people. The position of the writer, as Town Clerk of the Lusaka City Council, enabled him to carry out interviews with the top leadership of both the Party and Government as he is always in close contact with them in the course of performing his duties. Those interviewed in respect of this dissertation included Members of the Central Committee of the Party, Cabinet Ministers, Permanent Secretaries, Members of Parliament, Mayors, Councillors, Town Clerks and many other persons. The interviews strengthen the discussions in this dissertation.

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CHAPTER I

THE NATURE OF LOCAL GOVERNMENT IN COMMONWEALTH AFRICA

WHAT IS LOCAL GOVERNMENT?

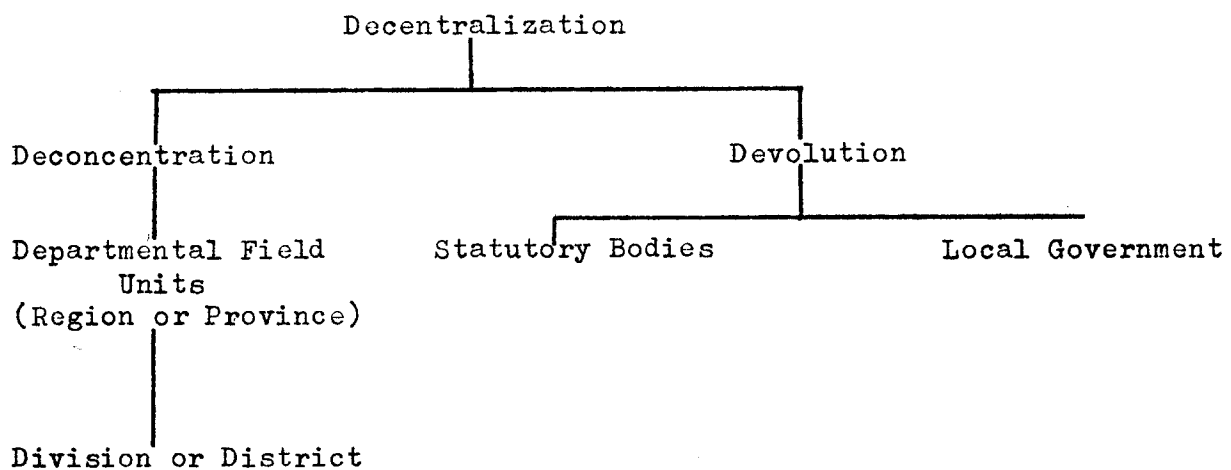
In the first place, it is necessary to define "local government". The term "local government" is used in this study to describe a system of decentralized government in which many of the tasks of government are distributed among units separated both legally and organisationally from the central government departments. The separate units of a system of local government referred to in this study are local authorities. The term "local government" has been defined within the United Nations to refer to a political sub-division which is constituted by law and has substantial control of local affairs including the power to tax. The governing body of such an entity is elected or otherwise locally selected. In modern local government, representative local authorities are authorised by the central government by law to perform some functions and provide some services to their local communities. This view of local government has been expressed by the United Nations¹.

Local government in Zambia is essentially a product of the colonial age. It is, however, possible to argue that there has always been local government not only in Zambia but in many other African countries in the sense that pre-colonial communities had their own cohesive social system and were organised for virtually every purpose from crop-raising to defence. But there was no sovereign central government to bind these communities together to any greater extent than the paramount chieftaincy. Modern local government derives from the presence of an overriding central authority at national level and until the advent of colonialism, this central authority did not exist.

1. Ronald Wraith, Local Administration in West Africa, (London, 1972) pp. 13-15. See also United Nations, Division for Public Administration, Decentralization for National and Local Development. New York, United Nations, 1962.

Local government can well be understood by first discussing 'decentralisation' which helps to place local government in the context of public administration. Decentralization means the transfer of authority from the central government. It embraces processes of both deconcentration and devolution. When transfer of authority is made to field units of the same department or area of government, it is called 'deconcentration'.

However, when authority is transferred to local government units or special statutory bodies, it is called 'devolution'. In this aspect of decentralisation, authority is devolved by law upon bodies which may exercise a degree of autonomy from central control. Devolution may take at least three forms: statutory bodies (which may be concerned with commercial activities, public utilities, or social services), provincial or regional government, and local government. Local government, then, is where powers are devolved upon any kind of local body. And thus, Councils, whether elected or selected, constitute a form of local government. Decentralization, deconcentration and devolution is expressed in the following diagram:-



Deconcentration takes different forms although generally it will be either functional, integrated or unintegrated. Functional deconcentration is found in countries like the United Kingdom and the United States of America. In this form of deconcentration areas of government activity are divided according to the administrative convenience of each government department and not necessarily on a uniform territorial basis. Usually there is co-ordination between field agencies of the government departments and local authorities. In the United Kingdom, for example, areas of government activity like hospitals, electricity and water are operated in this way.

The French system of deconcentration is different from that obtaining in the United Kingdom and the United States of America. The system practised in France is integrated system in which a préfet has responsibility for all field agencies working in one département (or province) and is the direct link with the central government. Whereas in functional deconcentration local authorities are not part of field agencies, in this system they become part and parcel of direct chain of command from the centre with the préfet as an agent of the central government. The préfet exercises responsibility as head of the local administration¹.

A good example of unintegrated system is one which was practised in the pre-independence period of Zambia and many other African countries². Native authorities had substantial autonomy under the policy of Indirect Rule. Field administrators had their separate administrative links with their respective departments, although all were organized on similar territorial lines. This type of administration was quite different from the direct chain of command found in classic French prefectorial system.

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1. B. C. Smith, Field Administration. An Aspect of Decentralisation. (London, 1967) pp. 45-46.
 2. D. Cameron, and B. K. Cooper, The West African Councillor. (Ibadan, Accra, 1961) pp. 14-16.

One of the forms of devolution is statutory bodies. The statutory boards or corporations are created by the government to manage on a day-to-day basis the organization of one particular area of activity which it is felt can better be administered free from direct governmental control. These may be commercial enterprises like Zambia Railways, or public utilities such as the Zambia Electricity Supply Corporation prior to its incorporation into the ZIMCO group of companies. At the head of each of these boards or corporations is a Minister who is ultimately responsible for them. In Zambia, like in many new African states, ministerial devolution to statutory bodies has proved to be a sensitive issue with the government on the whole exercising great control.

Local government is another form of devolution. It involves some real defined powers and authority independent of the central government. In Zambia, local government units are elected with up to five representatives appointed by the Minister of Local Government and Housing, and as in many new States, their activities are constantly checked and controlled by the central government.

PATTERNS OF LOCAL GOVERNMENT

There are generally three basic patterns of local government all of which have some relevance to the present type of local government in Zambia - the French, the English and the Communist. Some writers have added the traditional as the fourth type of local government¹. In the French system, local government is regarded as the local arm of the central government in the hierarchical structure. Local councils (counseils mucipals) have important powers and duties exercised through their principal officer, the Mayor. But the proceedings and most of the decisions are subject to the direction,

1. Wraith, Local Administration in West Africa, p. 19

approval or veto of a civil servant (the Prefect) who represents the central government. This system of local government can be likened to the Indirect Rule which was established to enable the British Government to rule their colonies. In the present day Zambia, the Permanent Secretary, the Provincial Local Government Officers and the Ministry of Local Government and Housing in some aspects do act in a similar way as a Prefect in the French system of local government.

In the British system of local government, there is a division of powers, or partnership, between the centre and the local councils. Councils are locally elected and exercise a considerable degree of autonomy. There is no complete ^{Autonomy} ~~autonomy~~ ^{has no} ~~autonomy~~ because this would imply the existence of two sovereign authorities in a state. The central government has a duty to ensure that the work which local councils are required to do is done efficiently. These facts necessitate the exercise of control by the central government over local councils.

The Zambian system of local government is a legacy of the British system with some likeness to the French system. In the Zambian system of local government, there is more control exercised by the central government over local councils than in its mother system (this will be discussed later).

The characteristic of Communist or Socialist local government is that it is part of a complex of party and government agencies and the purpose of the system is socialistic planning for the economic development of the community. One other characteristic of a Communist or Socialist local government is that it is a single-party system and the party exercises firm direction and leadership. Usually the party nominates members of the local councils. The concept of democratic centralism on which it is based has had some appeal in Zambia as well as in other parts of Africa. Despite some

of its attractions, it has not been a deep influence in local government to Zambia; although Zambia is a single-party state and the party permeates the system of government and is given prominence in local government¹. Zambia, Sudan, Tanzania and many other African countries illustrate that some local government systems can be a mixture of all three mainstream models, but the degree of autonomy from central government control differs from one system to another. It is, however, discussed later in this dissertation that unless local authorities are given powers of discretion in some fields, such as appointing their own staff and allocating funds, they can well be regarded as mere administrative agents of the central government.

It is important to define what is meant by "local autonomy" in the context of local authorities in Zambia. "Autonomy" as often referred to by local authorities in Zambia does not mean a licence to operate outside the laws of Parliament, nor does it mean having local authorities that are independent of the Party, the Government and the Ministry of Local Government and Housing. It does not mean isolation by local authorities from established institutions. What it means is that with the law setting out the functions of local authorities passed by Parliament, local authorities are given some freedom to discharge their duties without interference within the law. For example, it is not in keeping with the desire of Parliament if the Ministry of Local Government and Housing issue circulars to local authorities

1. Henry Maddick, Democracy, Decentralisation and Development (London, 1966), p. 234.

which make the carrying out of their duties as given by Parliament difficult¹. If this has to be done it should be in accordance with the requirements of the law. It also means that although Parliament has every right to pass and amend laws relating to local authorities, it should not pass laws that restrict the powers and duties of local authorities unnecessarily or make laws that take away power and responsibilities from local authorities.

In his report to the Finance and General Purposes Committee on the status of the Lusaka City Council the Town Clerk had this to say on this matter:-

"By all means, let the Government exercise general supervision over Council and its work by using the Ministry of Local Government and Housing, the Local Government Service Commission, the Zambia Housing Board and other institutions. After all, this Council depends on Government for various loans for capital works. At the same time, let the Council, which also relies heavily on rate-payers' money, be allowed to function with minimum controls from the Central Government as long as it does not operate illegally, immorally or otherwise outside of its jurisdiction"².

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1. This matter was discussed with the Town Clerk, Lusaka who referred to Circular No. 25/73 Reference No. LGH/101/49/1 dated 6th September, 1973 from the Ministry of Local Government and Housing.
 2. Report of the Town Clerk to the Finance and General Purposes Committee, 17th July, 1970. Also see File No. TCD/3/30/1 Vol. II. Great Lusaka Policy and Procedure. Town Clerk's Department, Lusaka City Council.

THE BRITISH IMPACT

The present day system of local government in Commonwealth Africa has developed from traditional government and has, together with political changes that have taken place, kept changing. There has, therefore, been some form of local government before what may be termed the modern form of local government came into existence. A family was a unit of authority and many families together constituted a village headed by a village headman. A number of villages formed an area which came under the control of a chief. A hierarchy of authority existed to control and protect the communities in their areas. This was the traditional form of local government.

The coming of British colonial administrators to Africa brought about changes and new development in local institutions. In their early years in Africa, the British administrators encountered many problems to administer the countries that were under their control. Among the problems they faced were: the countries were too vast to be administered by few administrators; there were different tribes in one country speaking different languages which the colonial administrators did not understand; there was no easy communication between one place and the other as good roads and transport systems were non-existent. The British administrators attempted to resolve the problems by introducing "Indirect Rule", a system of governing a country through the agency of existing traditional authorities¹. It was first applied in the Hausa-Fulani Emirates of Northern Nigeria and in

1. Lord Hailey, Native Administration in the British African Territories, (London, H.M.S.O. 1950) p. 83. See also Cameron & Cooper, The West African Councillor, p. 14, and George Padmore, How Britain Rules Africa, (New York, 1969) pp. 318-320.

the Buganda Kingdom of Uganda where the British found well-articulated indigenous political structures which were made the agencies of colonial rule without major alteration and was originally devised and established by Sir Frederick Lugard.

Indirect Rule was also introduced in many parts of British Africa because it was found to be a more flexible way of governing their colonies than "Direct Rule" which was an expensive system of governing a vast country which was thinly populated. However, efforts to implement the policy of Indirect Rule elsewhere in Africa raised problems. For example, the British were unable to discover either the basic system or the recognised traditional holders of authority among the Ibo-speaking people of Eastern Nigeria¹. As a result, communities were arbitrarily grouped together and placed under the control of a chief appointed by the colonial administration. This situation, among others, caused institutions of Indirect Rule to develop in an uneven fashion with no uniformity. But, they did provide the accepted framework for local government.

The Indirect Rule policy which introduced local authorities was strengthened by a dispatch from the Colonial Secretary, Mr. Creech-Jones, on 25th February, 1947 in which it was asserted that an "efficient and democratic system of local government" was an important goal of colonial policy in Africa. Increased powers were given to tribal chiefs who later became strong executive

1. Wraith, Local Administration in West Africa, pp. 179-181.

heads of their tribes and districts¹. By 1950 native authorities in most Commonwealth countries that included West, East and Central Africa and also Sudan had emerged in a more improved form by respective Legislative Assemblies passing Ordinances to this effect². Native Authorities were set up in each senior chief's area or district with sums of money to provide roads, water, agricultural services, schools, etc. Native Courts were established to assist the Governments to maintain law and order. The emphasis was upon the efficient performance of tasks in line with the broad requirements of the colonial policy and slowly a democratic system of self-government was being introduced in many British African countries with some differences from one place to the other³.

In the 1960s, local government reforms were taking place after the attainment of independence by most British-ruled Africa. The main thrust of reform was towards the establishment of democratically-elected district or local councils. Their model was the English system of local government under which largely autonomous councils at the local level comprised of locally elected members - serving voluntarily and without compensation - who directed the expenditure of locally-raised tax revenues for a range of services within broad, but well-defined areas laid down by the central government. As in the English system, each council also employed professionally trained staff to implement the policies decided by the majority of councillors.

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1. For excerpted version of the dispatch, see A.H.M. Kirk-Greene (ed) The Principles of Native Administration in Nigeria: Selected Documents, 1900-1947, (London 1965) pp. 238-248.
 2. Wraith, Local Administration in West Africa, pp. 9194.
 3. E.C. Alderton, "Development in Local Government in the Eastern Region of Nigeria". Journal of African Administration, (October, 1956) pp. 169-179.

However, during the waning moments of British colonial rule and after independence, problems concerning the operation of local councils began to arise. The new councils had greater powers than had been given to native authorities. Yet few councillors had previous experience in government, let alone in the management and oversight of services; furthermore, it proved difficult to attract qualified staff in competition with the better-paid and higher-status national civil service. In Western Nigeria and Ghana, where local and district councils had been instituted relatively early, the general level of efficiency rapidly dropped¹. It became evident that the introduction of a multi-tier counciliar structure on the English model had produced confusion among the populace about the proper locus of sub-national authority and had contributed to the problem of inefficiency. Remedial legislation was enacted in some countries which attempted to simplify the tier structure and the central government was given powers to intervene in situations of recognised inefficiency².

It is useful at this stage to emphasise the point that by and large, local government now established in African Commonwealth countries has its roots in the native authorities which it succeeded but that it is based on the English pattern as regards its structure and methods of operation. It differs, however, in some respects, for example, in some countries like Zambia, where there is one-tier structure of local government while others like Kenya have two-tier structures of local government.

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1. Sheridan Johns and Richard Riley, "Local and District Councils - Should They Be Forgotten?" Journal of Modern African Studies, 13, 2 (1975) pp. 313-314.
 2. Ibid pp. 314-318.

The local government system in British Africa was based on that which worked well in the United Kingdom and the assumption was that it was going to do as well for the colonies. This suited the British administrators who were administering British Africa. They could not have introduced a system of local government which they did not know or something which would be to their disadvantage to administer. They introduced a system of local government obtaining in their home country and what was encouraging on their part was that the system could be adapted to suit local conditions and it was acceptable to the Africans. Some people, however, would like to think that the Africans had no choice as the English system was imposed on them. This is not true as facts indicate that some of the former British colonies have retained major, if not all, aspects of British local government system long after attaining independence. This proves that the system is indeed adaptable. It should be admitted, however, that local government system in some Commonwealth countries is generally undergoing some major reform.

THE GENERAL TREND OF LOCAL GOVERNMENT IN
AFRICAN COMMONWEALTH COUNTRIES

Prior to independence, most nationalist politicians regarded various local bodies that included locally elected assemblies wherever they existed as additional platforms from which to challenge colonial authority. They were used as a device by which power could be transferred from native authorities dominated by traditional leaders to governmental structures controlled by popularly-chosen representatives which could generate support for new developmental initiatives. Elected councils were in this light regarded as a means of providing political participation at the local level, in a manner that would add legitimacy to the nationalist government and added strength to implement its objectives.

After independence, the ideological stimulus of nationalism became more pronounced in most African Commonwealth countries. The countries that had just won independence wanted to strengthen their unity which had and is still being threatened by tribal and regional cleavages. The victorious parties feared rival parties and centres of influence and because of this fear, they entrenched themselves in authority. It was feared that new councils would block the achievement of national unity, offer a challenge to central political authority and even impede the realisation of national development plans. The political parties were the most important central institutions, over-shadowing not only the newly-created parliaments, but in many instances rivalling the administrative bureaucracy.

The position of local councils following independence was less favourable than had seemed during the nationalist struggle. Although they came into existence with the support of African nationalists, they entered political and administrative space which was at the same time being occupied by other established and relatively more powerful structures. Local party organisations often supported by national leaders, were anxious to maintain themselves as the main vehicle for the mobilisation of popular support within the districts.

Also on local levels were the field agencies of various ministries. These representatives of central authority and specialised expertise were sensitive to any threat to their position by other official structures. In the districts of some countries, traditional leaders often with substantial local support, remained unsympathetic to the institutions which had displaced the native authorities through which they had previously dominated their areas¹. Added to the problem in which councils found themselves was the lack of finance, non-availability of experienced staff and low calibre of councillors. The general poverty of local government inhibited (as it does now) the development of facilities and even the continuance of programmes. The scope and scale of services provided have been insufficient for the needs. In many countries like Kenya the functional role of local government has been reduced by the transfer of key local services to the central government². In other countries like Zambia, Government has been reluctant to give to local

1. A bitter row erupted between Ndola City Council and Chief Chiwala over ownership of Chipulukusu squatter compound. Daily Mail, 14th January, 1972. Chief Nkana of the Lamba people accused Kalulushi District Secretary of depriving him of his powers by allocating plots to squatters without his knowledge. Daily Mail, 20th July, 1972.

2. In 1969, the Kenyan Government transferred responsibility for the provision of health and education services and the maintenance of secondary roads from the elected county councils to the central ministries. Goran Hyden, "Local Government Reform in Kenya", in East African Journal (Nairobi), VII, 4, 1970, pp. 19-24.

authorities additional functions. These problems have plagued local government in most Commonwealth countries, and the inability of local government to overcome these problems has been serving as an excuse for the lack of enthusiasm for local institutions and for the inclination towards centralization.

In many African Commonwealth countries, like Ghana, Kenya and Nigeria, the role of the political parties changed considerably a few years after the attainment of independence. In some cases, of course, like Nigeria, Ghana and Uganda, political parties were prohibited by the military governments that assumed power. In others like Lesotho and Swaziland, the ruling government severely constrained or outlawed party activities. Even in certain single-party states, like Malawi, not much reliance has been placed on the political parties as the agency of rule. Only in a few countries like Tanzania and Zambia have some efforts been made by party leaders to revitalize party institutions and to maintain their pre-eminence.

However, where these efforts have been made, governments have chosen to introduce reforms at the local level, not through the gradual strengthening of existing local authority institutions but rather by sharing the responsibility of these institutions with new types of bodies and agencies. The trend of local participatory reforms in some Commonwealth countries now appear to attach more importance on local democracy and economic development. To this end, some countries like Tanzania, Botswana, and Zambia have established Ward, District or local or in other cases Provincial Development Committees¹. These committees are organisations of local residents who work together for the development of their neighbourhood and locality. The committees have been designed to decentralise decision-making in planning for themselves and implementation of their decisions.

1. Henry Bienen, Tanzania: Party Transformation and Economic Development (Princeton, 1967) pp. 322-333 and 349-352; William Tordoff, "Local Administration in Botswana - Part II" in Journal of Administration Overseas, XIII, 1, 1974, pp. 293-300; and Roderick Rainford, "Provincial Development Committees" ibid. X, 3 (1971) pp. 178-191.

Apart from co-ordinating all related activities within a specific area, local development committees are also designed to afford all the people, and not just one section of the population, to be involved in the process of government to a much greater degree than just voting for their local leaders. It is believed in Zambia and other countries such as Tanzania, that significant development can take place if a greater number of the population is involved, both in making decisions and in implementation. In countries where local development committees have been established like the Ward Development Committees in Zambia, it has meant decentralisation of some parts of government aimed at making it possible for local levels of government to participate more directly in making decisions relating to development of their areas. It is useful to point out that a ward development committee in Zambia is a local development body related to local authorities. Alongside it in urban areas, are political party bodies, such as sections, branches, constituencies and regions.

In most Commonwealth countries where the military government has not assumed power, the trend in local government developments had been by and large the same. Most governments have seen the need to involve the sub-national levels in the development of their countries although in fact what is seen happening is centralisation. The fear that many governments had after the attainment of independence of the position of local government in relation to the central government still exists despite the fact that most of the governments have now entrenched themselves into power. Decentralisation by the central governments and participation by the sub-national levels is more a matter of talk other than deed.

POLITICS AND PARTICIPATION IN LOCAL
GOVERNMENT

Local government is in many ways bound-up with both central and local politics. It is generally bound up with the central politics because it is created by the Act of Parliament which decides on what power it should have and what legal powers other government ministries should exercise over it through their respective ministers. The fact that the government has legal supervisory powers over local authorities and that they are themselves given functions to perform under various Acts of Parliament does cause differences and disagreements. These differences and disagreements are the essence of politics as is the decision taken to resolve them. Politics in one sense is about taking decisions - who should take decisions? On what criteria? For what purpose? Within what limitation?¹

Local government is also connected with politics in general where there are not only competing interests between groups at the centre and those at the local level, but also differences among groups at the central and local levels. This happens whether there is a multiparty system or a single-party system whose groups may be holding different political platforms.

Local government, as a devolution of authority to locally representative bodies, is an important component of popular participation. The concept of popular participation which has of late been stressed by many African governments is an important point which makes local government closely bound up to local politics.

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1. J.D.B. Miller, The Nature of Politics, pp. 14-16. Miller discusses the meaning of Politics. It is said that Politics is about policy - and policy is a matter of either the desire for change or the desire to protect something against change. In other words, Politics is about disagreement or conflict.

In many African states the concept has come to mean a widely dispersed system of decision-making in which at all levels, the people most affected by public policy play a part in framing it. The aim is to make people identify themselves not only with their own decision, but also the result of their decisions. Thus participation would lead to support for the government system as a whole.

In Zambia, the government has made great moves towards practical achievement of local participation. President Kaunda has recommended that as many services as possible should be devolved upon local authorities with only highly technical and national functions under the central government. To this end, he introduced Ward Development Committees and on 30th June, 1975, he announced that the running of clinics, health centres and primary education would be taken over by local authorities¹. Although local participation has been stressed by the government, in practice local authorities have tended to be restricted in powers and have been mainly concerned with regulative matters of public health, markets, water supply, local roads, storm water drainage and so on. The major development tasks have remained with the field administration of the central ministries.

In the exercise of their legal powers local authorities are also constantly interfered with by government ministries and this makes it difficult to achieve the required participation as shall later be discussed. Critics of the reluctance of the central ministries to practically devolve developmental powers and of their constant interference into the functions of local authorities claim that this is

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1. President Kaunda postponed the handing over of primary schools to local authorities early in 1976. He thought that it would not be easy for local authorities to take over the running of primary schools as the education system was undergoing major reforms. Late in 1976, the taking over of running clinics by local authorities was also postponed indefinitely. The reason given was that the Government had not yet made good preparation for the hand-over.

due to departmental imperialism in which those at the centre wish to enhance their own status. Opponents of this view would argue that in countries with limited resources, power cannot be assigned to local authorities which are unable to bear the responsibilities of long-term planning, being susceptible to the whims of ill-informed electorates and the desire for short-term popularity. Some argue that if local authorities were given wider powers, they would divert valuable resources into meeting demands for social services at the expense of creating an infrastructure for later economic development. The two different feelings create a difficult relationship between the central government and local authorities.

Before the historical background of local government in Zambia is discussed, it is important to examine the need for local government. To do this, the question why the central government cannot administer the whole country without the help of local authorities should be answered. The Government could administer the whole country directly through central government field agencies, and local civil servants representing the respective central government departments, but there are many reasons why this is not done. In the first place, it would mean that almost all decisions would be made in Lusaka. It would be a centralised system of government, with civil servants in the local areas representing central government departments instead of representing the local people. This would mean that the local people would not participate in decisions about local matters which are of such importance to them. Also the people would not be able to contact those who directly govern them.

While the implementation of ideas of participatory democracy would appear to be the most important reason for local government, there are other reasons as well. A number of services and functions can better be performed by local authorities rather than by central government departments, because local authorities are in a better position to know the special circumstances in the area and the specific needs of the people in the area. A further reason is that some functions may well be performed more efficiently by local authorities rather than by the central government civil servants because some functions require those who execute them to be in constant touch with the members of the public. For instance, the provision and maintenance of housing, the planning of land use in local areas, the provision of roads, water, etc. to local areas can better be carried out by local government officers who, apart from being in constant touch with the local people, are also acquainted to the local areas and their problems. Local authorities can be held to account by the local people and the people can criticize them more frankly and with more effect if they waste money and man-power, especially when the people feel that their own money is involved. The difficulties in communication between Lusaka and the local areas and consequently the delay in decisions and the execution of functions is another reason why local government can be more efficient in a number of cases.

CHAPTER II
LOCAL GOVERNMENT IN ZAMBIA

TRADITIONAL ADMINISTRATION AND INDIRECT RULE

Local government in Zambia cannot be properly discussed without paying particular attention to its origins. Prior to the arrival of Europeans in this country, chiefs and headmen together exercised the powers of government both nationally throughout the whole of their areas and locally within the boundaries of each village. Their authority depended largely on factors of personality and military strength. The more powerful ones governed large areas with defined tribal boundaries. There was coherence because the inhabitants spoke one language, having the same customs and culture. They recognised their tribal head, the chief, who held executive and judicial powers in himself. At the chiefs' headquarters there were advisors, or hereditary councillors, who would advise the chief on various affairs of the tribe. At village level, the headman was responsible for communicating the chief's wishes to the inhabitants and was given responsibility for the administration of specific areas. As regards the provision of services, each village and family provided its own services. However, the major services were provided by the co-operation of the whole village, or tribe in cases of defence.

Important changes in local level administration were introduced by the British South Africa Company from about 1911 to 1924¹. The Company's method of administration was carried out by European officials aided by African functionaries educated in mission schools. Native Commissioners and administrative officers were

1. J.W. Davidson, The Northern Rhodesia Legislative Council, (London 1948) p. 17.

responsible for nearly every aspect of local administration. The policy of Direct Rule reduced the powers of the chiefs very considerably and they were made to depend on administrative officers. Their privileges and powers as chiefs were only upheld so far as they were compatible with the rule of the Company. Their position was even made weaker by the Administration of Native Proclamation of 1916, which made provision for the appointment and dismissal of recognized chiefs and defined their duties. Under the Proclamation, Native Commissioners were made responsible for the general control of their districts. Chiefs and headmen faced disciplinary action against them if they failed to carry out orders¹. It is important to note that the major drawback of the Direct Rule policy was that it did not allow local people to participate in the local administration. The success of such a policy depended on a heavy concentration of administrative officers in the rural areas. It could be said therefore that Direct Rule was a form of centralised administration at district level.

In 1924, responsibility for the administration of the Northern Rhodesia territory passed from the British South Africa Company to the British Government. A new policy of administration was introduced based on the conventional British colonial pattern of Indirect Rule practised in West Africa in the late thirties².

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1. Lord Hailey, Native Administration in the British African Territories. (London H.M.S.O. 1950) p. 83.
 2. George Padmore, How Britain Rules Africa. (New York 1969) pp. 318-320.

Theoretically, Indirect Rule as outlined by Lord Lugard, meant administering the indigenous people through their own political systems. To facilitate colonial control of the indigenous people through Indirect Rule, the Colonial Government appointed District Commissioners and Provincial Commissioners to act as administrative middlemen between the indigenous people with the chiefs as the principal executive officers. The legislation and execution of policies and bye-laws was in accordance with the wishes of the Colonial Government and the chiefs were required to carry out such policies and laws in such a way that they were in accordance with the African laws and customs. Authority ran from the central government through Provincial Commissioners, District Commissioners to chiefs, village headmen and finally to the villagers and kinship groups who could issue orders and arbitrate disputes within their groups.

Indirect Rule was seen by the British rulers as more flexible and progressive policy and as such was an improvement upon the Direct Rule policy. The Direct Rule policy was found to be expensive and could not be maintained without spending large sums of money on its maintenance. Coupled with this, the British colonial officials were more interested in the mineral worth of the country other than governing the thinly populated rural areas. It was thought therefore that an answer to this would be to let Africans take part in ruling themselves at a local level subject to the supervision and control of the District Officers. Among other things, Indirect Rule policy meant the setting up of Native authorities in each senior chiefs' area with sums of money to provide water, agricultural services etc. The native authorities were required to assist the Government in the maintenance of law and order. The Indirect Rule system was believed to be suitable because it was thought that it would not arouse suspicion and hostility. It used chiefs and their political institutions to make the Africans accept the British Colonial rule¹.

¹ Ibid. pp. 317-318.

URBAN LOCAL AUTHORITIES

While rural local government developed with the policy of Indirect Rule, it was an adaptation of a traditional system of administration arising from the problems which were encountered by the British in the territory. On the other hand, urban local government was an imposition of an imported system of local government onto local conditions. At the time when urban local government was being established, Europeans had an economic interest in these areas and it was natural for them to want to control the system of local government in the areas in which their great interest lay. There was little understanding in the settlers' minds that the urban areas of this country would ever be controlled by the Africans.

The take-over of the administration by the Colonial Government resulted in a quick growth of urban local government on the British pattern. Before 1913 Village Management Boards had sprang up along the line of rail and the Copperbelt, Lusaka being one of the earliest ones to be established in 1913. Under the Proclamation No.11 of 1913, Boards had been given power to appoint through the Administrator two or more residents who were to be responsible for the administration of local affairs, like health, roads, and other matters. Boards were also given powers to raise revenue by way of payments for services from inhabitants and levying of rates. The rapid spread of urban development necessitated the passing of legislation which provided the legal machinery suitable for establishing a better organised system of local government.

The effects of the Municipal Corporations Ordinance of 1927 and Townships Ordinance of 1928 was to introduce a qualitative form of franchise in local government based on the value of property. This put the voting powers firmly in the hands of persons owning property. As few Africans owned property, they were excluded from participating in local affairs and as the result, the voters were almost entirely European settlers. However, the trend was towards full representative governing authorities in the urban areas. The urban areas became islands of local government concerned only with their own narrow interests and unwilling to accept responsibility for matters which were outside those interests.

The Mine Township Ordinance of 1932 was made at the request of Mining Companies to the Governor. The Mine Management Boards established by the Ordinance to run the affairs of the Mine Townships were no more than advisory boards with members appointed by the Governor from persons nominated by the Mining Corporations. Most of the revenue for the Mine Management Boards to run their affairs was provided by the Mining Corporations.

It is important to note that from the early days of local government until after 1963, participation in local affairs was extended by and large to whites only who were, in accordance with law, qualified to vote or were appointed by the Governor. Direct representation on the Councils or Boards was not made possible to the fast-growing African population living in and around the towns. This resulted in disparity in development between areas occupied by whites and those occupied by Africans. Europeans contributed most of the funds needed for the provision of services and development in urban areas, and resources were diverted in their direction.

The disparity in development brought about discontentment amongst the African population with the Government gradually becoming aware that the plight of the urban African was a serious problem. As a result of this, Commissions of Enquiry were appointed, the most important of which as far as urban local government was concerned were the Brown Committee and the Coleman Commission.¹

The Brown Committee was set up in 1956 to examine and recommend ways and means by which African residents in municipal and township areas were to be enabled to take an appropriate part in the administration of those areas. The report of the Committee indicated that the Government realised that Africans had come to towns to stay and that they should be allowed to participate in urban local government. By 1957, there existed Area Housing Boards and African Affairs Committees, both of which were designed to allow African participation in the government of those areas of the municipalities which were predominantly African as well as to consider generally matters where African interest predominated.

An Area Housing Board was composed of representatives of the householders residing in a Housing Area and was appointed by the local authority. A "Housing Area" referred to African Housing Area as defined in section two of the Urban African Housing Ordinance.² Among other functions, the Board could make recommendations to the local authority concerning any matter referred to it by the Commissioner through the local authority or by the local authority, or by the African Affairs Committee. The Board could also make recommendations to the local authority on any matter brought to its notice in respect of accommodation in the area and annual estimates of income and expenditure which would be submitted through the African Affairs Committee for transmission to the local authority for approval.

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1. S. W. Coleman, Urban African Local Government Committee. Minute of oral evidence and written memoranda submitted to the Committee appointed to inquire into the participation of Africans in local Government in municipal and township areas. (October, 1970).
 2. Urban African Housing Ordinance, Cap. 234 of the Laws of Zambia (Northern Rhodesia).

Both the Area Housing Boards and the African Affairs Committees provided Africans with an opportunity to participate in running the affairs that affected them, but they were primarily advisory bodies whose demands were often not implemented by the Councils. According to the Chairman's Report: "They were regarded as undemocratic institutions which assisted in creating second-class citizens of the same Municipality"¹.

In Zambia, political developments in the country were moving faster than the pace envisaged and this enhanced a change in the local government system. The feeling of the United National Independence Party (UNIP) about the situation that prevailed in 1961 was contained in the following manifesto issued prior to the 1962 General Elections:-

"Local Authorities shall be elected by all the people living in the area of their jurisdiction, so that important services and matters such as housing, town planning, trade licensing, lighting, public health, road construction and maintenance which affected day to day living are the direct concern of the majority of those who use them.

In Central Government there is trend to simplify the franchise and to grant all a right to vote. The same trend shall be extended to local government and every resident in the electoral area who is of full age, shall be eligible to be registered as a local government voter.

1. S.W. Coleman, Urban African Local Government Committee. Minute of oral evidence and written memoranda submitted to the Committee appointed to inquire into the participation of Africans in Local Government in municipal and township areas, (October, 1970).

A rateable or property qualification is out-moded, the ability to pay rates or the occupation of an expensive house shall not be the test as it tends to make local councils more conservative than the Central Government.

A Councillor shall be answerable to all the residents of his area and not to those in the higher income group"¹.

This was the beginning of political development in local authorities and a mark for the next phase in development of local government.

In 1962, the Local Government (Elections) Ordinance was enacted which came into force in October, 1962 and provided more positive measures towards greater African representation on local councils. Under this Ordinance, the whole of the town was represented whereas previously African Housing Areas were not part of any ward. Ward boundaries were drawn with equal capital value by local authorities themselves but were required to be approved by the Minister responsible for local government.

The years from 1963 to 1965 were years during which significant changes took place in the pattern of local government in Zambia. The developments in national political life permeated local government and resulted in the introduction of reforms that were designed to enable African members of the community to play a major role in local government affairs. The elections in urban councils that were held in November, 1963, brought about African majorities². The changes that took place in 1964 and 1965 were in accordance with UNIP election Manifesto of 1961 and further changes took place which are described below.

1. UNIP Election Manifesto, (Freedom House, Lusaka, 1961).

2. An address by Mr. S. Wina (who was then Minister of Local Government) to expatriate civil servants at the National Institute of Public Administration in Lusaka. 11th January, 1968. The elections did not apply to the rural areas but only to the urban local authorities which included Lusaka, Livingstone, Kabwe, Ndola, Kitwe, Luanshya, Mufulira and (Ministry of Local Government, Lusaka, 1968).

THE LOCAL GOVERNMENT ACT, 1965

Before Independence in 1964, the system of local government was by and large based on five different laws. The eight municipal councils¹ were governed by the Municipal Corporations Ordinance; Townships came under the Township Ordinance 1928; Mine Townships came under the Mine Township Ordinance, 1939; Native Authorities came under Native Authority Ordinance, 1929; and Barotse Province (now Western Province) came under Barotse Native Authority Ordinance, 1936. Immediately after Independence, the Government passed the Local Government Act, 1965 to consolidate the various provisions relating to local authorities contained in the Ordinances mentioned above and also the Local Government (Elections) Ordinance. The effect of the Act was that the laws relating to all local authorities in Zambia, except Mine Townships, were brought into one Act.

Under the Local Government Act, 1965, three classes of councils were established, Municipal Councils, Township Councils and Rural Councils. The distinction was not made in order to perpetuate the colonial system of rule because in fact there are only few differences in the three types of councils. The main differences are between the functions which the three types of councils perform which are contained in Part I to Part IV of the Schedules of the Act. (This is attached to this study as appendix A).

Functions of local authorities fall under two categories, mandatory functions and permissive functions. The law relating to the functions of local authorities does not specifically state which functions are mandatory and those that are permissive². The law

1. These refer to Lusaka, Kabwe, Livingstone, Ndola, Kitwe, Luanshya, Mufulira and Chingola.

2. See section 65 of Cap. 480 of the Laws of Zambia, p. 33.

states that "Council may discharge all or any of the functions set out in the various schedules of the Local Government Act. Although section 65 of the Local Government Act could on the face of it mean that local authorities in Zambia are only given optional functions, it is legally implied that local authorities will undertake functions that are necessary for the well-being of their residents. Among other functions that are necessary and mandatory for Councils to undertake include the provision of water and roads, the provision of health services, refuse removal, sanitation and drainage services and the establishment and maintenance of cemeteries, crematoria and mortuaries and control of the burial of the dead. Permissive functions include provision of transport services, running business enterprises, establishment of community development schemes, provision of markets and provision of taverns and brewing of traditional beer. Yet compulsory and optional functions of local authorities are governed by availability of resources; and as discussed below the Government has not been generous in grant-aiding local authorities to the extent that would enable them to discharge a very wide range of functions.

The schedules itemise the different functions of councils, but further, the differences between municipal, township and rural councils are that **municipalities** have Mayors and Town Clerks whereas township and rural council have Chairmen and Secretaries. Municipalities may have Aldermen and Freemen, both of which are honorific titles, whereas the smaller councils do not. There is also provision in the Act for municipalities to be given the status of City, and of the eight municipalities, three are now cities, namely Lusaka, Kitwe and Ndola.

Among other things, the Local Government Act deals with the qualifications and disqualifications of councillors and provides for regulations for the election of councillors. It deals with the position of Mayors and Chairmen of councils and governs the proceedings of councils and their committees. The Act covers the finances of councils and the audit of their accounts and empowers the Minister of Local Government and Housing to impose a surcharge upon any person for a loss to the council caused by him or for spending council monies illegally. It also outlines, in general terms, the functions which councils may perform, details of which are usually contained in other laws such as the Public Health Act, The Municipal Corporations Act, the Markets Act and others. The Act empowers all classes of councils to make by-laws for the good government of their areas subject to the confirmation by the Minister of Local Government and Housing. Under the Act, the Minister responsible for Local Government has power to make regulations for any purpose relating to the running of the council and he does this by law of statutory instruments. The Act also provides him with the power to appoint a Local Government Administrator. This may happen if a council either deliberately or through inefficiency fails to perform its functions or otherwise acts improperly. The Local Government Administrator appointed by the Minister may carry out any of the council's functions or all of its functions. The Minister of Local Government and Housing has power under the Act to establish any of the three classes of councils.

THE STRUCTURE OF CENTRAL AND LOCAL GOVERNMENT
IN ZAMBIA

The executive section of the central government in Zambia is divided into ministries which are headed by cabinet ministers. These ministries are given responsibilities at national levels, and although local authorities are created by the law, they fall under the responsibility of the Ministry of Local Government and Housing which is headed by the Minister who represents both the Government and the Party (UNIP). Assisting him to run the Ministry, is the Minister of State for Local Government and Housing. The two of them ensure that government and Party policies are implemented by both their Ministry and local authorities.

The administration of local government at the national level is headed by the Permanent Secretary who advises the Minister and the Minister of State for Local Government and Housing on policy matters. The Ministry is divided into the following six sections headed by section heads:-

1. The Town and Country Planning Section
2. The Valuation Section
3. The Administration Section
4. The Housing Section
5. The Fire Section
6. The Finance Section.

One of the major functions of the Ministry is to initiate legislation and make policy relating to local government for the country. The Ministry also has power to guide, supervise and control local authorities in the performance of their work.

The local government structure in Zambia like in other African Commonwealth countries is a controlled structure. In Zambia, the Minister responsible for local government must be furnished with copies of the minutes of all council and committee proceedings. The annual and supplementary estimates are subject to the Minister's confirmation and he may disallow any of the items that these estimates contain. This brings out a point that whereas the Minister cannot by law compel a council to discharge a function, he can effectively prevent it from doing so by deleting the provision in its estimates which relates to the activity concerned. Further, council investments and borrowing are subject to ministerial approval. The Minister appoints the auditors of council funds and has wide powers to act upon the auditors' reports. He may refuse to confirm, amend or revoke a council's by-laws and may make regulations to take their place. These are only some of his more important powers but an important point is that it is the extent to which the power is exercised by the Ministry in relation to powers by local authorities that determines the type of relationship that exist between the two.

The Minister is also given power to appoint up to five additional members of local councils. Normally the number of members appointed to any one council does not exceed three although the Minister may appoint up to five for membership of a municipality adjoining a mining area. Appointed councillors may be removed from office by the Minister. If this happens, the Minister may, but does not need to, appoint a replacement. The Minister is restricted in the number of councillors he may appoint to each council within the limit of five, by convention rather than by law, in order to preserve local councils as democratic bodies, largely elected by the local people.¹

1. This view was expressed by the Minister of Local Government and Housing. This practice can only be done within the limits of number of persons who could be appointed to council - as set

The Mayor, the Deputy Mayor and all the councillors together constitute the political arm of the council. The main responsibility of the council is to deal with the policy matters. Council holds monthly meetings to consider recommendations from council's standing committees and take decisions on them. Detailed business of the Council is handled by standing and occasional committees, which are established by the council from among the councillors. These committees are charged with examining the various matters which come before them and report back their findings and advice thereon to the council. They also discharge such functions as may be delegated to them by council. In Lusaka City Council, there are, in all, six standing committees, namely, the Finance and General Purposes Committee, the Works Committee, the Town Planning Committee, the Housing and Site and Service Committee, the Health Committee and the Estates Committee. There are similar committees in Municipal Councils.

Before Zambia became a One Party State on 13th December, 1972, United National Independence Party councillors who were in a majority in almost all councils held caucus meetings. Normally these meetings were held a day before the monthly meeting of the Council so that councillors could go through the council agenda. These meetings have continued to be part of the present system of local government in Zambia. Some councils have now changed the name of the meetings. At these meetings important confidential matters are discussed and some of these matters arise from the reports received from different committees of the Council. Besides discussing some of the items on the council agenda, the consultation meetings discuss matters like implementation of party and government policy, council activities and problems arising from different council wards. No officers are allowed to attend these meetings. They are restricted only to councillors. The consultation meetings have influence over the affairs of the council in general and over council agenda. This influence arises from the fact that at the consultation meetings, councillors often do agree beforehand what

Council. At times, they may request officers, through the Mayor, to carry out investigations over some issues¹.

A council, to use a customary legal description, is a "body corporate, having perpetual succession and a common seal and having power to sue and to be sued"². The Council is in other words, the local authority, upon which the Government lays certain powers and duties. A local council can own and alienate its property in accordance with the Laws of Zambia. It taxes people for local purposes and accepts responsibility in matters that are within its competence. It can be disciplined by the higher authority of the Government if it misbehaves itself or is grossly negligent or inefficient.³

The administrative functions of councils are discharged by the chief officers and their staff, who function in local government in much the same way as civil servants function in central government. The senior chief officer is the Town Clerk, who, in addition to being responsible for the running of the Town Clerk's Department, is also responsible for liaison and co-ordination between council and its committees, and between the committees themselves. Among other functions, the Town Clerk ensures that council and its committees are adequately briefed with facts, opinion and advice. He ensures the prompt and efficient implementation of all council and committee resolutions. In addition to the Town Clerk, there are the following chief officers in almost all Municipal Councils: the Treasurer, the Town Engineer, the Medical Officer of Health, the Town Fire Officer and the Director of Housing. Each is responsible for the running of his own department and for its day-to-day administration. Each is supported by staff that includes professional and semi-professional staff.

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1. In August 1972, the consultation meeting in Lusaka had first decided on whether or not the employment contract of a certain Chief Officer should be renewed before the matter was brought formally before the cCouncil. (Information on this matter was obtained from the then Mayor of Lusaka).
 2. Section 10 of Cap. 480 of the Laws of Zambia, p. 12.
 3. Ibid., p. 44, Section 93 and 94.

Whereas councillors are either elected under the Local Government Act (Section 15) or appointed by the Minister, Chief officers and their staff are recruited and appointed in accordance with the provisions of the Local Government Service Commission Act, 1974¹. This Act also establishes the Local Government Service Commission which forms part of the structure of Local Government in present day Zambia.

The Local Government Service Commission consists of a Chairman and three other members appointed by the President of the Republic of Zambia. Under the Local Government Service Act, the President is given power to appoint up to six members of the Commission. Members of the Commission hold office for a term of two years or for such further term as may be determined by the President. Their salaries and other conditions of service are also determined by the President. The Commission's functions include the power to determine conditions of service and salary scales for local authorities. It is also given quasi-judicial and appellant powers under the Act to decide on cases relating to termination of appointment, conditions of service and other cases referred to it by Principal Officers on behalf of the Councils and council officers who are aggrieved. Unlike the part-time Commission that existed in 1974 which was responsible to the Minister of Local Government and Housing, the present Commission is full-time and responsible to the President. However, the Minister of Local Government and Housing may make regulations for the better carrying out of the Local Government Act. Subject to the provisions of the Act, the Commission may with the approval of the Minister of Local Government and Housing make regulations affecting officers in local authorities. A member of the Commission may be removed from office by the President for inability to discharge the functions of his office or for misbehaviour.

1. Local Government Service Act, 1974. p. 169.

One other organisation which fits into the structure of local government is the Local Government Association of Zambia. Although there are no provisions in the Laws of Zambia for the establishment of this organisation, the Government recognises it as legally representative of all local authorities in Zambia. Membership of the Association is open to all City, Municipal, Township and Rural Councils, who pay annual and other subscriptions as may be determined by the Association. The objects of the Association are:

"----- to protect and promote the interest of local authorities and of local government in Zambia, and for that purpose to take such action and make such representations to the Government of Zambia and to other bodies as may be deemed expedient from time to time"¹.

The Executive Committee of the Association holds meetings every three months and its proceedings are reported to the annual conference of the Association. The resolutions of both the Executive Committee of the Association and the annual conference are sent to the Ministry of Local Government and Housing by the Secretary of the Association for the Ministry to act on them or for the Ministry's information. In some cases the Ministry considers the requests made in the resolutions of the Association and give the required attention to them. In other cases, the Ministry does not respond favourably to the requests made by the Association, and at times they do not even reply to the requests made to them. For instance, the Ministry has for a long time been ignoring the request by the Association to change some aspects of the laws relating to local authorities in order that they should have more autonomy in matters of finance and in the discharge of some functions.

1. The Constitution of the Local Government Association of Zambia. (Lusaka, 1965).

The Local Government Association of Zambia was established in 1949. It was then known as the Municipal Association of Northern Rhodesia and Nyasaland. There was at the time one Municipal Association for Malawi and Zambia which came to an end in 1965 when each country had established its own Local Government Association. The Association has helped local authorities to have a united approach to their problems.

The main features of local government in Zambia are based on the Local Government Act of 1965. Unlike the British model, it is a one-tier structure with each authority autonomous in its own area and no authority subordinate to another. In this respect also, the Zambian local authority structure differs from the West African structure, notably Ghana and Nigeria and also other African countries like Kenya¹. The general opinion in Zambian local government circles has been that to introduce a two-tier hierarchy of major and minor councils would be a cumbersome and unnecessary complication in a sense that it would hinder the initiative of the subordinate authorities and slow down administration and efficiency. The tier system has now taken a different form in African countries where it is practised. In these countries, governments grant to each and every council which they establish conditional autonomy within limited spheres. Individual councils are given specific functions to perform and, in the exercise of these functions, they are responsible directly to the government ministry.

1. Cameron and Cooper. The West African Council, p. 36.

One other feature of local authority in Zambia is that it is a representative structure although the Minister responsible for local government has certain statutory appointing powers. The principle of universal adult suffrage is followed in local government elections and the franchise is not limited, as in colonial days to a property qualification or other selective rights. It is argued by some councils, however, that the appointment of councillors does not reflect free representation and defeats participatory and democratic principles which the Party and Government would like to see observed and practised.

The Zambian structure of local authority is by and large permissive. However, in contrast to the permissive requirements of the Local Government Act, there are other statutes which impose mandatory obligations on councils to perform. Among the more important of these statutes are the Public Health Act, the Trades Licensing Act, the Roads and Road Traffic Act and the Town and Country Planning Act. The responsibilities which these statutes vest in local authorities do not, however, affect the argument that the main piece of local authority legislation is permissive rather than mandatory in its scope. There is an anomaly which has been observed that some of the functions which are permissive under the Local Government Act are mandatory under other Acts.

The duplication of functions between the Local Government Act and other statutes become confusing. The contents of Section 66(4) of the Act which states that:

" ---- a council shall discharge any function conferred on it by or under this Act subject to and in accordance with the provision of any other written law relating to the discharge of the function by the Council"¹.

acknowledges the duplication and the possible confusion but does not solve the problem. A solution to this problem would be to revise the Act, retaining it as the basic statute defining the structure of local government but omitting any detailed reference to powers and duties already imposed by other Acts.

PARTY STRUCTURES AND LOCAL GOVERNMENT

The political setting of Zambian local government can best be understood by explaining briefly the mass nationalist movement because this was the beginning of organized politics in Zambia. The nationalist movement began as a revolt against colonial rule. The early system of British rule in Zambia, as in many British African colonies, encouraged localism, regionalism, and tribalism, which aggravated the problems of post-independence unification of the country. However, Christianity, education and social change weakened the tribal system by undermining African religious beliefs and the spiritual influence and position of the tribal chiefs. Christian missions also introduced Western education which assisted in producing an African educated elite who found it increasingly difficult to understand or communicate with the traditional authorities. One other factor which weakened localism, regionalism and tribalism was the development of urban areas. By 1930 urban settlements had developed along the line of rail and on the Copperbelt which offered employment opportunities to the Africans who moved to these areas.

1. Local Government Act; Chapter 480 of the Laws of Zambia, Section 66(4).

As Africans moved to the urban areas in search of employment and opportunity, the agricultural system in the rural areas was further and further weakened. The power of the traditional leaders was by this movement undermined as the young members moved out of their jurisdiction. Urbanisation, commercialization, and education created a new African class which was withdrawing itself from traditional authorities. As the urban African became dependent upon occupational specialization and urban employment, his tribal and lineage attachments weakened and social mobility was accelerated. Loss of the economic protection of the rural, self-sufficient community, resulted into a feeling of insecurity of the Africans who moved to urban areas but encouraged the growth of individualism in them. Those who moved to urban areas had more opportunities for contact with Europeans and with Western culture. They also experienced European discrimination in jobs and positions and felt the struggle for status and prestige more than those who were in rural areas. As they became politically aware, they began to question the power and authority of the colonial government and gradually, trade unions arose to represent the interests of the working class. They became pressure groups seeking labour participation in government, equal wages and equal hours and working conditions with white workers. This was the beginning of the independence movement in Zambia¹.

African welfare associations were formed to represent the educated elite, urbanized working class, and miners. Industrial unrest in the Copperbelt stimulated the organisation of the African Ineworkers Union in 1949. Mr. Harry Nkumbula used the unions as base for the formation of the African National Congress (ANC), which campaigned for freedom before Dr. K.D. Kaunda led the United National

Independence Party. The leaders of the mass independence movement needed to mobilize all the energies of the people in the creation of a unified, organized independence drive. However, political leaders faced the problem of inter-party competition.

In the 1962 General Elections, UNIP and ANC won a majority of Legislative Council seats against the settler United Federal Party (UFP)¹. The victory of UNIP and ANC and their agreement to form a coalition government paved the way to independence. A year later, and only nine months before independence, an all-UNIP Government was formed following the first general election held under universal franchise, in which UNIP won fifty-five of the sixty-five main roll seats. Interparty competition continued even after the attainment of independence but UNIP still dominated.

Between 1968 and 1972, there was pressure from among UNIP leaders to convert the party's position of dominance into one of legal monopoly through the establishment of a one-party State. Until February 1972, however, the party's official policy line was that, while it believed that the one-party state was desirable and inevitable, it did not think that it was necessary to take prohibitive legislative action against the opposition.

Despite this commitment to a policy of maintaining an open political system, the Government banned the United Party (UP) in August, 1968 and prohibited the organization of the ANC in two of its areas of strength². Then in February, 1972, the President banned the

1. These were the first elections in which the Africans participated. UNIP, ANC and United Federal Party (UFP) whose membership was by and large white, contested the elections.
2. The ANC was banned in the Mumbwa District in June, 1969 on grounds that it was intimidating the local population. For the same reason ANC was banned in Livingstone District.

United Progressive Party (UPP), a new political party which had been formed by Mr. Simon Kapwepwe (a former Vice-President of UNIP) following his resignation from the ruling party the previous August. In the same month, President Kaunda announced the Government decision that Zambia would become a One-Party Participatory Democracy.

The constitution of ^{the} Party places it above all political institutions of the country in the sense that government institutions are guided by party policies. At the highest level of the Party, there is the Central Committee, and at the equivalent level in Government is the Cabinet. But as already indicated, the Party is supreme and the Cabinet is therefore guided by the Central Committee of the Party. In some cases major national policies are initiated by the Central Committee. The arrangements hardly make it possible for the Government to make a policy which is not approved by the Central Committee of the Party.

The organization at local level falls under the Regional Committee which consist of the District Governor (Chairman), the Regional Secretary (Secretary), the Regional Women's Secretary and the Youth and Publicity Secretary. The District Governor is the chief representative of the Party within the district or region and the Regional Secretary is responsible to him. The District Governor has also an overall responsibility over Party constituencies and branches in his district or region.

Regional party members are not given an opportunity to elect their own leaders who are appointed by the President and this gives the impression that participatory democracy is not fully operational at this level. However, party leaders believe that this arrangement helps to have effective party organisation at this level. Below the regional party level we have the constituencies, branches and sections which are organized along the same lines. Each constituency, branch and section has office bearers elected by the party members. Each higher level in the party is responsible for the supervision of party units on the lower level.

Fitting in this local political setting are local authority councillors who are elected by the residents in their respective wards. Councillors are political representatives of the respective wards and their main function is to express the demands and interest of their residents to council. For anyone to stand for local authority elections and be elected councillor, he should live up to the standards of the party. This is reflected by the fact that candidates for local government elections have to be vetted by the Central Committee of the Party. This power is given to the Central Committee of the Party by law. The law also gives power to the Central Committee to delegate the functions of approving nominations of candidates to the Provincial Political Committee of the Party¹. This arrangement suggests that the District Governor who is responsible for political activities in his District and also member of the Provincial Political Committee has considerable influence on local government politics.

1. Local Government Elections Act, Chapter 482 of the Laws of Zambia, Section 11A(ii) p. 12.

The Party's role in the local government elections changed when the Local Government Election Act of 1975 was passed by Parliament. The Act requires that there should be primary elections for the purpose of selecting persons from any ward to be candidates for election to a council. At the primary elections, chairmen, vice-chairmen, secretaries, vice-secretaries, treasurers, vice-treasurers, publicity secretaries and vice-publicity secretaries of constituencies, branches and section officials of the Party are entitled to vote in their respective wards where they reside. The Regional Secretaries, the Regional Women Secretaries, the Regional Youth and Publicity Secretaries and two trustees of the Party are also entitled to vote in their respective wards where they live. Only candidates who have been members of the Party for a continuous period of not less than two years immediately preceding the nomination for the primary election and have all other qualifications required by Section 16 of the Local Government Election Act qualify for nomination as candidates for election to council¹. The set-up as to who is entitled to vote in the primary elections indicates that the Party has the major influence in selecting candidates for local government elections.

The Ward Development Committees deal with development projects and planning in a ward of a local authority. By virtue of his position as a councillor of a ward, a councillor is the chairman of the Ward Development Committee. Members of the Committee are either elected by party members or appointed by the Ward Chairman. In some cases the Ward Chairman requests the Branch Chairmen of the Party to appoint persons to be members of the Ward Development Committee and often branch officials are appointed members of the Ward Development Committee. The presence of branch representatives and other party members makes it possible to have a formal channel of communication

1. Ibid., Section 16 of the Act.

between the political forum which discusses community problems as well as party matters, and the local government authority. An ordinary Chairman of the Ward Development Committee has less political power than the Constituency Chairman and councillors who hold positions on party levels higher than the branch level are politically more powerful than those who are ordinary councillors.

As can be seen, the regional level, the constituency level, the branch level, and the Ward Development Committees, do not operate in isolation, but form part of structures which link up the Party and the local authorities. This arrangement was made by the Party and Government in line with their policy to promote participation by the people in decision making on various levels and sectors of society. However, if such participation is to be effective, a number of conditions should be fulfilled which include a certain amount of decentralisation of government functions to smaller units like Districts, and Wards, so that more people can take part in decisions about issues affecting their lives. Co-ordination of decisions and implementation between units on the same level and units on different levels is necessary to facilitate the flow of relevant information upwards and downwards in the hierarchy. Further, smaller units should have the power to raise and spend money or be given money to discharge the functions given to them. As indicated already, several elements of the skeleton needed for participation by the people are in existence in both local and national political setting of Zambia. One of the reasons institutions like local authorities, Ward Development Committees, Party Regions, Party Constituencies and Party Branches and the system of election in both national and local government election have been established, is to achieve greater participation by the people. The crucial issue, however, is how these institutions and channels are used by the participants and how much control the Government and the Party have on these local institutions.

CHAPTER III

CENTRAL CONTROL AND LOCAL AUTHORITY FUNCTIONS

CENTRAL CONTROL AND LOCAL AUTHORITY FUNCTIONS

The powers and duties of local authorities are conferred by Acts of Parliament in terms which forbid the Ministry of Local Government and Housing and other ministries to intervene save where the intervention is expressly provided for. However, the working relationship between the Ministry of Local Government and Housing and other government ministries, and local authorities can be regarded not only in terms which are formal (such as statutory and financial relations), but also in informal, notably political, terms.

It is important to emphasize three conditions which shape the relationship between central government and local authorities. The first is that local authorities are providers of most local services. They provide houses, plan the use of land and give or withhold permission to develop, construct and maintain roads, remove refuse, and provide markets and supply water to residents in their areas. The approval of the Ministry of Local Government and Housing may be necessary before action may be taken and there may be appeals to the Ministry of Local Government and other government ministries against local authority decisions. So the central government ministries may encourage, forbid, persuade or frustrate.

Secondly, it is incorrect to speak of the relationship between the Ministry of Local Government and other ministries as wholly one of control. It is true that government

ministries exercise control and exert their influence over local authorities. But local authorities sometimes make their impact also on government ministries, particularly the Ministry of Local Government and Housing through the Local Government Association of Zambia.

The third condition that shapes the relationship between central government and local authorities lies in the mandatory functions which local authorities have to perform and the services that they have to provide at the required standard. Government ministries guide and supervise local authorities in these matters. In some cases the Government makes national policies which local authorities are required to implement. This places a duty on the Ministry of Local Government and Housing to see that government policies are implemented by local authorities even if they dislike the policies. Sometimes this results in conflict between government ministries and local authorities not only because of unfavourable policies (from the local authorities' point of view) but because Government policy changes over time and little consideration is given to the effect on local authorities. This creates problems which are illustrated particularly by the Rent Act which is discussed in the next chapter.

The existence of government ministries and local authorities, each having statutory powers, dealing with the same matters, results inevitably in both co-operation and conflict. Each needs the other for the achievement of the most efficient results. This situation, therefore,

reflects the fact that partnership is essential, yet frequently each seeks ends which are incompatible with the ends of the other, and disagreement occurs. But even if local authorities disagree with the policies and unnecessary control of the Government, ultimately they cannot resist the wishes of the Government. They have to give in and face the problems resulting from the implementation of government decisions.

It should also be noted that on the one hand local authorities safeguard the interests of those who live in the locality, who pay local rates, who vote at local elections and who use the services locally provided. On the other hand, the Government must safeguard the national interest and ensure that all parts of the country share equitably the available resources. The idea of partnership can, therefore, be valuable and certainly the interests of both should be always subordinated to the interest of those for whom the services are provided. But to the extent that the interest of the two groups inevitably conflict, there can be no partnership but only a decision; and in this regard, it is desirable that there is consultation between the two groups in dealing with matters that concern them both.

Many councillors and council staff hold different views of the status of local authorities in relation to the Ministry of Local Government and Housing. During interviews with councillors, mayors and officers of local authorities, and with civil servants in the Ministry of Local Government and Housing, three different views on the status of local authorities

were expressed. One group believed that local authorities were agents of the central government through the Ministry of Local Government and Housing. The second group felt that local authorities were partners of the Ministry of Local Government and Housing. The final group held the view that local authorities were partners of the Ministry of Local Government and Housing but qualified this view by pointing out that local authorities were junior partners of the Ministry of Local Government and Housing.

The view of the relationship between the Ministry of Local Government and Housing and local authorities as expressed by some mayors, councillors, town clerks and Ministry officials is that local authorities are agents of the Ministry of Local Government and Housing and the Central Government. They point out that local authorities have only the power given to them by Parliament. The Government, through Parliament, settles what functions local authorities shall have. In the same way, these powers may be added to or withdrawn. In other words, they hold the view that local authorities are placed firmly under the supremacy of a Parliament which reflects the will of the Government Ministries. Most mention the powers of the Minister of Local Government and Housing to approve or disapprove estimates of local authorities, the passing of the Rent Act, 1972 by Parliament as recommended by the Ministry of Local Government and Housing, and the withdrawal of some grants to local authorities¹. The Minister of Local

1. See Section 42 of the Local Government Act, 1965, Cap. 480 of the Laws of Zambia. See also Section 49 of the Local Government Act, 1965 Cap. 480 of the Laws of Zambia. Most of those interviewed referred to Circular No. 3/74 Reference No. LGH/102/52/52 dated 9th January, 1974 from the Ministry of Local Government and Housing that withdrew some grants to local authorities.

Government and Housing may take away some or all of the powers of local councils. Section 94 of the Local Government Act, 1965, Cap. 480 of the Laws of Zambia, provides that the Minister may do this if he considers it necessary in the interest of good government.

The view of the Ministry of Local Government and Housing on this matter is that by and large local authorities are agents of central government and not partners of the Ministry of Local Government and Housing. Those interviewed at the Ministry of Local Government and Housing were of the opinion that local authorities had little freedom as they by and large depended on government grants to provide most of the services¹. Three ex-Ministers of Local Government hold the view that as local authorities derive their powers from legislation which are by and large initiated by the Central Government, the Minister of Local Government has power vested in him by Parliament to control and guide local authorities in their various activities².

Some of the people who discuss this matter expressed the opinion that local authorities were partners of the Ministry of Local Government and Housing³. One of the Town Clerks pointed out that "under the law of Parliament, local authorities are not agents of the Government. They have never been and will never be"⁴. The general view was that

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1. This view was expressed by the Permanent Secretary, the Under Secretary, the Senior Legal Officer in the Ministry of Local Government and Housing. (Lusaka, 1975)
 2. This emerged during my discussions with Mr. Sikota Wina ex-Minister of Local Government and Housing (Lusaka, 1974).
 3. This view emerged during the discussions with fourteen of the twenty-four councillors of the Lusaka City Council, the Mayor of Ndola and the Town Clerk of Lusaka. (1975)
 4. Town Clerk, Lusaka City Council. (1975)

local authorities and the Ministry of Local Government and Housing were both engaged in serving the interest of the people. The fact that local government is created by an Act of Parliament, and that as elected members of local council they have the right to take decisions and to be answerable for them to the electorate, placed local authorities on the status of partners with the Ministry of Local Government and Housing.

Some Mayors, Councillors, Town Clerks, Treasurers and aldermen who were interviewed on this matter held the view that local authorities were both agents and junior partners of the Central Government. They pointed out that even if local councils were elected representatives of the local people with responsibilities for providing services, their functions and responsibilities were determined by the powers conferred on them by Parliament.

The three basic viewpoints as illustrated by those interviewed suggest that local authorities are not autonomous and they cannot without causing confusion and problems, have unlimited powers¹. The Central Government is responsible for national policy and administration and as such, it cannot safely allow local authorities to be entirely autonomous without neglecting its own responsibilities. Commenting on local authority autonomy the Minister of Local Government and Housing said:-

"If the request for more autonomy by larger local authorities is a request for more participation, then it is welcome, but if as I suspect it stems from a desire to opt out the National Development Plan, then it is to be deplored. "One Zambia, One Nation" is not just a slogan, it means we all have a common goal and each and every one of us must work together as a team"².

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1. W. Eric Jackson, The Structure of Local Government in England Wales. (London, 1966) p. 129.
 2. The Minister was addressing the 24th Annual Conference of the Local Government Association of Zambia which was held in Kitwe from 27th to 29th July, 1971. (L.G.A.Z. Minutes of the Conference, Lusaka, 1971).

Local authorities realise that they cannot possibly be independent of the Central Government. What they request is maximum discretion to make their own decisions within national policies¹. It was said by a majority of those who were interviewed that the Government was doing the opposite of what local authorities request it to do. Some of the powers and functions of local authorities were being taken away from them and the Ministry of Local Government and Housing was constantly interfering in the affairs of local authorities contrary to UNIP national policies which among other things states:-

"The Party is committed to the establishment of a strong Local Government system to achieve maximum decentralisation in order to ensure that Local Government accords with the principle of Participatory Democracy under the philosophy of Humanism and to promote maximum local initiative in development".²

If this is, in part, the national policy relating to local authorities, it is important to discuss the allegations by local authorities that their freedom was being reduced and that there is unnecessary control over local authorities and interference in their affairs by the Ministry of Local Government and Housing.

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1. This emerged out of my interviews with Mayors, Councillors, Council Officers of Local Authorities that I visited which included Kabwe, Ndola, Luanshya, Kitwe, Mufulira, Chingola and Lusaka. (1975).
 2. United National Independence Party (UNIP), National Policies for the Next Decade, 1974-1984. (Lusaka, 1973).

As discussed earlier, it is noted that there are different views of what status local authorities have in relation to the status of the Ministry of Local Government and Housing. This means that the functional relationship of the Ministry of Local Government and Housing and local authorities is not spelt out very clearly and this lack of clarity causes some difficulties. Both the Ministry of Local Government and Housing and local authorities may wish to choose what status they have in relation to the other depending on circumstances. For instance, the Ministry of Local Government can resist an uncongenial policy imposed by Parliament by reference to the independence of local authorities. Similarly, local authorities can attribute the performance of unwelcome or disliked activities to their status as agents of mistaken national policy.

A case in point on this matter took place in Luanshya Municipal Council. In 1974, Luanshya Municipal Council agreed to raise rent for low cost housing. This was done because the rent paid for the house could not meet various costs for the houses. In accordance with Section 74 of the Local Government Act, the Minister's approval was sought to the increase of rent. Approval to raise rents was given by the Ministry of Local Government and Housing and was to take effect from 1st April, 1974. When the Treasurer of the Council sent notices to the tenants informing them of the increase, they protested. A planned demonstration at Council Officers was stopped by the Mayor of Luanshya. The matter was reported to the Council which decided that the Minister should be asked to handle the matter. When the Permanent Secretary was contact, he advised that it was the responsibility of the Council to handle the matter

in a manner they thought fit. In other words, he expressed the opinion that it would not be appropriate for the Minister to intervene in local affairs of that nature. The Council had to take the matter up themselves and resolved it by meeting the political leaders of the community who included Constituency Chairmen and their Secretaries.

The incident which has been explained clearly shows that in the first place the Council acted both as a junior partner and agent of the Ministry of Local Government and Housing. After being given freedom in this respect by the Ministry of Local Government and Housing to assume the status of partner with the Government in administering the increased rent, they chose to present themselves as agents of Government because the increased rent was unwelcome to the tenants. It was only after the Permanent Secretary had advised that as a local authority they were responsible to explain to their people as to why the rent had to be increased that they took up their status as an autonomous government authority and partner of the Ministry of Local Government and Housing. It would appear, therefore, that the confusion that arises from insufficient clarity on whether local authorities are autonomous bodies, agents, or partners of the Ministry of Local Government and Housing, is a reflection of actual practice.

The fundamental elements of local government in many countries, including Zambia, are that it should have elected local councils with functions conferred on them by law, and it should have local councils with funds made available to them to finance their activities. The control, the reduction of local autonomy, and interference by the Ministry of Local Government

and Housing which local authorities refer to relate to these aspects of local government. The control and interference by the Ministry of Local Government and Housing can be illustrated by giving some examples.

Section 43 of the Act sets out the time when Councils estimates should be submitted to the Ministry of Local Government and Housing for the Minister's approval. It also sets out appropriate steps to be taken when preparing estimates. The law does not raise the question of priorities but the Ministry of Local Government and Housing in fact lays down priorities which local authorities are required to include in the preparation of their estimates. Before 1974, the revenue and expenditure estimates of Councils were made by the Councils themselves in accordance with the law. The Committee responsible for various functions of each Council prepared the estimates with the guidance of chief officers. In the preparation of estimates the Committee considered the priorities of their people and included them in the estimates. Since councillors are representatives of the people in their respective areas, and they sit on Ward Development Committees as Chairmen, the residents of respective local authorities participated in planning the programmes of their areas - through their councillors.

In 1974, local authorities witnessed a change in the preparation of their estimates. On 28th May, 1974, the Ministry of Local Government and Housing issued the following Circular to local authorities:-

"Would you please submit, as per attached specimen, the details of capital projects which your Council wish to commence in 1975. You should indicate your cash drawings and ensure that the replies reach me by not later than the 31st July, 1974. Councils are advised to limit such schemes to those of high priority and the order of priority would be as follows:-

Water.
Sewerage.
Housing.
Roads.
Fire Services.
Offices and Public Buildings.
Street Lighting.
Miscellaneous"¹.

These priorities were included in the estimates of all local authorities that I visited before this Circular was issued but not in the order because of the methods used by local authorities in preparing their estimates. Local authorities were, therefore, unhappy with the Circular not because the Ministry set up priorities for them, but because of the principle involved in the contents of the Circular². Section 43 of the Local Government Act, 1965, gives power to prepare estimates for the local needs to the local authorities. This was done because local authorities are supposed to know the needs of their residents in their respective areas better than the Ministry of Local Government

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1. Circular No. 15/74 Reference LGH/102/52/52 (Lusaka, 1972).
 2. This view emerged during my discussion with the Town Clerks of Lusaka, Kabwe, Ndola, Luanshya, Kitwe and Mufulira, the Mayors of Luanshya, Lusaka, Kabwe, and Ndola and the Treasurers of Lusaka, Ndola and Kitwe. (1975).

does. The law was also aimed at giving local people an opportunity to participate in planning the programmes that affected them¹. Local authorities regarded this Circular as an interference beyond statutory requirements motivated by the desire to control local authorities². Having regard to the fact that participation at the local level¹ means more than putting a shopping list up to the next level of authority, it is difficult to understand how this control permits genuine participation in planning³. This kind of desire to control authorities appears to contradict the principle of participatory democracy and decentralisation expressed by the President:

"... I do not want even in economic terms for the Government of Zambia to think of our people as if they were mere pawn in a game. I want them to participate fully in everything that we are planning and doing"⁴.

Under Section 65 of the Local Government Act, local authorities have power to discharge scheduled functions and under Section 67, local councils may enter into contracts necessary for the discharge of any of its functions. It is important to note, however, that the exercise of power by local

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1. This view emerged from my interview with the Senior Legal Officer, in the Ministry of Local Government and Housing. (1975).
 2. This view was expressed by Mayors and Council Officers of most local authorities that I visited. (1975)
 3. Professor C.J. Gertzel, Paper read to Local Government Association of Zambia meeting in July, 1973. (L.G.A. of Zambia, Lusaka, 1973).
 4. K.D. Kaunda, Speech to the Second National Convention on 9th April, 1965. (Freedom House, Lusaka, 1965).

authorities to discharge their scheduled functions depends on the approval by the Minister of estimates of expenditure on their functions. The Minister can disapprove expenditure on some functions or cause the expenditure to be reduced. This makes it very difficult for local authorities to make definite plans which can be included in the expenditure estimates and at times the disapproval by the Minister of expenditure estimates affects not only the efficiency of local authorities in the performance of their functions but it also reduces the freedom of local authorities to exercise their responsibilities.

Chapter IV illustrates the point on the degree of central control over local authorities functions and some aspects of the relationship between the Central Government and local authorities. The end result of most aspects of the relationship, however, is unsatisfactory to local authorities and their claims for a degree of autonomy.

CHAPTER IV

THE RENT ACT, 1972

THE RENT ACT, 1972

This case study deals with the Rent Act of 1972 and the administrative difficulties created by its enactment which local authorities struggled to resolve by the subsequent amendment of the Act. The theme of the case study is the administrative and political relationship between the Ministry of Local Government and Housing and local authorities. This relationship will be illustrated by the trend of events that took place before and after the Rent Act, 1972, and the Rent (Amendment) Act, 1974. A brief study of events before and after Parliament had passed the Rent Act, 1972, indicates that the problems that local authorities faced were primarily due to lack of communication or consultation between the Ministry of Local Government and local authorities; but to understand the position fully, it is also intended to consider the position of local authorities in relation to their tenants and rent before and after the Act. The Rent (Amendment) Act, 1974, which superseded the Act of 1972, and the difficulties that local authorities faced will be discussed to show the manner in which these affected the central government, the local authorities and the members of the public.

Prior to 1972, the procedure for evicting a rent defaulter from a council dwelling house and recovering rental arrears was similar in all urban local authorities. A tenant who was in rental arrears of two months was served with a first warning notice reminding him of his tenancy agreement which required him to pay rent in advance on the first day of each month. He was

warned that if remittance for the rental arrears indicated on the warning notice was not received, the Director of Housing would require him and all his dependants to vacate the house. The second notice of rental arrears carried the same warning but the tenant was told that it was a final notice. This notice was served on the tenant towards the end of the third month of rental arrears. The eviction notice was served on the tenant at the beginning of the fourth month of rental arrears. The tenant was told in the eviction notice that as he had not paid rent for the house he was occupying he had to vacate the house by eight hours the following day. If he continued to occupy the house after the time indicated in the warning notice, he was evicted from the house under the tenancy agreement and Regulation 139 of the Township Regulations¹.

The evictions were carried out by the Housing Officer who led a team of housing assistants. Evictions were not carried out on Friday, Saturdays and Sundays. This was because most local authorities considered it inhuman to evict tenants from council dwelling houses on week-ends, and also because those who defaulted in rent payment were given twenty-four hours in which to find money to pay rental arrears after they had been locked out of the houses. At the time of eviction, a policeman was required to be present to witness the eviction.

1. The Township Regulations, Cap. 120 of the Laws of Zambia

Regulation 139 was revoked by Statutory Instrument No. 319 made under the Local Government Act, 1965. After that date councils had no statutory power to evict tenants. However, they continued to evict tenants from council dwelling houses under the powers conferred on them by the tenancy agreements. The tenancy agreement was a lease whose provisions were to be observed by both the tenant and the Council¹.

Before the Rent Act was enacted, the relationship between urban local authorities (as landlords) and tenants who occupied council or self-owned dwelling houses or huts was defined by the Township Regulations, but by and large the conditions of renting dwelling houses were contained in the tenancy agreement made by each local authority. The Township Ordinance gave local authorities, firstly, general powers to construct dwelling houses for rent; secondly, responsibilities for public health and lighting of their areas; and thirdly, responsibility to provide and maintain public latrines, washing places, water supplies, drains, public recreation grounds, and open spaces. On the part of tenants, Regulation 139 required that every registered occupier of a hut or dwelling house should on the first day of each month, pay rent in advance to the Location Superintendent. It was also provided in the Regulation that those who defaulted in rent payments would be evicted from their houses during the month next following that in which the rent became due and payable. In addition to the Township Regulations, local authorities used a tenancy agreement which

1. Ibid. Under Common Law no tenant can be evicted from his house without a court order unless he has committed a breach of the lease.

a tenant held as a legal occupier of a house. As shown, the bases of the council-tenant relationship were that, on one hand, local authorities were by law required to provide dwelling houses or land on which dwelling houses could be constructed to people living within their areas, and on the other hand those who occupied properties belonging to local authorities were required by law or by tenancy agreement to pay rent for them.

The Townships Regulations 129-144C were revoked because they contained offensive and discriminatory references¹. (For example, on the control of natives living in one hut by the Location Superintendent and the issue of location visitors permits). However, the Ministry decided to advise City, Municipal and Township Councils of the impending revocation of these Regulations and asked them whether they considered that alternative provisions should be made particularly in respect of those concerning rent defaulters contained in Regulation 139. The following Circular from the Ministry was sent to all local authorities concerned with the matter:

"A Statutory Instrument will be published shortly to remove certain discriminatory references from the Township Regulations made under the Township Ordinance Cap. 120. The major changes will be the revocation of Regulation 129-144C inclusive. I realise that the revocation of these regulations may leave local authorities without statutory power to control certain undersirable activities and should be happy to consider any suggestions to take their place. Any new regulations must of course be non-discriminatory and suggestions should reach this office by the end of August"².

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1. Internal memorandum addressed to the Permanent Secretary in the Ministry of Local Government and Housing by Mr. P.L. Taylor, Assistant Secretary. See Folio 17 of File No. LGH/64/9/23. General Revision of the Laws. (Ministry of Local Government and Housing, Lusaka, 1969).
 2. Circular sent to all local authorities by Mr. P.L. Taylor, Assistant Secretary, File No. LGH/64/9/23, Folio 24. (General Revision of the Laws, Ministry of Local Government and Housing, Lusaka, 1969).

This Circular was sent out four days before the Statutory Instrument which was signed by the Minister of Local Government and Housing Mr. A. Milner on 18th June, 1969 was published. From the records of replies to the Circular, out of twenty four local authorities to which the Circular was sent, only eight sent replies to the Ministry. Out of the eight that replied only Kitwe City Council had made a valuable suggestion as assessed by the Ministry of Local Government and Housing. Two local authorities indicated that they had no suggestions at all. However, despite the fact that local authorities were given very few days in which to comment, it is important to note that they were consulted in this matter. Following this consultation, the Township Regulations were revoked and the Rent Act, 1972 was enacted by Parliament in its place.

The Township Regulations 129-144C operated in conjunction with the Rent Control (Temporary Provisions) Act, 1968. Although the Act was intended to make temporary provisions for the restriction of eviction from dwellings and commercial premises, and control of rents and the restriction of premiums, it fell short of many provisions that were necessary in the relationship between tenants and landlords. In other words, the Act did not spell out the rights and obligations of both tenants and landlords. In the first place the Act was temporary and was to be in force until the end of 1970 although Parliament did in fact regularly renew it until late in 1971. In the second place, it only applied to dwellings and commercial premises of private landlords in the three cities of Lusaka, Ndola and Kitwe. Section 3 Sub-Section (3)(b) excluded residential and commercial premises owned by local authorities. Thirdly, there was no definite formula for

determining rent. The Act was repealed in 1971 and the Landlord and Tenant (Business Premises) Act, 1971 was enacted to take its place. This Act, unlike the Rent Control (Temporary Provisions) Act, 1968, had provisions that set limits to rents of commercial premises.

There are various other factors to be taken into account that help to explain why Parliament enacted the Rent Act, 1972. As early as 1969, the Ministry of Local Government and Housing had been receiving complaints regarding the exorbitant rents demanded by landlords. Most of these complaints had been presented to the Ministry verbally through other Government Ministries and by individuals who went to see either the Minister or top civil servants of the Ministry of Local Government and Housing to demand that action be taken¹. Allegations of "exploitation" were made by the representatives of the National Rent Payers Association who saw the Under Secretary in the Ministry of Local Government and Housing early in 1970².

Press reports on high rents charged by landlords also influenced the Government in introducing the Act. Before the meeting that took place between the Under Secretary and the representatives of the National Rent Payers Association, the Times of Zambia published an article headed "Exploitation

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1. It has not been possible to establish the reason why some people did not direct their complaints to the appropriate Ministry. The Under Secretary in the Ministry of Local Government and Housing thinks that this was done out of ignorance. I think that they had done so only because they probably knew the persons to whom they had submitted their complaints.
 2. The proceedings of the meeting were not recorded and the information obtained was from the memory of the Under Secretary with whom I had an interview on this matter. (Lusaka, 1975).

by Landlords"¹. In this article, the President of the National Rent Payers Association was reported to have called upon the Government to consider banning lease agreements because he alleged landlords used them to exploit tenants. He demanded that the Government should give guidelines for the drawing-up of leases and the determination of rent. On 5th August, 1969, the Times of Zambia reported that UNIP Constituency Chairman, Mr. Matthew Mapulanga had advised Chawama residents to watch out for landlords who defied UNIP directions on new house rents². He was reported to have said that rents charged by landlords in the township were too high because the houses did not have toilets and water facilities. He told the residents that the new rents would be K5.00 for a house with a cement floor and K3.00 for a house without a cement floor.

Mr. Mapulanga believed that at the time he was making the allegations there was nothing in the Laws of Zambia that determined rent to be paid by tenants for various properties. The basis of his claim were verbal complaints he received from the residents as a UNIP Constituency Chairman of Lusaka East that some landlords charged as high as K14.00 for houses of one to two rooms³.

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1. Times of Zambia, (29th May, 1969).
 2. Times of Zambia, (5th August, 1969).
 3. On 6th January, 1974, I personally interviewed Mr. Mapulanga to substantiate his claims that landlords were charging too high rents and asked for evidence of complains by the residents.

It should be noted that the complaints regarding high rents were directed against private landlords and not local authorities. On the basis of the allegations of high rents and the fact that there was no statutory provision to set limits to rents of dwelling houses, the Ministry of local Government and Housing prepared a Rent Bill, 1972 draft which was circulated to the Ministries of Finance, Legal Affairs, Lands and Natural Resources, Development Planning and National Guidance and Labour and Social Services for comments. There were favourable comments from all the Ministries but there was misunderstanding in the Ministry of Legal Affairs where there was doubt as to whether or not local authorities were to be included in the provision of the Bill or not. Despite the fact that Civil servants argued strongly against the inclusion of local authorities in the provisions of the Rent Bill, 1972, the Bill included them¹. On 21st February, 1972 the Minister of Local Government and Housing submitted to the Cabinet Committee the Rent Bill, 1972 draft and recommended that it should be approved for publication and introduction into Parliament.

1. It is not possible to elaborate on the misunderstanding as the source of information is confidential and cannot be quoted without permission.

The Bill, which became the Rent Act, 1972 was read the first time in Parliament on 3rd March, 1972 by the Minister of Local Government and Housing. When the Minister introduced the second reading on the 7th March, 1972, he explained that the Bill was intended to establish fair relationships between landlords and tenants of all types of rented properties throughout Zambia. All tenants of unfurnished or furnished accommodation were to be provided for with security from arbitrary eviction. The Bill provided tenants with freedom from any risk of being required to pay an excessive rent. The landlords were to be protected by the Bill by requiring tenants to pay a proper rent to them and to care for rented property in proper manner.

In terms of rent, some provisions of the Rent Act, 1972, took the place of Regulation 139 of the Township Regulation. As mentioned earlier, Regulation 139 gave power to local authorities to evict tenants from council dwelling houses for non-payment of rent. The Act provided for the rights and obligations of both the tenant and the landlord in thirty four clauses but the main features of the Act as it affected local authorities were as follows:-

- (a) Local authorities as landlords were to obtain a court order for the recovery of possession of the premises or for the ejection of a tenant from the premises in case the tenant had defaulted to pay rent or committed certain breaches of the tenancy agreement. The Act also made it an offence on the part of local authorities to obtain a court order by concealment of certain facts or misrepresentation.
- (b) No distress for the recovery of arrears of rent were to be levied without the leave of the court by any local authority.

- (c) Local authorities were not permitted without leave of the court to do any act whereby the tenant was deprived of any water, light or other services.
- (d) The Act provided that on the death of a tenant the tenancy was to pass to the widow if she was residing with him at the time of his death or, where a tenant did not leave a widow, or was a woman, a member of the tenant's family who was residing at the premises.

The Government was influenced in passing the Rent Act, by allegations of high rents charged by private landlords yet the provisions of the Act also applied to local authorities. From documentary records it is impossible to determine why this is so. However, Ministry officials believe that it was a mistake and as stated already there was misunderstanding in the Ministry of Legal Affairs on this matter. The general view of most of the council officers and members of the council interviewed on this matter was that local authorities were included in the provision of the Act because Government thought that they were evicting tenants indiscriminately. They had the impression that the Ministry of Local Government and Housing did not consult them before the Rent Act Bill, 1972 was introduced to Parliament because they were taken as culprits who did not take the principle of Humanism into account when evicting tenants from houses.¹

1 In Kabwe, I interviewed the Mayor and the Town Clerk; in Ndola I interviewed the Mayor, the Town Clerk, the City Treasurer and one Alderman; in Kitwe I interviewed the Town Clerk, the City Treasurer and one Alderman; in Mufulira, I interviewed the Town Clerk; in Luanshya, I interviewed the Mayor and the Town Clerk; in Lusaka I interviewed the Mayor, the Town Clerk, the City Treasurer and ten Councillors. This general view on this matter emerged during my discussions with them.

One of the consequences of the Act on local authorities was that it prevented them from carrying out eviction under the old system. A new system of evicting tenants was introduced which both private landlords and local authorities were required to follow. This system created difficulties in the relationship between the Ministry of Local Government and Housing and local authorities, which will be discussed below. Under the Act, the Minister of Local Government and Housing was given power to make regulations and give such directives as he thought fit for the purposes of giving effect to the provisions of the Act.

Almost all urban local authorities reacted against the provisions of the 1972 Act which stopped local authorities from evicting tenants from council dwelling houses without a court order. They also reacted very strongly against the provisions of the Act which required them not to levy distress upon the goods of a tenant lying on the premises for the recovery of rent. As can be noted, the Act created a new situation in which local authorities were required to act differently in respect of eviction of rent defaulters and recovery of rental arrears.

Like the Town Clerks and heads of departments in the local authorities, council members were all disappointed with the provisions of the Act that took away power from local authorities to evict their tenants who defaulted on rent unless they had a court order. Most of them expressed a feeling that there would be delays in carrying out evictions and in recovering rental arrears. As a result some councils resolved to ask the Ministry to exempt local authorities from the provision of the

Act relating to evictions, recovery of rental arrears and the levying of distress upon goods of a defaulting tenant for recovery of rent. They also resolved to place the matter on the agenda of the Local Government Association of Zambia¹. For instance, the Town Clerks of Ndola, Lusaka, Mufulira and Luanshya wrote to the Ministry of Local Government and Housing under the instructions of their councils, requesting the Ministry to have the Rent Act, 1972 amended in order to have local authorities exempted from its provisions. In Lusaka, the Finance and General Purposes Committee of the Lusaka City Council examined the provisions of the Rent Act, 1972 and resolved:

- (a) "That the Ministry of Local Government and Housing should be asked to exempt council from the operation of the Rent Act, 1972, by adding local authorities to the list of exempted persons listed in Section 3 of the Act.
- (b) That (a) above be recommended to the Local Government Association of Zambia.
- (c) That pending the outcome of above, council take action under the Rent Act, 1972 against defaulting tenants"².

Similar resolutions were made by Kitwe, and Luanshya Councils. Luanshya and Lusaka councils had in accordance with their resolutions written to the Ministry requesting that local

1. The Local Government Association of Zambia is a representative body of all local authorities in Zambia. Ndola, Kitwe, Luanshya, Mufulira, Kabwe and Lusaka took action on these lines.
2. Lusaka City Council, Committee reports and minutes of 16th October, 1972.

authorities be exempted from certain provisions of the Act.

The Ministry did not reply to their request. Kitwe City Council had resolved:

"... That the Local Government Association of Zambia make representation to the Ministry of Local Government and Housing to exempt local authorities from the provisions of the Rent Act, 1972"¹.

This resolution together with other resolutions from other local authorities on this matter was placed on the agenda of the Local Government Association of Zambia annual conference that took place at Livingstone from 15th to 17th September, 1972. All urban local authorities demanded that they be exempted from the provisions of the Act relating to evictions and be allowed to levy distress on the property of rent defaulters for recovery of rent.

Despite these complaints by local authorities against the provisions of the Act, no action was taken by the Ministry to exempt them from the Act until after two years when the Act was amended in 1974. Local authorities had to abide by the provisions of the Act the implications of which were far reaching and created problems not only for local authorities but also for certain tenants and the Government.

The Act introduced a long cumbersome procedure and expensive system of collecting rents for local authorities. Apart from the fact that limited personnel in local authorities made it very hard to institute proceedings in court against rent

1. Local Government Association of Zambia. Proceedings of the 25th annual conference held at Livingstone from 15th to 17th September, 1972. Notices of motions. (Lusaka, 1972).

defaulters, the courts could not possibly decide on a number of cases in good time unless a special court was set up and unless extra Magistrates were made available to decide on the cases of rents. The situation was made worse by the Circular from the Ministry of Local Government and Housing which restricted all local authorities from increasing their staff establishments¹. This Circular was sent to all local authorities on 4th January, almost two months before the Rent Act, 1972 was passed and published on 30th March, 1972. At the time the Rent Act, 1972 was passed, there were more than 50 vacant posts for professional staff in the eight major cities and towns of Lusaka, Ndola, Kitwe, Kabwe, Luanshya, Mufulira, Livingstone and Chingola and the number of vacant posts increased due to the departure of contract officers who returned to their homes on the completion of their contracts.

In as far as this matter related to the courts, there was a problem for local authorities of having to wait for court orders while arrears increased. For instance, Lusaka City Council had started about eighty court cases to recover rental arrears but the court took several months to decide only eighteen

1. On 4th February, the Ministry of Local Government and Housing issued a Circular No. 2 of 1972 dated 4th February, 1972 to all local authorities stopping them to increase their establishments. (Lusaka, 1972).

cases that were in favour of the council¹. Council members, Town Clerks and Council Treasurers expressed disappointment with the courts because of the delay taken to decide on the rent cases. After court orders were given by the court, they had to be handed to the defaulting tenants in person by a court bailiff. In most cases rent defaulters dodged the court bailiff thereby making it difficult to effect evictions or recover council monies.

As local authorities were already owed much money in rental arrears before the Rent Act, 1972, this situation resulted into further reduction of services and facilities which local authorities provided to the residents out of the rents that they paid². It was generally felt by council members and council officers of the eight major urban local authorities that it was unfair to the tenants who paid their rents whenever they were due.³ The quick rise of rental arrears after the enactment of the Rent Act, 1972, gave an indication to councils that certain tenants had decided to capitalise on the Act by not paying their rents. Local authorities believed that rent defaulters knew that it would take a long time before councils evicted them or recovered rental arrears from them, and so made no attempt to pay up.

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1. Finance and General Purposes Committee report and minutes of 16th October, 1972. (Lusaka, 1972).
 2. From the information obtained from the Treasurers and Town Clerks and council documents, housing rental arrears before the enactment of the Rent Act, 1972 were 30 to 40 per cent less.
 3. This emerged during my interviews with members of major councils and officers. (1974).

The rent arrears position worried local authorities and Government became aware of it. There is no documentary record to show how the Government became aware of the problems that local authorities faced but through the interviews with the Under Secretary and the Senior Legal Officer of the Ministry of Local Government and Housing it was indicated that their Ministry told the Government the position of local authorities regarding rental arrears. The President made it clear that Government was aware of the situation when he addressed the 26th Annual Conference of the Local Government Association of Zambia at Mulungushi Hall, on 26th July, 1973. The President told the members of the Conference that:

"Government is fully aware of the problem Councils are facing in regard to collection of rent from tenants who have wrongly taken advantage of the Rent Act. I would like to assure local authorities that it was not the **intention** of Government, by enacting the Rent Act to deprive local authorities of the opportunity of recovering all rents due to them but rather to protect tenants from some unscrupulous landlords who take advantage of the absence of such legislation.

For any tenant to use the Act to their advantage is not only morally wrong but also criminal; it is daylight robbery"¹.

The worsening position of rent defaulting led the Minister of Local Government and Housing to warn tenants that he would take action against rent defaulters who intentionally decided not to pay rent. He threatened, "If necessary, I may go to Parliament to see how councils can be protected from this theft by people accommodated in council houses and yet fail to pay their rents for several months"².

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1. Proceedings of the 26th Annual Conference of the Local Government Association of Zambia held at Mulungushi Hall, Lusaka, from 26th to 28th July, 1973. See also File No. LGH/64/9/1. General Revision of Laws. (The Rent Act) Ministry of Local Government and Housing, Lusaka.
 2. Zambia Daily Mail, (21st January, 1974).

The statement was welcomed by local authorities who naturally put the blame on the Ministry of Local Government and Housing for the problems they were facing. As a result of the problems that local authorities faced in the operation of the Act and their pressure exerted on the Ministry of Local Government and Housing to exempt them from certain provisions of the Rent Act, 1972, action was taken by the Ministry to amend the Act accordingly.

The Rent (Amendment) Bill, 1974 was read in Parliament the second time on 13th March, 1974. During the debate, the Minister of Legal Affairs and Attorney General (Mr. Silungwe) who read the Bill in place of the Minister of Local Government and Housing, pointed out that in other countries the Rent Act exempted local authorities from its application. The Rent Act, 1972 had not followed this pattern because Government wanted to see that local authorities practised Humanistic dealings with tenants. This did not work out well because as the Minister of Legal Affairs said, "Most people have the means to pay but have chosen to take advantage of the situation by not paying"¹. The Bill also made provision to allow local authorities to levy distress on the goods of defaulting tenants. The Minister explained that the power was to be given to councils to protect them from tenants who absconded after serving them with eviction notices.

1. Ministry of Legal Affairs. 2nd Reading of the Rent (Amendment) Bill, 1974, Hansard No. 35 jj. Daily Parliamentary Debates 13th March, 1974. (Lusaka, 1974), p. 2861.

The Rent (Amendment) Act, 1974 passed on 31st March, 1974, returned to local authorities the power which had been taken away from them by the Rent Act, 1972 to evict tenants without court order as indicated in Section 32A(a) and (b). This Section of the Act allowed local authorities to exercise their power as follows:-

- "(a) to evict a tenant from the premises let to him by the local authority or the National Housing Authority, as the case may be, without having to institute proceedings in court in that behalf, if the tenant is in arrears of rent of not less than three months;

Provided that the tenant shall not be so evicted unless the local authority or the National Housing Authority, as the case may be, has given to the tenant at least one month's notice in writing to pay such arrears and at the expiry of such notice the arrears or any part thereof remain unpaid;

- (b) to evict a tenant and any other occupier from the premises let to the tenant by any local authority or the National Housing Authority, as the case may be, without having to institute proceedings in court in that behalf if the tenant has sublet the premises or any part thereof without the prior consent in writing of the local authority or the National Housing Authority as the case may be.

Provided that the tenant or the occupier shall not be so evicted unless the local authority or the National Housing Authority, as the case may be, has given to the tenant at least one month's notice in writing to **remedy the breach** occasioned by the unauthorised subletting, and at the expiry of the notice the breach has not been remedied by the tenant".

One and half months after the Rent Amendment Act, had been published, local authorities threatened to evict rent defaulters in order to recover the rental arrears owing to them. Most local authorities set out dates in which evictions were to take place after giving rent defaulters the required one month's notice. Since many tenants who were in receipt of regular income had taken advantage of the Act and had not made any effort to pay their rent, the Ministry believed that there were many people in arrears of rent who were to be evicted by local authorities¹. However, local authorities expressed the opinion that although the 1972 Act had been amended to authorise them to evict tenants who were in arrears, they would not take advantage of it by evicting families from their houses indiscriminately. Like many other local authority officers, the Director of Housing for Lusaka Council said:

" ... We are going to treat people in arrears with the Council as human beings and not like animals as had been suggested in certain quarters. This is a humanistic society and the council is part and parcel of this society"².

The threat of eviction brought very good results for many local authorities. Many tenants in arrears of rent started paying their rental arrears. After Luanshya, Ndola, Kitwe and Lusaka announced dates on which evictions were to be effected, there were long queues of tenants at council offices who were settling their rental arrears. In one week they recovered as much money owing to council in rental arrears as they would normally do .

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in two months.¹ For fear of being evicted, some tenants had vacated council dwelling houses on their own. It was hoped that in a month, a substantial amount of rental arrears would have been recovered. However the payment of rental arrears by tenants was shortlived and the intended eviction by local authorities as authorised by the Rent (Amendment) Act, 1974 was stopped.

On the 19th May, 1974, the Minister of Local Government and Housing ordered all local authorities not to carry out their planned eviction of rent defaulters until he had met Council officials.² His orders to local authorities were announced on the radio and were published by the Times of Zambia and the Zambia Daily Mail on 20th May, 1974. Local authorities were not consulted on this matter before they were stopped from carrying out evictions. The order was communicated to local authorities by the Ministry through Council's Town Clerks by telephone after the order had been made through the press and radio.³ The Minister further

1. The Treasurers of Ndola, Kitwe and Lusaka Councils and the Town Clerk of Luanshya Council pointed out this aspect of rental arrears collection in the discussion I had with them.(1974)
2. See the Zambia Daily Mail, (20th May, 1974). "Matoka halts evictions plan." During my interviews with the Under Secretary of the Ministry of Local Government and Housing on this matter, I was told that the Minister was worried about the massive eviction that local authorities were going to carry out. He believed that the matter would create misery and political outcry. It was, therefore, suggested that Regulations should be made to guide local authorities in their eviction before they undertook to evict those who were in arrears.
3. The Town Clerks of all major local authorities.

announced that a meeting would be held at Chalimbana on the 21st May, 1974, which all Mayors, Town Clerks, Treasurers and Directors of Housing from City and Municipal Councils were asked to attend. The Meeting was later postponed to 22nd May, 1974¹. The Minister also asked all the residents affected by the eviction threat through the press to remain calm in their houses while the matter was being discussed. He assured them that evictions would not take place until regulations were laid down and approved by him. It is important to note that evictions were being carried out by local authorities even before the Minister made the order to stop evictions. This is because the Rent (Amendment) Act, 1974 did not make the existence of regulations as a condition for local authorities to carry out evictions.

These press pronouncements had adverse effects on payments by tenants. The evictions of those who were in rental arrears suggested that they misinterpreted the Minister's press statement to mean that they were not required to settle their rental arrears until regulations for evictions were laid down². This is illustrated by the fact that the Minister's pronouncements appeared in the press, the long

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1. See Zambia Daily Mail (22nd May, 1974) "Eviction talks on today".
 2. This view was expressed by the Treasurers and Directors of Housing of six of the eight major local authorities. (1974)

queues of tenants who wanted to settle their arrears that were seen at Council Offices disappeared or became shorter. At the revenue hall of the Lusaka Council, some tenants who came to settle their rental arrears went back to their homes without paying their rental arrears after reading the Minister's statement in the Times of Zambia which is sold in the morning at the foyer of the Civic Centre buildings. Payments of rental arrears were postponed by some tenants because they would not be evicted from their houses until after eviction regulations were laid down. Those who had vacated their houses in fear that councils would evict them, reoccupied them after the Minister's assurance. The Chairman of the National Rent Payers' Association, Mr. Christopher Chileshe welcomed the Minister's decision to halt the evictions of rent defaulters by the councils. He expressed the opinion that allowing mass evictions of tenants in rent arrears would be tantamount to overlooking the principles of Humanism¹.

Many rent defaulters were saved by the Minister from being evicted from their houses. Those who were to be evicted from council dwelling houses and even those tenants who were not going to be affected by evictions praised him for his action. This fact is indicated by what the Chairman of the National Rent Payers' Association was reported to have said, the press statement by Mr. Shinde, and Councillors and Mayors who believed that the Minister's press statement gained him praise from the public.

1. See Zambia Daily Mail, (21st May, 1974). "Rent Payers' Boss Hails Matoka".

As politicians at the lower level who were very close to the people, councillors felt that their political relationship with people of their respective Wards was undermined. They had told people in their Wards to pay their rental arrears or face eviction. The Minister's press and radio pronouncements were in complete contradiction to what they were doing. Many councillors expressed the feeling that they were embarrassed and found it difficult to explain their activities in relation to the action taken by the Minister to the people they told to pay their rental arrears or face eviction. Local authorities believe that tenants were given the impression that their decisions to evict rent defaulters were ultra vires. They were considered to be irresponsible and inconsiderate and brought their integrity into disrepute. Many councillors felt that the Minister's press statement damaged the good relationship that local authorities had with their tenants. These allegations were based on the communications councillors had with the people of their Wards. In Luanshya some residents in fact asked why Council was taking a hard line on tenants when in fact the Ministry's approach was humanistic.

Section 31 of the Rent Act, 1972 gives power to the Minister of Local Government and Housing to make regulations for the purpose of giving effect to the provisions of this Act as he thinks fit. This entails publication of such regulations by the Ministry in the Government Gazette. Under Section 34A of the Rent (Amendment) Act, 1974, local authorities were acting within the law when they decided to evict a number of tenants

who were in rental arrears of over three months. There is no provision in the Rent (Amendment) Act, 1974 which makes it unlawful for local authorities to evict rent defaulters where there are no eviction regulations approved by the Minister of Local Government and Housing. Regulations referred to in Section 31 of the Rent Act, 1972 are required to be made only if the Minister thinks it necessary. In other words, evictions could be carried out even when regulations are not in existence. It can, therefore, be deduced from this that any local authority that could have decided to carry out evictions of tenants who defaulted on rent after the Minister's order had been issued to stop evictions, could have been legally in the right. However, local authorities had to obey the orders by the Minister because of his position in the Party and Government. In the Party, the Minister was operating from higher political level than the Councillors and in the Government, the Minister was one of the Cabinet members. Disobeying the Minister would be tantamount to disobeying the Party and the Government. The Minister acted without consultation with local authorities and they did not like it. Apart from ignoring local authorities in this matter, his action created problems for local authorities and the press reports embarrassed him because they suggested that there was bad relationship between the Ministry of Local Government and Housing and local authorities.

As a result a meeting to discuss eviction regulations and ways of collecting rental arrears took place at Chalimbana on 22nd May, 1974 and was chaired by the Under Secretary of the Ministry of Local Government and Housing. Pressmen were not allowed into the meeting and could not, therefore, report on its deliberations except when the Minister was making an opening

speech to the seminar. The Minister was reported to have told the seminar of Mayors, Chairmen, Town Clerks, Council Secretaries and Directors of Housing that they had gathered to formulate a policy regarding the necessary conditions which were to precede each contemplated eviction. The Minister also said that he was aware that some councils were contemplating massive eviction campaigns and that he was not blind to the fact that councils were owed millions of Kwacha in rent arrears. The Minister did not think that massive eviction was an appropriate method of recovering council monies because evicted tenants would escape with unpaid arrears. He told councils to act in a Humanistic way when making decisions on evictions¹. However, the Minister was not pleased with the press reports on the Rent Act, 1972 and on his pronouncements on evictions of rent defaulters because he felt certain press reports undermined the relationship between his Ministry and local authorities. The way reports were presented to the public gave the impression that local authorities had no legal power to evict rent defaulters². To correct the impression given to the public by the press reports, the Minister told the seminar in his opening address that the Government passed the Rent (Amendment) Act and gave local authorities power to evict rent defaulters and that he could not take that power away from them. The Minister appeared to be contradicting his action as examined above. However, he further admitted that: "Corresponding

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1. See Zambia Daily Mail (23 May, 1974). "Matoka Orders More Time for Defaulters".
 2. The matter was discussed with the Under Secretary who was Chairman of the Chalimbana Seminar and the Senior Legal Officer who was also present at the Seminar during my interview with them. (1974).

with that power is a duty upon each Council to act in as a Humanistic way as possible¹."

The deliberations of the seminar resulted in sixteen resolutions being passed. On the 11th June, 1974, the Acting Permanent Secretary wrote a confidential circular letter to all local authorities requesting them to take appropriate action regarding rent defaulters in line with the procedure reflected in the resolutions of the Chalimbana seminar². As a matter of law, local authorities were not bound by these regulations until they were published under a Statutory Instrument in the Government Gazette. However, as a matter of practical administration and politics the Ministry has the responsibility of guiding and advising local authorities.

Local authorities were advised before the seminar came to an end that a Statutory Instrument would be issued which would give the regulations the backing of law. The following are some of the resolutions of the Chalimbana Seminar which were taken into account when deciding on the regulations contained in the Statutory Instrument which was published in July, 1974.

"This Seminar, while recognising that there are a number of tenants who, due to genuine hardship, are from time to time unable to pay their rents, emphasises the fact that most tenants are not from the poorest income categories and are in a better position

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1. See the Zambia Daily Mail, (23 May, 1974).
 2. Circular letter Reference No. LGH/102/3/1 dated 11th June, 1974. Ministry of Local Government and Housing. (1974).

than the majority of our citizens to pay their rents. It also emphasises that amongst the worst defaulters are those in responsible positions. This Seminar, therefore,

RESOLVES

1. That while Local Authorities will treat genuine cases with sympathy, it is determined, in the interests of the majority of our citizens, to ensure that existing tenants either fulfil their obligations to the community or that their houses are re-allocated to other tenants who are willing to pay their rents.
2. That the Rent (Amendment) Act, 1974, Section 32A, be implemented without hesitation.
3. That Councils carry out, through Party machinery and any other available media of communication, an educational campaign to educate tenants of their obligations and the powers of council to evict rent defaulters.
4. That Cabinet Office be requested to urge Government Departments to pay their rates promptly."

After the resolutions of the Chalimbana Seminar were circulated to all local authorities by the Ministry on 11th June, 1974, the Rent (Local Authorities and National Housing Authority) (Defaulters Eviction) Regulations, 1974 were published on 12th July, 1974 as a Statutory Instrument No. 123 of 1974.

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1. See resolutions of the Local Government Seminar held at Chalimbana on 22nd May, 1974. Ministry of Local Government and Housing. (Lusaka, 1974).

The present procedure of evicting rent defaulters is not very much different from that practised prior to the Rent Act, 1972. There is, however, interference by the Party officials that include Members of Parliament, Cabinet Ministers, the District Governor, the Provincial Political Secretary and other authorities in the implementation of the Act by local authorities. There have been instances when some of the Party officials have requested to delay evictions because they wanted to talk to the defaulting tenants in order to urge them to pay their rentals. In other cases, local authorities have been told through the Mayor not to evict a great number of rent defaulters at the same time as the action would create unfavourable feelings towards the Party and Government!¹ These pressures have at times been ignored with the backing of the Minister of Local Government and Housing but many times councils have taken heed of them. One of the reasons for this attitude on the part of councils is that they too do not like to displease their electorates and thereby lose votes. They, therefore, tend to be reluctant in encouraging eviction of rent defaulters. They are inclined to say that the residents should be persuaded to pay their rentals through education in this respect.

But whatever local pressures there may be against strict enforcement of the Rent Act and its eviction provisions, it is clear that central interference and control play the dominant role and this greatly inhibits local authorities.

1. This information was obtained from the Mayors of Lusaka, Mufulira, Kabwe and Livingstone who declined to disclose Party officials who told them to observe what they termed "guidelines".

CHAPTER V

SOURCES OF REVENUE AND CENTRAL CONTROL

SOURCES OF REVENUE AND CENTRAL CONTROL

Local authorities are given statutory authority to perform many functions.¹ For example, they are authorised under the Local Government Act of 1965:

- (a) To acquire land, with the approval of the Minister (Section 69).
- (b) To sell, let or otherwise dispose of any property of the Council (Section 71).
- (c) To make grants or loans of money, with the approval of the Minister, towards certain establishments (Section 72).
- (d) To establish public transport services (Section 77).
- (e) To borrow money to discharge any of its functions, with the approval of the Minister (Section 51).

Other Acts of Parliament also give local authorities powers which are not mentioned in the Local Government Act. The following are examples of these powers:-

- (a) To establish markets (Markets Act Cap. 473).
- (b) To collect personal levy (Personal Levy Act, Cap. 432).
- ✓(c) To levy rates on assessable land and improvements (Municipal Corporation Act, Cap. 470).
- (d) To issue trading licences (Trading Licensing Act, Cap. 707).
- (e) To plan developments in their areas (Town and Country Planning Act, Cap. 475).
- (f) To enforce health regulations (Public Health Act, Cap. 535).

It is, however, important to mention that the performance of local authorities of any or all of the functions allotted to them by law is, in the last analysis, entirely

1. Functions of local authorities are set out in Appendix A of this dissertation.

dependent on the money made available to them for the purpose by the Ministry of Local Government and Housing. The power of the Minister of Local Government and Housing to approve, amend, or reject local authority budgets and his power to make or withhold grants given to him by Section 43 and 49 of the Local Government Act indicates in general terms the fiscal relationship between the Ministry of Local Government and Housing and local authorities. This control has crucial influence on the performance of local authorities.

However, city and municipal councils in Zambia have been provided with several sources of revenue to finance the range of services for which they are responsible. They have two taxing powers, rates on property and personal levy given to them by Section 30 of the Municipal Corporation Act, and Section 11 of the Personal Levy Act, respectively.

Personal levy and rates on property are the two main sources of revenue. The trading services like housing water and liquor undertaking by city and municipal councils form another source. In addition, local authorities are given powers to borrow both from internal and external sources with the approval of the Minister of Local Government and Housing. A percentage of revenues from licences have also been assigned to urban local authorities. A question whether or not these various sources of revenue produce sufficient income to cover expenditure on all local authority services has to be examined. An investigation should also be made into difficulties urban local authorities face in using some of these sources.

PROPERTY RATE

The essentials of the rating system at present in force in all urban local authorities are that all assessable property situated within the boundaries of a local authority area are valued by a valuation officer who may be employed by the central government or a local authority concerned but appointed by the Minister of Local Government and Housing to carry out the valuation. The value of land and improvements as fixed by the Valuation Officer are set out in a valuation roll of assessable property in the local authority area. The valuation is done from time to time but not less than once in every five years or such longer period as the Minister may approve.¹ The valuation roll shows separately the valuation attached to land and the improvements. After the values of land and improvements have been set out in the valuation roll by the valuation officer, rates are levied by local authorities on capital valuation of assessable property. A separate rate of so many ngwee in the Kwacha is invariably levied in respect of (a) land and (b) improvements.

Rates are one of the major sources of revenue for urban local authorities. In order to increase their revenues from this source local authorities only need to increase the rate in a Kwacha on land and improvements. But this cannot be done without the approval of the Minister of Local Government and Housing. However, it should be mentioned that the control over

1. See Municipal Corporation Cap.470. Section 19, Laws of Zambia.

this source of revenue has not often been exercised by the Government. In spite of rising rateable values most urban local authorities have not increased the level of their rates in order to meet rising costs. As a result of local authorities taking no action on this matter, rates in the Kwacha on both land and improvements have remained low. This has contributed to the difficulty urban local authorities face in meeting the cost of providing all the necessary services. The rates levied by urban local authorities in 1969 and 1974 were as follows:-

Year	<u>Lusaka City Council</u> <u>Land-Improvements</u>		<u>Ndola City Council</u> <u>Land-Improvements</u>		<u>Kitwe City Council</u> <u>Land-Improvements</u>	
	1969	2.71n	0.73n	4.3n	0.8n	4.2n
1974	3n	0.85n	5.5n	1.5n	5.8n	1.5n
<u>Chingola Municipal Council</u>			<u>Mufulira Municipal Council</u>			
1969	5n	1n	5n	1n		
1974	5n	1.5n	5n	1n		
<u>Luanshya Municipal Council</u>			<u>Kabwe Municipal Council</u>		<u>Livingstone</u> <u>Municipal Council</u>	
1969	5n	1n	4.166n	1.37n	7.5n	1.2n
1974	5n	1.4n	5n	1.7n	7.5n	1.2n ¹

The table does illustrate the smallness of the rise in rates made by most local authorities over five year period. Some local authorities like Mufulira and Livingstone did not make any increase on both land and improvements. Municipal councils of Chingola and Luanshya only made small increases on improvements. The writer had discussions on this matter with some council officers and councillors out of which two views emerged. The

1. Figures on rates were obtained from the Assistant Secretary (Finance) in the Ministry of Local Government and Housing. The figures indicate ngwee in a Kwacha. There has been no increase in rates since 1974.

first view was that high rates discouraged developments. The other view was that some councils did not want to increase their rates for political reasons. They believed that high increases would lead to unfavourable feeling against the Party and Government and that for that reason the Central Government would not approve their requests for high increases even if asked.

One other obstacle that urban local authorities face as a result of the existing rating scheme is that it depends for its success on obtaining adequate numbers of suitably qualified staff. In almost all urban local authorities, the present staff, apart from trainees, are entirely expatriate.¹ Efforts by urban local authorities to recruit the required staff in this respect have been hindered by circulars from the Ministry of Local Government and Housing which have restricted their expenditure and have stopped them from increasing their establishments.² In Lusaka for instance, for the period 1972 to 1973, council had only one Valuation Officer plus three assistants. As four officers were not able to assess all the new properties, council lost money because many properties were not included on the valuation roll.

Another problem that urban local authorities face in using Property Rate as a source of revenue is that under Section 30 Sub-Section (6) Councils are not permitted to levy

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1. This view was expressed by the City Treasurer of Lusaka, Ndola and Kitwe and also the Assistant Secretary (Finance) in the Ministry of Local Government and Housing, (1974).
 2. See Circulars No. 1 of 1972, No. 25 of 1973 and letter dated 9th May, 1974 Reference LGH/102/52/4 all of them from the Ministry of Local Government and Housing, Lusaka.

rates on government land or improvements and other government properties situated in their areas. Instead of levying rates on government properties, urban local authorities are given grants in lieu of rates at the discretion of the Minister of Local Government and Housing.¹ The law states that the grants given in lieu of rates should not exceed the rates that would be payable. In other words, the Minister may even decide not to give any grants in lieu of rates to councils for government properties situated in their areas. This is indicated by the fact that on 9th January, 1974 the Ministry of Local Government and Housing issued a Circular reducing the grants in lieu of rates to urban local authorities to two thirds of the previous grants.²

PERSONAL LEVY

The second taxing power of urban local authorities is the personal levy which produces much less income than the property tax. The personal levy is payable by all adult persons of or above the apparent age of eighteen years who are in receipt of an annual income of K120 or more. In the case of an adult person who receives in a levy year an income of K1,000 or more, he pays personal levy at the rate of K20 per annum.

There are certain statutory exemptions from the payment of the personal levy. Among those granted full or partial exemptions are those persons who, in the opinion of the local authority, are unable to pay the amount due by reasons of poverty arising from old age, infirmity or other causes. A levy authority may grant this exemption to a person with the approval of the Minister

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1. See Section 30 Sub-section (7) of the Municipal Corporation Act, Cap.470.
 2. See Ministry of Local Government and Housing Circular No. 27/7¹ of 1974.

of Local Government and Housing except where the Personal Levy Act has made provision to exempt specific category of persons. Apart from these persons, no exemption is given to any person who is required to pay income tax.

The first problem that local authorities face in collection of personal levy as a source of revenue is to get income earners who should pay personal levy on the council's personal levy books.¹ Every year the councils request employers to send returns showing employees eligible to pay personal levy. In order to be able to do this, councils use records kept by the Registrar of Companies, the National Provident Fund and council records of persons who own businesses and market stalls. The problem here is that some income earners purposely avoid being recorded in order to evade paying both income tax and personal levy. The matter is made worse by the fact that there is no staff to find out those who might be evading paying personal levy. As regards those who own market stalls, it is difficult to assess how much income an individual gets in a year as neither receipts nor revenue accounts are kept.

Another difficulty in the collection of personal levy arises from the movement of some employers and employees from one council area to the other. As returns of employees are sent to councils in January, it is possible that an income earner moving out of one Council area to another may evade **personal** levy by making a return to neither. The other problem is that those employed after January are not included

1. The problem was pointed out by the Treasurers of Lusaka, Ndola and Kitwe and the Town Clerks of Luanshya and Chingola, (1974).

in the return and are, therefore, not subjected to personal levy.

The levels of personal levy set out above were determined by the Government in 1966 to increase the revenues of local authorities. From the last figures showing the highest level of income of K1,000 and upwards an individual is required to pay K20.00. This is regarded as unfair to those who earn only K1,000 if they are required to pay the same as those who, for example, earn K15,000.¹ It is felt that a personal levy system should differentiate sharply between various income levels so that those with higher income should be made to pay more.² To this end, the Local Government Association of Zambia decided that a revision of personal levy should be made in order that those who get higher incomes should pay a proportionately higher personal levy.³ The resolution of the Local Government Association of Zambia on this matter was communicated to the Minister of Local Government and Housing in 1974, by the Secretary of the Association but the Ministry has not yet decided on the matter.

RENTS

Local authorities receive rent incomes from the low and medium cost council houses they provide to the public. Rents are, therefore, a source of revenue for local authorities, but as explained later, local authorities find it hard to use this source to get revenue for other purposes or cover the cost of

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1. This view was expressed by the Mayors of Lusaka, Ndola, and Luanshya, the Treasurers of Lusaka, Kitwe and Ndola, the Town Clerks of Ndola, Luanshya and the Chairman of Finance and General Purposes Committee, Lusaka, (1974).
 2. This view was also expressed by the Ad Hoc Committee on Local Government Administration which was set up by the Government in June, 1973. See p. 27 of the Report. (Lusaka, 1973).
 3. This was decided upon by the Executive Meeting of the Local Government Association of Zambia which was held in Livingstone on 10th November, 1974. See Minutes of the Executive Meeting in the Office of the Association. (Lusaka, 1974).

providing housing. The fact that housing rent has been a difficult source of revenue has been understood by the Government and this is illustrated by the Government's housing policy to the end of 1972.

Prior to the introduction of the new housing policy by the Ministry of Local Government and Housing on 5th July, 1972, local authorities used to construct low and medium cost houses which they let to people living in their areas. The rents they charged for the houses were not enough to cover the costs of repayment of the loans (which they got from various local institutions with the approval of the Minister of Local Government and Housing), maintenance, and administration. Local authorities could cover these costs only by increasing rents and this could have resulted in very high rents which people in the low income group could not afford. Many people would not have been housed and this could have led to economic problems and cause political concern on the part of the Government and the people.¹ It should also be mentioned that even if local authorities wanted to increase rents they could not do so (and cannot even at present time do so) without getting the approval of the Minister of Local Government and Housing. In order to avoid a situation that would arise if very high house rents were charged by local authorities, the Government has for a long time been giving annual rent subsidies to local authorities based primarily on keeping rentals low. Until the end of 1972 the rent subsidy was K24.00 per house.

1. This view emerged during my discussions with the Assistant Secretary (Finance) in the Ministry of Local Government and Housing, (1974).

When the new housing policy was introduced, a new approach to house rents was made by the Government. Among other things, the new policy stated that all future building of houses by local authorities would be for sale and that the sale would be effected as soon as a simplified system of land tenure was in operation. For houses not sold, subsidies were to be reduced as follows:-

1972 - K24 subsidy
 1973 - K18 subsidy
 1974 - K12 subsidy
 1975 - No subsidy.¹

Local authorities were advised to make a gradual increase of rents in order to encourage tenants to buy the houses which they occupied instead of paying rents for them. However, there have been difficulties in implementing this policy mainly because local authorities and even the Government itself have been reluctant to increase house rents for political reasons.

Since the introduction of the new policy in 1972, no urban local authority had submitted a proposal to the Ministry except Kitwe City Council up to the middle of 1973. Their proposal was refused by the Ministry without giving any reason.² It is assumed that this action was taken with an eye on the National General Elections that were to take place on 5th December, 1973.³ In 1974, the Treasurer of Kitwe City Council

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1. See Circular on the new Housing Policy. Ministry of Local Government and Housing, 5th July, 1971. (Lusaka, 1971).
 2. This matter was confirmed by the Assistant Secretary (Finance) in the Ministry of Local Government and Housing who had at the time this happened not assumed office. (1974).
 3. Ibid.

recommended to the Council that house rents should be increased in order to reduce the deficit on housing account that the Council was experiencing as a result of the reduction in the housing subsidies caused by the new housing policy. The Council refused to accept the recommendation of the City Treasurer on grounds that it would increase the cost of living. The Council agreed to consider the Treasurer's recommendations in future. It is interesting to note that in 1973, Kitwe City Council wanted to increase its housing rents in accordance with the guidelines of the new policy but the Ministry of Local Government and Housing, the very Ministry that made the housing policy, refused having full knowledge that the housing subsidy would be reduced from K24 per house in 1972 to K18 per house in 1973.¹

Then, in 1974, Luanshya requested the Ministry of Local Government and Housing to allow them to increase house rents of their low cost houses. The effective date of new house rents was to be 1st April, 1974. When the residents of the area were informed of the new rents by the Treasurer of the Council, they planned to demonstrate against the decision of the Council. The Party Constituency Chairman and other local political leaders warned the Mayor of Luanshya that there was going to be a demonstration against the Council's decision to increase house rents in their area. There was near panic on the part of the Council and the Ministry of Local Government and Housing was

1. Guidelines on increases in rents are contained in the new Housing Policy, p. 9. Ministry of Local Government and Housing. The reason for the Ministry's action on this matter are believed to be political and this is clarified later in this Chapter.

of the report for one month for no apparent reason.¹ The writer asked three of the seven councillors who constituted this Committee the reason why consideration of the report was deferred. It was indicated that it was done to give more time to tenants to pay their rental arrears as evicting such a big number of tenants would possibly raise political sentiments against the Council. Furthermore, the Department of Housing does not operate as efficiently as it should in collecting rental arrears. Some tenants have accumulated as much as K1,000 rental arrears before any action has been taken against them.²

TRADING UNDERTAKINGS

There are also trading undertakings which form sources of revenue for urban local authorities. These undertakings include water, markets, licensing, swimming baths, liquor, shops for rental, and others. Revenues accrue to local authorities as a result of levying charges on the user or consumer of these services. As in housing rents, the charges imposed on users or consumers of these services are determined with the approval of the Ministry of Local Government and Housing,³ again illustrating control by the Ministry of local Government and Housing over local authorities. I intend to discuss only the liquor undertaking in detail as it is a good potential source of revenue. Before this is done, however, it should be

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1. See Minutes of the Housing and Site and Service Committee meeting held on 9th February, 1975. (Lusaka City Council, 1975).
 2. This was revealed to me by the Assistant Secretary (Finance) in the Ministry of Local Government and Housing. (1974).
 3. L. Rowland, United Nations Senior Local Government (Finance) Advisor. Report on the financial relationship between Central Government and local authorities in Zambia. (Lusaka, 1968).

mentioned that from 1st November, 1964, urban local authorities took over from the Central Government the responsibility, on an agency basis, for the collection of motor vehicle, entertainment and liquor licences. Local authorities are paid an agency fee calculated on the following bases (i): 10% on the first K40,000 of licence revenue collected (ii): 5% on all licence fees in excess of K40,000. Local authorities have argued that 10% was little for the work they do and that if this could be raised it would help local authorities to improve their services to the public.¹

Of the trading undertakings, liquor undertaking has been regarded as the most profitable and the Ministry of Local Government and Housing advised local authorities in 1968 to make annual contributions to their housing accounts from liquor undertaking profits. The profits were by and large used to supplement the cost of providing low cost housing in their areas.²

However, most of the liquor undertakings have been experiencing a fall in their profit margins since the beginning of 1970.³ In Lusaka for instance, prior to 1971, the Council's liquor undertaking made a reasonable profit each year. After 1971, the undertaking ceased to make a profit. The figures from 1965 to 1975 illustrate this fact.

<u>Year</u>	<u>Profit</u>	<u>Loss</u>
1965	K229,404	
1966	K424,468	

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1. There is no documentary evidence to support this but it emerged during my discussions with the Treasurer of Ndola. (1974).
 2. Circular No. 27/68 dated 26th March, 1968 from the Ministry of Local Government and Housing. (Lusaka, 1968).
 3. This view was expressed by the Assistant Secretary (Finance) in the Ministry of Local Government and Housing. (1975).

<u>Year</u>	<u>Profit</u>	<u>Loss</u>
1967	K513,192	
1968	K340,762	
1969	K13,779	
1970	K125,130	
1971	-	K75,372
1972	-	K119,875
1973	-	K57,745
1974	-	K262,141
1975	-	K265,244 ¹

One of the factors contributing to the downward trend of the liquor undertaking in most local authorities is mismanagement and dishonesty of some members of staff in the liquor undertaking establishments of councils.² In Lusaka, as in many urban local authorities, this view is supported by the fact that since 1971 many persons working in the liquor undertaking section had disciplinary actions taken against them for offences that included misappropriation of council money, inefficiency and negligence.³ In 1973, Lusaka City Council dismissed eight of its top officers for alleged dishonest dealings in the performance of their work. As a result of mismanagement and dishonesty urban local authorities have only 31.5% gross profit margin in liquor undertaking. After paying all the administrative costs which are higher than they were before 1970, and other expenses, some local authorities end up with less than 3% net profit and many of them end with no profit

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1. 1976-1977 figures were not available at the time of writing.
 2. This view emerged during my discussions with the Assistant Secretary (Finance) in the Ministry of Local Government and Housing. (1975).
 3. See report of the Town Clerk to the Finance and General Purposes Committee meeting held on 21st February, 1974. Information on this matter was also obtained from the officers and Councillors of seven of the eight major local authorities. (1975)

but a large loss.¹ This situation has made it necessary for local authorities to subsidize their liquor undertaking from the rate fund or some other sources in order to keep them running. The situation with most local authorities in this respect, therefore, is that they are subsidizing those who drink beer when in fact as earlier mentioned, liquor undertaking profits were to be used for housing projects and other services.

BORROWING AND GOVERNMENT GRANTS

Under Section 51 of the Local Government Act, councils may, with the approval of the Minister of Local Government and Housing borrow money from other institutions. There are two types of borrowing, one is external loan and the other is internal loan. External borrowing includes loans that councils may get from National Provident Fund, the Zambia National Building Society and the Government and parastatal organisations. External borrowing also includes loans that local authorities may get from outside Zambia. Internal borrowing refers to transfer of funds from one vote to the other or drawing money from a vote in order to undertake a new project that was not provided for in the expenditure estimates.

In this source of revenue for local authorities borrowing cannot be done without the authorisation of the Minister of Local Government and Housing. This type of sanction is regarded as necessary to ensure that projects for which loans are raised are in line with the national development plans and also to make certain that the amount of the loan is within the

1. Information was obtained from Assistant Secretary (Finance) of the Ministry of Local Government and Housing, Lusaka. (1975).

capacity of the local authority to repay.¹

Since Independence, no local authority has been allowed to negotiate foreign loans. Government has been reluctant to give such permission to local authorities because it is considered that communication on financial and other matters with foreign countries is a function for the Central Government. In 1973 Kabwe Municipal Council negotiated a loan with a German organisation for a water scheme from Lukanga to Kabwe. However, the Government informed them that only the central Government could negotiate such a loan from outside. Apart from the World Bank loan negotiated by the Government for the Lusaka City Council Housing Project, no loan application from any local authority to borrow money from outside Zambia has been approved by the Ministry of Local Government and Housing.

GRANTS

It has been mentioned earlier that government grants have constituted one of the major sources of local authority revenue. These grants are divided into three main classes, specific grants, block grants, unit grants and grants in lieu of rates. For many years, charges for services given to the public by local authorities and rents on council houses have not been increased to match the cost of providing them. Some of the reasons for not increasing house rents have been discussed above and the same reasons do explain why some of the service charges have not been increased. Government grants have,

1. This view was also expressed by the Ad Hoc Committee on Local Government Administration, June, 1973. (Ministry of Local Government and Housing, Lusaka, 1973).

therefore, continued to assist local authorities to run their services and meet future capital commitments. Their nature and volume have changed radically over the last seven years.

Specific grants have been given to local authorities to assist them to provide services like, health, fire services, roads and sewerage. In Lusaka City Council, specific grants continued fairly consistently at an average of K110,000 per annum to 1971 when by that time grants for many items had been stopped.¹

The block grant is a general sum of money to assist local authorities run their major services like markets, street-lighting, parks and other projects. In Lusaka, the block grant reached an average of K170,000 per annum before the Government decided to terminate the block grant to all local authorities. The termination of the block grant signalled the downward trend of assistance to local authorities.

The unit grant was given to local authorities to assist them in their housing programmes and also subsidize rents. During 1968 to 1971, the unit grant continued to increase gradually as the number of houses completed also increased. This grant was given to local authorities at K24 per house and because of the increase in housing, Lusaka City Council's grant

1. Audited accounts of Lusaka City Council. Appendix B is also made out of the figures from the audited accounts. (1971).

increased from K230,900 in 1968 to K305,000 in 1973.¹

Grants in lieu of rates are given to local authorities for all Government properties. It should be mentioned that local authorities do not levy rates on Government properties but are instead given grants in lieu of rates. This type of grant to local authorities has remained constant since 1968. It was reduced from 100% to 66% in 1974. In Lusaka, this reduction resulted in real terms to a loss of K222,000.

From 1971 to 1975, there has been a dramatic fall in grants, thus placing increasing pressure on local authorities. In respect of Lusaka City Council, the position of grants from 1968 to 1973 is illustrated by Appendix B. It will be noted from Appendix B that block grants ceased in 1971 when they stood at K157,238. Specific grants continued for the Health Services except grants for the Fire Brigade and Road Maintenance (the combined 1970 figures was K47,116).

The unit grant per house also fell in two stages from K24 in 1972 to K18 in 1973 and K12 in 1974.² In real terms, this fall in unit grant represents a loss to the housing revenue account of K305,000 in 1973, and finally when it was discontinued in 1975, a loss of income amounting to K610,000 per annum. Thus if we add specific grants in Fire Brigade and Roads, Lusaka City Council had to find an extra K814,354.

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1. See Appendix B. Loss in 1974-75 - Unit Grant K610,000 plus loss in Specific Grants Fire Brigade K40,876. Roads K6,240= K814,354.
 2. See Housing Policy Circular from the Ministry of Local Government and Housing. (Ministry of Local Government and Housing. Lusaka, 1971).

In overall terms, the council had to find an extra K1,036,354 from its already strained resources to maintain its current services even at the 1971 level of expenditure.¹ The greatest strain has been felt in its housing services which have been faced with ever increasing expenditure over the last four years, although its grant fell from K24,000 in 1971 to Nil in 1975.

An attempt has been made to examine the position of grants for other major local authorities but information is not yet available at the Central Statistical Office which has been the main source of information on this aspect of study. The reasons for this lack of information has been that not all local authorities have submitted their accounts for the previous years and that national statistics have not been compiled since 1972. However, from the information available, it is possible to say that while the total grant to local authorities increased from 1968 to 1972 (K4,920,205) it fell in 1973 by over a million Kwacha, as a result of the discontinuation to urban councils, of the block grant from 1972 onwards when it was diverted to the rural local authorities.²

Indications from a government circular are that current needs for local authorities would have to be met from reserves.³

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1. Loss as a result of reduction of grants in lieu of rates, K222,000 plus K814,354=K1,036,354.
 2. It is important to note that from the interviews I have had with the City Treasurers, Town Clerks and the Assistant Secretary (Finance) in the Ministry of Local Government and Housing, it has been possible to find out that the position of grants in the major local authorities is not much different from that of Lusaka City Council in the sense that less income is available from this source.
 3. See Circular No. 3/74 dated 9th January, 1974, Ministry of Local Government and Housing, Lusaka. From the discussions I had on this matter with officials of the Ministry of Local Government and Housing, it was indicated that the intention of the Government was to make local authorities self-reliant on their own resources by reducing and terminating some of the grants.

The position has become acute and reserves are quickly disappearing. The only answer to this situation seems to lie in a review of house rents, rates and service charges. But as indicated already in **this** Chapter, local authorities have difficulties in increasing house rents and even rates and service charges. There is need for the Government to help them in this respect by reinstating some of the grants, creating more sources of revenue for local authorities and by facilitating the increase of house rents, rates and service charges. However, as the next chapter shows, the trend has been in the opposite direction.

CHAPTER VI

THE HEAD LEASE AND DIRECT LEASE SYSTEMS

THE HEAD-LEASE AND DIRECT LEASE SYSTEMS

The head-lease system consisted of a practice and procedure whereby the alienation of the state unalienated land in the three cities and five municipalities in the Republic of Zambia was regulated and controlled by city and municipal councils, and constituted one of the sources of funds for urban local authorities. The funds realised from the sale of land by local authorities were used by and large for servicing other areas by way of providing roads, storm water drainages, electricity, sewers, water, and other capital projects. New serviced sites were always being created for developments by the use of monies accruing to councils from developments and sale of land in the areas previously serviced. All user types, that is residential, commercial, light industrial and heavy industrial stands falling within the jurisdiction of the above councils were subject to the head-lease system. The operation of the system will be discussed in detail in the attempt to establish the reasons for its change by the Government and also in order to differentiate clearly the head-lease system and the system that was introduced by the Government to take its place.

The case study is intended to illustrate the Government's tendency to centralise power in itself by depriving councils of sources of financial autonomy, which is contrary to its own policy of decentralisation. The change from the head lease system to the direct-lease system resulted in difficulties on the part of councils to increase their revenue from local sources. The case will further illustrate how the absence of co-operation and consultation between Government and local

authorities cause problems not only to themselves but also to the members of the public.

THE HISTORY OF ALIENATING LAND

In the early 1950's when the towns in Zambia were beginning to develop, there was a great demand for plots for all sorts of purposes. Prior to that, some towns had an adequate number of plots for different purposes, others did not. The system of land tenure at that time was that all new plots were to be on 99 year lease direct from the State.¹ This meant that when a council wanted to develop an area it had to ask the Commissioner of Lands Department to plan and then survey it so that approved survey diagrams would be available to be attached to the leases to be granted directly by the State, on the recommendation of the council, to the applicant for the plot. One of the results of this system was that the staff of the Lands Department, under the Commissioner of Lands, simply could not cope with the vast expansion of work. The effect of this was that, because of the delays in laying out areas and surveying them, it took anything up to two or even three years from the time that a man was allocated a plot to the time he had title.² The system created an impossible situation in terms of delays.

One other problem that urban councils faced in 1950's was that the State assessed very nominal considerations for the allocation of properties because it did not cost the State anything other than the costs of survey. But the laying out of these new areas cost councils a lot of money. Even if councils

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1. See File TCD/3/26/40 Vol.II Town Clerk's Department, Lusaka City Council. Folio 25.
 2. Ibid., Folio 25, p.2.

only put in rudimentary laterite roads, they still, for example, had to expend considerable sums of money on storm water drainage systems for the road pattern, and they did not have sufficient capital funds to finance this from their own resources. The old story of inadequate loan funds being available from the Government was just as much in evidence then as it is now. However, this did not constitute a major problem. It was the enormous delay that was an overriding factor. The situation eventually became so intolerable that all the municipalities banded together under what was then the Municipal Association (now Local Government Association of Zambia) to make joint representations to the Government to point out that they wished to have much more control in the planning of their new areas and in the allocation of plots. A new system was then discussed and agreed, the result of which was the issuing of Circular Minute No. G/1350 on 31st December, 1956 by the Office of the Member for Lands and Local Government.¹

The head lease system was introduced by General Notice No. 397 of 1935 and was re-stated in Circular No. G/1350 of 31st December, 1956. From that date, the system became fully established. The Notice stated that plot premiums were to be used as capital for the construction of foul sewers, storm drains, laterite roads and one culvert per stand. The Circular enlarged the capital items for expenditure to include street lighting and any project for which the recurrent expenses were chargeable to the general rate fund.² The head lease system simplified the

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1. File No. LA/12601/2 Vol.III Department of Lands, Lusaka. Folio 1 (a).
 2. Ibid., W.D. Conklin. Paper written for the Ministry of Local Government and Housing as an adviser to the Ministry. Department of Lands, Lusaka. Folio 107/1.

procedure for the general public in that all transactions relating to alienation of land came to be dealt with by the single authority which had planned, arranged survey, supplied water, electricity, storm water drainages, sewers and other capital projects. In other words, it was considered proper that the alienation of land should be dealt with by authorities who serviced it because they were in a better position than any other organisation to determine the price and developments thereon.¹

The system was that once the council had accepted an application, it would apply to the Commissioner of Lands for a 99 year Head Lease for that particular stand to be issued to them. The Commissioner of Lands demanded that a sum of K2 be paid by councils as consideration for each stand for which a Head Lease was applied regardless of its size, rent paid in advance for one year and administration charge of K20 regardless of the size of the stand were to be paid by councils to the Commissioner of Lands for each stand that was alienated to the public.²

When the Head Lease had been prepared by the Office of the Commissioner of Lands, signed by the Council, executed by **the Commissioner of Lands** on behalf of the President (in whom all the land in Zambia is vested) and registered, the councils could then issue subleases to the applicants for 99 years less three days. The procedure for alienating residential stands was the

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1. This matter emerged during my discussions with the Acting Commissioner of Lands in May, 1972. File No. LA/12601/2 Vol.III. Department of Lands, Lusaka. Folio 1, para. 3.
 2. See Lands Form No. 46. Office of the Commissioner of Lands, Lusaka.

same as the procedure for alienating industrial, commercial or church stands except that for residential stands, the applications were not referred to the Estates Committee for consideration but were offered to the applicants on "first come first served" basis. Further, consideration for residential stands was paid in full by the applicant whenever the offer was made to him. For industrial, commercial and church stands, 10% of the total consideration was required to be paid by the applicant to council when an offer was made to him and the rest of the consideration (90%) was paid to council when the sub-lease was issued to the person offered the stand. Persons who were offered residential stands were required to complete building in two years time but those who were offered commercial, industrial or church stands were given time ranging from three to five years in which to complete construction of any development.

The cost of providing the services and the profit element was recovered from the applicant by way of consideration and the sub-lease rent was fixed at a figure above the head lease rent to cover the cost of administration. For instance, a head-lease issued by the State for K2.00 consideration and an annual rent of K6.00 meant that the sub-leasee would pay, say K1,500 consideration and an annual rent of K12.00.¹

The head lease system offered a number of advantages to councils. City and municipal councils were able to recover the cost of survey, services etc. upon the issue of the sub-lease

1. The K2.00 consideration paid by Councils to the State was a fixed sum which did not take into account any factor relating to land being acquired. But the rent and consideration of land charged by councils to the sub-leasee depended on many factors, the cost of servicing the land, the size of land and location of land.

from consideration charged on the sub-leases. The system also enabled councils to have what the Lusaka City Council called a "land fund", built out of the modest profit made from land sales, which was used to put roads, water, sewage, drains, footpaths, cycle tracks, etc. in virgin land that it intended to open up for development. It was in short a substantial source of revenue to the councils.¹ In his letter to the Commissioner of Lands dated 30th January, 1973, the Town Clerk of Chingola Municipal Council pointed out further advantages of the head lease system. He said that when land was alienated by councils, control of land use and planning was enhanced and councils made sure to enforce the covenants in their leases. He further pointed out that the service to the people was more readily available when allocation of plots, the responsibility of lease holders, could be discussed with them by the council officers.² The Acting Commissioner of Lands also indicated the advantages for his department of the head lease system as follows:-

"Apart from the issue of the initial Head Lease and the regular collection of the rent payable by the councils, the Commissioner of Lands has little further to do with the stand; a factor which enables a small number of the Lands staff to do with the requirements of the 3 Cities and 5 Municipalities.

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1. This emerged during my discussion with the Town Clerk of Lusaka, Ndola, Luanshya. See also File No. LA/12601/2 Vol.III. Paper written by Acting Commissioner of Lands discussing the Head Lease System. Lands Department, Lusaka. Folio 1. This source of revenue to councils was not constant as it depended on availability of land for sale to developers and also the demand for land by developers. In Lusaka, for instance, revenue from the sale of land as contained in the audited accounts of the Council was as follows:- 1967: K379,675; 1968:K375,533; 1969:K326,647; 1970:K343,257; 1971:K402,557; 1972: K635,401.
 2. File No. LA/12601/2 Vol.III, Department of Lands, Lusaka. Folio 22.

The system is well established and works very smoothly indeed."¹

The first factor that should be taken into account in considering what influenced the Government to abolish the head lease system² is the way land was alienated by the Lusaka City Council. This was considered unsatisfactory by the Commission of Inquiry into the Affairs of the Lusaka City Council in November, 1968.³ The investigation by the Commission of Inquiry revealed that despite the prohibition against alienation of stands without prior advertisement, the City Council often alienated trading sites which were cited in high density housing areas without observing this prohibition.

One feature concerned allocation of stands to councillors themselves. Over the period from early 1965 to June, 1967, a total of forty-five sites were allocated against a total of 592 applications for the sites. The Commission of Inquiry revealed that:-

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1. File No. LA/12601/2 Vol.III. Department of Lands, Lusaka. Folio 22.
 2. There is no documentary record available indicating who initiated the abolition of the head lease system. Attempts were made by the writer to get this information at the Ministry of Lands and Natural Resources and Lands Department, but records of who initiated this matter were not available. However, the writer interviewed the Minister of Lands and Natural Resources and the Commissioner of Lands, who were in these respective offices when the abolition of the head lease system was being considered.
 3. Report of the Commission of Inquiry into the Affairs of the Lusaka City Council. (Government Printer, Lusaka, 1968) pp. 21-26.

"Of these, six sites were allocated to Councillors and one to the wife of a Councillor, a percentage of 15 per cent of all allocations made. While accepting the Councillors are likely to be tradesmen of substance and standing in the community and, therefore, suitable candidates for the allocation of trading sites, we consider that these figures do show an undoubted partiality on the part of Councillors to favour each others applications."¹

The Government had been keeping a close watch on the activities of the Lusaka City Council and other councils relating to the alienation of land. The findings of the Commission of Inquiry in this respect provoked the thinking in the Government to change the method of alienating land.²

Another factor that influenced the Government to consider the abolition of the head lease system was that councils not only sold land at the price which enabled them to recoup their costs but also they added an element of profit to raise capital or build a land fund with which to service new plots. It was felt that the system inflated the price and put the land itself out of the reach of the less wealthy would-be developers. The aspiring developers of commercial and industrial stands who might have possessed all the other skills and requisites expected of a pioneering spirit but not the financial means to become the

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1. Report of the Commission of Inquiry into the Affairs of the Lusaka City Council, pp. 21-26.
 2. This emerged during the discussions the writer had with the Commissioner of Lands, Mr. B.R. Sharma. (Lusaka, 1974).

highest bidders thus became frustrated with the system of alienating land. Both the Minister of Lands and Natural Resources and the Commissioner of Lands also indicated to the writer that members of the public complained to both of them against the high prices of land demanded by some local authorities and particularly the Lusaka City Council.

The Ministry of Lands and Natural Resources held the view that since the Central Government was responsible for the overall development in all the spheres of activities relating to land in Zambia, it was proper that it should regulate and control the allocation of land.¹ To do this, it was felt that the leases should be given directly to would-be developers instead of giving the head lease to Council who afterwards sub-leased to developers. It was alleged that the effect of this would be uniformity in land alienation and that it would help to avoid local influences and personalities.²

An example of conflict is found in the case of Stand No. 4560, Cairo Road, Lusaka. On 1st November, 1960, the Commissioner of Lands leased Stand No. 4560 to the then Lusaka Municipal Council for a term of 99 years for the purpose of constructing a car park.³

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1. File No. LA/12601/2 Vol.III. Department of Lands, Lusaka. Folio 5.
 2. This reflects the Minister's views submitted to the Cabinet sub-Committee.
 3. See File No. 120/4/4560. Town Clerk's Department, Lusaka City Council. Folio 23.

This land is 1.222 acres and in accordance with the head lease system the Council paid K2 consideration for the land. After the Council had constructed a car park on this land, FINDECO (State Finance and Development Corporation) applied for the land on 26th January, 1972 for the purpose of erecting their headquarters valued at about K4 million. The Council was willing to sell the land to FINDECO at K189,000 provided the Commissioner of Lands agreed to a variation of the clause that limited the Council to use it as a car park. If this was agreed upon, Council was to sub-lease the land to FINDECO. However, while negotiations were going on between the Council and the Commissioner of Lands, the Managing Director of FINDECO, complained both to the Ministry of Finance and the Commissioner of Lands about the price of land charged by the Council. This displeasure by both the Minister of Finance and the officers in the office of the Commissioner of Lands was reflected in the following passage of a letter to the Council:

"... it is not considered expedient, desirable or reasonable that the State, albeit through one of its agencies, should be compelled to pay Council the large sum of K189,000 for land that was let by it to the Council for public purposes and at a nominal rent of K2 per annum (charging no consideration) - particularly when Council no longer needs the land for the sole purpose for which it had been given."¹

In the same letter, the Council was informed that the stand was re-entered upon and the lease under which the land had been held by the Council was forfeited on 25th August, 1972, by the Commissioner of Lands on the grounds that the Council was

1. Letter from the Commissioner of Lands dated 29th August, 1972. Reference No. LUS/4560.

in arrears of the rents amounting to only K4 which became due and payable on 1st October, 1970, and 1st October, 1971. The Commissioner of Lands issued a Direct Lease to FINDECO. Council reacted against the Commissioner of Lands by putting a caveat on the stand which suspended any activities of FINDECO on the same stand.

This case created misunderstanding between the Ministry of Lands and Natural Resources and the Department of Lands on the one hand, and the Lusaka City Council on the other. The caveat was lifted by the Council at the request of the Government which also agreed that Council should be paid development charges in respect of the stand. The development charges for this stand were to be determined by the Permanent Secretaries of the Ministry of Local Government and Housing, the Ministry of Planning and Finance and the Ministry of Lands and Natural Resources.¹ This matter still stands unresolved. However, the point that the writer is attempting to bring out here is that in the early stages of this case, the Government's attention was drawn by the Minister of Finance and the Minister of Lands and Natural Resources. The Government felt that the Council charged an arbitrary price for a piece of land that FINDECO wanted to develop which was not proportionate to the cost of service and construction of a car park. This case almost certainly influenced the Government to abolish the

1. See record of meeting held at the Ministry of Local Government and Housing on 14th August, 1974.

head lease system in December, 1972.¹

Local authorities complained against the decision to abolish the head-lease system without consultation. The first complaint came from Chingola Municipal Council who through its Town Clerk wrote directly to the Commissioner of Lands expressing their surprise with the information received from him on 26th January, 1973 that the head lease system had been abolished because they had not received any request in a way of consultation nor had they been told of a system that would replace it.² The Town Clerk pointed out in his letter that "it is the opinion of my Council that there does not appear to be any reason for the system to be abolished. It has and still is operating smoothly".³

The Ndola Town Clerk also wrote to the Commissioner of Lands expressing his views that he found it odd that the Government made a decision on such an important matter without consulting local authorities.⁴ The Lusaka City Council complained in similar terms to the Permanent Secretary of the

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1. This point emerged during my discussions with the Commissioner of Lands on the matter. See also letter from the Commissioner of Lands to the Town Clerk of Lusaka City Council dated 26th January, 1973. File No. TCD/3/26/40 Vol.II. Lusaka City Council. Folio 11.
 2. File No. LA/12601/2 Vol.III. Ministry of Lands and Natural Resources, Lusaka. Folio 22.
 3. Ibid., Folio 22.
 4. File No. LA/12601/2 Vol.III. Department of Lands, Lusaka. Folio 65.

Ministry of Local Government and Housing and mentioned lack of detailed information on the abolition of the head lease system and the new rules that would be followed in the new system of alienating land.¹

THE DIRECT LEASE SYSTEM

When the head lease system was abolished, a new system called the direct lease system was introduced. Circular Letter No. 1/73 dated 28th March, 1973 which introduced the new system of alienating land had provisions that related to existing plots. Serviced stands not sub-leased to developers were to be surrendered to the Commissioner of Lands on behalf of the President by the councils concerned and these were to be made available for alienation by the Government. In cases where developers had already paid the councils in full, councils were directed by the Ministry of Local Government and Housing at the request of the Commissioner of Lands to refund the consideration charges and legal fees included in the amounts paid. They were also told to submit to the Commissioner of Lands detailed information on how the consideration charged was arrived at, e.g. cost of servicing the plot with water, sewerage drains, roads, electricity and others. They were required to show what element of the consideration was for land and administrative charges to enable the Commissioner of Lands to arrive at what was called a "reasonable decision" as to what payment was to accrue to the councils concerned on any given stand.² What this meant was that after the development or

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1. Ibid., Letter addressed to the Permanent Secretary on 8th February, 1973. Folio 12.
 2. File No. LA/12601/2 Vol.III. Department of Lands, Lusaka. Folio 88.

service charges apportionate to each stand and administrative charges had been determined, councils were to refund to those offered stands a sum of money which was left over after the Commissioner of Lands had also determined and subtracted its charges.

The money which was over and above both development costs which councils charged and the charges by the Commissioner of Lands was considered to be profit which councils were alleged to have demanded from would-be developers in order to build their Land Fund. As already mentioned, Government believed that this profit element inflated the price of land. As a result of this, in June 1973, 76 stands in Lusaka for which sub-leases had not yet been issued were dealt with accordingly.¹ The Lusaka City Council was placed in an embarrassing situation and faced difficulties as a result of an order issued by the Commissioner of Lands to refund to those who had bought land from it the amount of money considered to be profit. Given here below are some of the stands whose owners were refunded by the Lusaka City Council:-

<u>Plot No.</u>	<u>Service Cost</u>	<u>Selling Price</u>	<u>Refund</u>
6634	K1,509-90	K2,380-00	K870-06
6500	1,336-88	2,080-00	743-12
6666	1,703-34	3,740-00	1,036-66
6662	1,680-44	2,950-00	1,269-56
6652	1,316-52	2,050-00	733-48
6667	2,115-61	3,460-00	1,344-39

1. File No. TCD/3/26/40 Vol.II. Town Clerk's Department, Lusaka. Folio 44.

The direct lease system established a new procedure in alienating land to members of the public. In accordance with the new procedure, local authorities are required to prepare the necessary layouts in respect of unalienated state land in conjunction with the Commissioner of Town and Country Planning. The plots are then surveyed and serviced in the usual manner. When stands are ready for alienation, local authorities submit returns in respect of them to the Commissioner of Lands. The Commissioner of Lands arranges for the advertisement of the stands to be offered for development in the Government Gazette and local press inviting prospective developers to make applications to the Council concerned with copies to the Commissioner of Lands. After the closing date for the applications, the Council concerned selects the most suitable applicants and makes its recommendation in writing to the Commissioner of Lands, giving reasons in support of the recommendation in any case where there may have been more than one applicant for any particular stand, or where an applicant is recommended for more than one stand. On receipt of the recommendations from the Council, the Commissioner of Lands (sitting with a panel consisting of the Permanent Secretary of the Ministry of Lands and Natural Resources and the Permanent Secretary of the Ministry of Local Government and Housing) decides on who should be offered the stands after studying the recommendations of the Council. The panel that allocates stands can ignore the recommendation of the Council without giving reasons. This suggests that even where the Government gives some power to councils there is a tendency on the part of the Government to exercise their control over them. In this particular case, it would appear that the panel that allocates stands could as well determine allocation of stands without involving councils.

Most of the disadvantages of the direct lease system have been drawn from the writer's investigation into the working of the system in the Lusaka City Council from March 1973 to February, 1975. The old system enabled councils to have a fund built out of an element of profit made from land sales, which was used to put roads, water, sewage, drains, footpaths, cycle tracks, etc. in virgin land that it was intended to open up for development. That has now been stopped because Government believed that the public were being exploited by this way of getting revenue. At the same time no capital finance has been provided by Government to councils to open up new areas in the City and Municipal Councils in substitution for the profit element charged by the councils in the sale of land; and yet councils are still expected to service new areas for development. This is one of the reasons why the servicing of new areas has not been taking place.¹ This means that the only development that is taking place at the present time is taking place on land serviced before March 1973.² When these stands have been finished, and nothing is done to service new areas, the Building Contractors will cease operation and this will have an effect on the economy in most urban areas. This point, and the fact that the cost of servicing new areas rises due to inflationary trends, justifies the profit element charged by local authorities in the sale of land.

The Lands Department acting under the direct lease system, advertised serviced stands in November 1973, and again in October 1974.³ No land was advertised from March 1973 to November 1973, and

1 This emerged during my discussions with the Town Clerk, Lusaka City Council (1974)

2 Ibid.

3 File No. TCD/3/26/40 Vol.11, Town Clerk's Department, Lusaka. It was also confirmed by the Commissioner of Lands.

again from December 1973 to October 1974. This means that in the two years, March 1973 to February 1975, there passed nineteen months without alienating land to the public for development. This was the period during which there was no land to sell. Under the head lease system, and prior to March 1973, the Council used to sell land daily. In contrast to this, under the direct lease system, land has been sold only thrice since March 1974.¹

Even when serviced land has been advertised, long delays are experienced in processing the applications by the panel charged with the responsibility of allocating stands. For example, the panel did not meet until February 1975, to allocate stands to successful applicants for the stands that were advertised in November 1974. This meant that months had elapsed and no applicant had been allocated a stand. The Acting Commissioner confirmed this to the writer and explained that it was very difficult for the panel to meet because of other duties which the Permanent Secretaries that constitute the panel had to undertake. This suggests that the direct lease system in this respect works to the disadvantage of applicants and the Council and it would, therefore, appear to be unsatisfactory.

There are two other factors that contribute to the present failings of the direct lease system. Shortage of staff in the Lands Department, the Surveyor-General's Department, and the Registry of Lands and Deeds, cause further delays in processing applications and other administrative work relating to the direct lease system. It is too much to expect a few officers who were already fully engaged

1 Ibid.

in other jobs, to cope with the great volume of work that the issuing of leases throughout Zambia involves.¹ The fact that the land is serviced (when money becomes available) by the Council, advertised by the Lands Department, prices fixed or vetted by the Government Valuation Officer, and stands allocated by the panel of very busy Permanent Secretaries, also contributes to delays in processing applications for land. If these functions were performed by one organisation as under the old system delays could be minimized.

Under the direct lease system it is possible for the Lands Department to consent to assignments, underleases, mortgage of the land without ensuring that the provisions of the Public Health Act, the Town and Country Planning Act, the Municipal Corporation Act, the Township Act are observed by its tenants because the Lands Department has no statutory duties or functions to perform under these Acts. Their non-observance by the public does not concern the Lands Department. They have no legal responsibility in the matter. This could, therefore, lead to a gradual deterioration in the observance by the public of these laws. It is felt that the position would be different if the City Council, which had duties under all these Acts, was made landlord of the residents of the City in order that it may effectively require them to observe the Acts before allowing dealings of various kinds in the land.²

These discussions of the disadvantages of the direct lease system suggest that the council, the Department of Lands, the Surveyor-General's Department, and the Registry Department,

1 This view was expressed by the Acting Commissioner of Lands. He further revealed that because of lack of funds, there has been no increase of staff since the introduction of the Direct Lease System.

2 This opinion emerged from the discussions I had with the Town Clerk, Lusaka. (1974).

experience difficulties in the operation of the direct lease system. This was indicated by the Commissioner of Lands in the memorandum he wrote to the Permanent Secretary of the Ministry of Lands and Natural Resources before he was transferred to another government ministry. In his memorandum, he told the Permanent Secretary that it was necessary that councils should resume the responsibility of advertising for stands in their respective areas because the Department of Lands had no funds to cover this purpose. He also suggested that councils should be allowed an element of profit in their share of money realised from the sale of stands in their areas. This shows that change of policy on this matter is already being contemplated, influenced by the difficulties faced by councils, Government and members of the public.

This case study indicates the attitude of the Government towards local authorities which they see as mere organisations created to implement government policies. However, study and consultation with local authorities who implement Government policies is necessary if these policies are to succeed. Not only were local authorities not consulted on this matter but a suggested meeting to discuss how they were going to implement this Government policy was not allowed because it was thought that local authorities wanted to delay its implementation as they did not like the direct lease system.

All land in Zambia is vested in the President. He, in turn, has delegated the power to control land to the Lands Department. The Lands Department formerly delegated it to City and Municipal Councils. This was in accordance with the Government policy of "Decentralisation and "Participation".¹

1 Dr. K.D. Kaunda, A Path For The Future. The President was addressing the Sixth General Conference of the United National Independence Party at Mulungushi. (May 1971).

To remove dealings in land from popularly elected councils and place it in the hands of the Central Government is to deny the local people a chance of participation in the affairs that affect them. The action by the Government to introduce the direct lease system has the effect of centralisation of power which is contrary to its own policy of "Decentralisation".

It has been shown in this case study that local authorities have lost revenue which they used to get from the sale of land and as a result of this they have not been able to service as many areas as they used to before the headlease system was abolished. It is important for Government to change its attitude on this matter because, as indicated, councils gained the profits from the sale of land which they could use to provide services and other amenities to their citizens.

CHAPTER VII
STAFFING LOCAL GOVERNMENT

STAFFING LOCAL GOVERNMENT

Before Zambia became independent, there were a little more than 5,000 expatriate civil servants. The supply of educated Zambians to replace these was extremely meagre. Enrolment in secondary schools was only 7,000 in 1963 and there were only 961 African school certificate holders. There were less than 100 university graduates and very few Zambians occupying professional, technical and executive jobs. Zambia, therefore, entered Independence with shortage of Zambian professional manpower and depended on expatriate manpower which was also in short supply. However, the number of both expatriates and Zambians employed in the civil service and the local authorities increased after independence.

Since 1970, there have been about 1,000 expatriate departures from the public service and local authorities each year and a correspondingly larger figure have been recruited to cope with the economic and social development in the country. There is much expense in losing one expatriate merely to acquire another. However, the manpower training that has been embarked upon will help to reduce the dependance on expatriate professional staff but will certainly not resolve the matter immediately.

In earlier chapters of this study some of the functions of local authorities have been stated and further functions of urban local authorities in as far as Zambia is concerned are set out in the Schedule of the Local Government Act and are shown as Appendix A of the study. In addition to these functions, local authorities in Zambia are encouraged to undertake economic activities that include farming, manufacturing school uniforms, establishing eating places and other commercial business enterprises.¹ The major point, however, is:

¹ An address by His Excellency the President Dr. K.D. Kaunda to the National Council of the United National Independence Party. (Mulungushi Hall, Lusaka, 1975).

How far are local authorities suited to carrying out these functions and economic activities.

Among other things, the success of any undertaking depends upon the efficiency with which it is run and the overall efficiency also depends upon individual efficiency. The Chief Executive Officer down to the operatives or junior clerks must have qualifications to understand and be able to perform their jobs. In most local authorities in Africa, however, qualified professional and technical staff are in short supply and this makes it difficult for them to discharge their functions well. In Kenya, this fact was confirmed by the Minister for Local Government in 1971 when he addressed the International Union of Local Authorities seminar.¹ He pointed out that one of the factors which caused some of the services provided by local councils to be taken over by Central Government was the lack of trained manpower. The seminar was also told that local councils had no administrative capacity to enable them to prepare long-term development programmes. This argument implied that the Central Government alone had the trained manpower needed by local authorities to carry out their functions. Why cannot such manpower be made available to local authorities, or why cannot local authorities be assisted in training the manpower they need to carry out their functions and other activities? In Tanzania, it was admitted that the First Plan 1964/69 was not successful in its regional planning aspects because manpower resources were too scarce and the experience too limited to provide successful planning in the region.²

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1. J.G. Johnston, "Local Authority Training For Development" Paper presented to the International Union of Local Authorities, African Seminar (Kenya Institute of Administration, 1971).
 2. The United Republic of Tanzania: Tanzania Second Five-Year Plan for Economic and Social Development, 1969-1974, Vol. 1, p.224 (Dar-es-Salaam, 1969).

Whereas it is hoped that the training of the required manpower will in time minimize the problem of shortage of professional and other specialised personnel, most local authorities in Africa have difficulties in producing the required results. One of the difficulties that local authorities face in training staff is finance. In Zambia, training of required professional personnel by local authorities has from 1973 been greatly affected due to the fact that training votes have been reduced by the Government. The position as regards rural local authorities is comparatively worse than urban local authorities because they generate less revenue and their expenditure depends greatly on the revenue and grants from the Government. Furthermore, the increases of tuition fees and other fees in institutions of learning, at a time when training votes of local authorities are being reduced, aggravates the matter.

Another factor that has had adverse effects on training by local authorities in Zambia is the lack of sufficient incentives to keep trained officers on the job. Some of the successful students in local authorities either leave after serving their period of the bond or in some cases, even before they complete serving the agreed period after training,¹ taking up more lucrative posts either in Government or the private sector. While mobility of labour is undoubtedly good from the general economic viewpoint, it has had an adverse effect on local authorities in Zambia as they have often lost experienced professional staff trained by them to private sectors and even Government.

The loss of trained manpower has an effect on the quality of the services local authorities give to their residents. Local authorities have often pointed out this situation to the Government and requested that they be assisted in resolving it. They have often felt that given the authority to recruit the required expatriate staff for themselves, they can do better than the centralised recruitment panel.

1 In most local authorities in Zambia, two years was the maximum period of bonding after training no matter how long it took to train. This was later changed. See Report of the Commission of Inquiry Into The Salaries, Salary Structures And Conditions of Service of the Public Service and Parastatals, Vol. 1. (Government Printer, Lusaka, 1975).

This panel was first set up by the Ministry of Local Government and Housing in 1970 after ordering all local authorities to stop recruiting staff from overseas on their own as provided in the now repealed Local Government (Officers) Act.¹ A group of persons representing local authorities and the Ministry of Local Government and Housing were appointed by the Government to recruit staff from overseas thereby centralising the recruitment of staff. Whereas the centralised recruitment panel may in many respects be resolving many recruitment problems, it undermines the very basic principle of decentralisation in local government. Further, the appointment of the centralised recruitment panel for local authorities by the Government contravened the provision of Section 30 of the Local Government (Officers) Act, which had at the time not been repealed.

The repeal of the Local Government (Officers) Act, and the enactment of the Local Government Service Act, of 1974 by Parliament and the publication of Statutory Instrument No. 191 of 1975 which sets out the Local Government Service Regulations do not change the situation regarding staff shortage in local authorities. What the Local Government Service Act and the Local Government Service Regulations do is to legalise the centralised recruitment and vest it into the newly formed Local Government Service Commission.

Section 3 of the Local Government Service Act establishes the Local Government Service Commission among whose functions is to make appointments to any office in the local government service and to exercise disciplinary control over persons holding or acting in such offices. The Commission has power to dismiss any person who contravenes service regulations. Section 13 of the Local Government Service Regulations of 1975, gives power to the Commission to recruit suitable staff from outside Zambia. However, it is important to point out that Section 43 of the Local Government Act requires local authorities to

1 Chapter 477 of the Laws of Zambia.

include in their estimates salaries of employees they would like to engage. This means that the Local Government Service Commission cannot engage anyone whose salary is not provided for in the estimates by the Minister of Local Government and Housing. This indicates that local authorities have no say whatsoever on the recruitment of staff to perform their functions. The Commission employs and dismisses staff for local authorities. The Minister of Local Government and Housing determines what salaries and for which employees should be included in the estimates. This clearly indicates that local authority autonomy in this respect has been greatly diminished.

Local authorities cannot ably discharge their functions if they have to wait until the required personnel is recruited for them by a different organisation as is the case at present in Zambia. This arrangement has created problems which are discussed in a case study in Chapter VIII. This suggests that even more than the areas of functions and finance, it is on the question of staff that, above all, local autonomy is under severest pressure.

CHAPTER VIII

THE CENTRALISED RECRUITMENT PANELS 1970 - 1973

THE CENTRALISED RECRUITMENT PANELS 1970 - 1973

The procedure of recruiting staff, both local and expatriate, was similar in all major local authorities before the Centralised Recruitment Panel was established in October, 1970. An explanation of the procedure of recruiting staff by Lusaka City Council illustrates the general procedure in all local authorities.

Any Department having a vacancy, which the Chief Officer concerned considered needed to be filled, informed the Town Clerk using a vacancy form, which was accompanied by the budget approval from the Treasurer's Department. On receipt of the notification of vacancy form, the Town Clerk's Department would, in conjunction with the Chief Officer concerned, consider whether the vacancy should be advertised overseas.

The procedure for recruiting staff from overseas was a little different from the procedure used to recruit staff within the country. Whenever an advertisement for a post overseas was found necessary, the Personnel Officer would arrange for insertion of the advertisements in overseas papers. When applications were received, instead of being interviewed by the Establishment Committee of Council in Zambia (as was the case with local applicants), the short-listed applicants were often interviewed overseas by a panel sent out for that purpose by the council. The panels in most cases consisted of some Chief Officers and some Councillors - and most of the recruitment of expatriate staff was done in the United Kingdom.

It was only on rare occasions that applicants were flown to Zambia for interview because of costs. It should also be pointed out that on many occasions chief officers who went to the United Kingdom for local authority seminars and conferences were requested by their

respective councils to interview applicants from overseas who had applied for various jobs. This reduced the cost of recruiting staff from overseas.¹ After the interviews overseas, the panel reported to the Establishment Committee of the council with a recommendation of suitable applicant for advertised posts. The interviewing officers on panel had no powers to appoint staff they interviewed because they were merely requested to gather information for the committee who were to make a decision on the matter of appointment.

On 8th October, 1970, the Ministry of Local Government and Housing expressed concern over the staffing position of some local authorities and decided that steps should be taken to ensure that appointments which depended on overseas recruitment should be filled as economically and speedily as possible. To this end and without consultation with the local authorities, the Ministry of Local Government and Housing instructed local authorities to stop, with immediate effect, submitting applications for approval by the Minister for visits abroad for recruiting purposes. Local authorities were informed that a Centralised Recruitment Panel was to be set up composed of persons selected by the Minister that were to represent the Ministry and local authorities.² On 13th November, 1970, the Permanent Secretary in the Ministry of Local Government and Housing wrote a Circular letter to the Town Clerks of City and Municipal Councils informing them of persons selected to undertake the duties of recruiting staff from overseas. The Panel was composed of three persons representing local authorities and two persons representing

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1. File No. TCD/7/57/1 Town Clerk's Department, Lusaka City Council. I also had discussions with the Town Clerks of Lusaka, Ndola, Luanshya, Kitwe, Kabwe and Mufulira on this matter.
 2. Ministry of Local Government and Housing, Circular letter PLG/012/25/1, dated 8th October, 1970.

the Ministry of Local Government and Housing. However these persons were not selected by local authorities for whom they were to recruit but by the Minister of Local Government. They were told that:-

"The work of the Panel can be carried out only with the active co-operation of councils who should send full details of their requirements including comprehensive job descriptions, gradings and qualifications sought. Where senior posts have been advertised and not yet filled, the applications should be sent immediately to this office for the Panel's urgent consideration."¹

The reasons that the Ministry of Local Government and Housing gave for setting up a Centralised Recruitment Panel were by and large economic. The Ministry noted that it was unsatisfactory for one local authority to recruit for another, but it observed that some local authorities had abused their power of recruiting staff overseas. It was alleged that one local authority sent a team of four persons to the United Kingdom to recruit only two officers. It was felt that this was a waste of public funds because the cost of flying four persons to and from the United Kingdom was more than the cost of flying two persons to and from Zambia.

One further reason that was given for setting up a Centralised Recruitment Panel was that if recruitment overseas was done by a Centralised Recruitment Panel, there would be a saving on advertisement costs.² If for example, five local authorities wanted to fill a similar post in their respective councils by recruiting overseas, there would be no need for each one of them to advertise for the same post separately. It would be cheaper to advertise together and only show the number of posts required to be filled.

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1. Ministry of Local Government and Housing, Circular letter PLG/102/25/1 dated 13th November, 1970.
 2. Ministry of Local Government and Housing. See Circular letter PLG/102/25/1 dated 8th October, 1970.

Another reason given for centralising recruitment of overseas staff was that the Ministry of Local Government and Housing felt that some local authorities were not sufficiently viable financially to recruit the required staff overseas on their own. As a result of this, they had faced staff shortages which made it hard for them to discharge their functions. To help these local authorities, the Ministry of Local Government and Housing felt that the matter would be resolved by setting up a Centralised Recruitment Panel which would recruit for both rich and poor local authorities.¹

Local authorities complained against the action by the Minister to establish a Centralised Recruitment Panel to recruit overseas staff for them. These complaints were based on the following grounds.

Firstly, local authorities had the legal power to recruit and appoint staff for the purpose of discharging the functions which they were by law required to perform. Local authorities were aware that the Minister could issue regulations affecting them but no Statutory Instrument was issued to the effect of setting up a Centralised Recruitment Panel. They regarded this as an interference by the Ministry in the functions given to them.² In Lusaka, the reaction of the council is reflected in the following comments by the Establishment Committee which was adopted by council on 25th February, 1971:

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1. This emerged during my discussions with the Under Secretary in the Ministry of Local Government and Housing who was a member of the Second (1973) Recruitment Panel and this view was also expressed by Mr. J.B. Sakala who was a member of the first Centralised Recruitment Panel.
 2. This emerged during my discussions with the Town Clerk and Mayors of Lusaka, Ndola, Luanshya, Kitwe, Kabwe and Mufulira.

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"The Committee reiterated its complaints about the Ministry of Provincial, Local Government and Culture's various arbitrary decisions to remove certain powers from Local Authorities and without consultation or prior warning. This situation was even more disturbing when no difficulties or complaints had arisen through this council's previous performance in these tasks. One issue was the recruitment of expatriate officers. Members were told that the recruitment panel had visited the West Indies, the U.K., certain African countries, India and Australia and that previously unknown to them, councils would be paying the bill. There was doubt that this expenditure would be justified in terms of the number of recruits given to this council. The expense incurred by the Panel could not be reconciled with the far less expensive and successful measures previously used by this council for overseas recruitment. On the one hand council would be forced to contribute towards the Panel's expenses when on the other hand Government loans to councils were grossly inadequate, its subsistence allowances had been cut, restrictions placed on travel and entertainment and the recent wage awards for manual workers must be made from council's own savings and revenue. There were also doubts as to whether councils were still free to advertise vacancies within Zambia.

The Committee were disturbed about the trend of events and therefore it was agreed to send a delegation to the Ministry. The Committee were however, mindful of the Ministry's repeated failure to receive such delegations and to listen to justified appeals.

RESOLVED TO RECOMMEND

That a delegation comprising His Worship the Mayor, Councillors M. Mapulanga and T. Chibamba, the Town Clerk, the City Treasurer and the City Engineer be appointed to discuss with the Minister of Provincial, Local Government and Culture the future of recruitment of staff from within Zambia and abroad."1

All other local authorities expressed similar views which were reflected in the agenda of the Local Government Association of Zambia meeting which was held at Kitwe from 27th to 29th July, 1971.

This matter was placed on the agenda as follows:-

"That the respective jurisdictions of the Recruitment Panel and of Local Authorities on staffing questions be clarified further in that the association does not

1. Report and Minutes of the Establishment Committee meeting held on 17th February, 1971. Appointment - Expatriate Officers.

support the continued existence of the Recruitment Panel and feels that powers of recruitment should be given back to individual authorities."¹

The matter was unanimously agreed upon and the Association resolved accordingly. The Secretary of the Association was requested to write to the Ministry to communicate to them the feeling of the Association on this matter.

Secondly, local authorities as employing authorities felt that they were forced to take on staff recruited for them by the Centralised Recruitment Panel. A case in point occurred in Lusaka where the council recommended that the post of Medical Officer of Health be filled by the person who was acting in that capacity but the Ministry instructed the council to take on the man who was recruited by the Recruitment Panel.

In addition to the fact that the Ministry of Local Government and Housing interfered in the matter of recruitment of local authority staff, it was a general feeling among local authorities that although theoretically and practically the contractual obligation and loyalty of staff recruited by the Centralised Recruitment Panel was to be with councils who were in fact employing authorities, they attributed their employment to the Panel and hence it was believed that their loyalty was divided.²

In October, 1970 all local authorities stopped recruiting expatriate staff from abroad. Local authorities were required to submit to the Ministry the number of vacant posts they wanted the Centralised Recruitment Panel to fill for them. Relevant detailed information was also required by the Panel. There were 114 vacancies declared by local authorities at the time the Centralised Recruitment

1. 24th Annual Conference of the Local Government Association of Zambia held at Kitwe in July, 1971. p. 18 item 2.
2. There is no documented evidence on this matter but this feeling emerged from interviews I had with Mayors, Councillors and Town Clerks of various local authorities, (1975).

Panel was leaving in December 1971 to recruit expatriate staff overseas. Yet by the time the Panel had returned to Zambia to make offers to interviewed applicants, the number of vacancies had increased by about half with the resignation and departure of others.¹

The Recruitment Panel was given the responsibility of advertising posts, interviewing candidates, and offering posts to candidates who they thought were suitable. The Panel visited the United Kingdom, India, Canada, West Indies, East Africa, West Africa and Australia. At the end of their recruiting trip which lasted weeks, they had interviewed 300 candidates and made offers to 110 candidates. It should be noted that these offers were made subject to the acceptance of the candidates by the employing councils although in most cases it was taken for granted that respective councils would accept candidates who were offered posts by the panel. However, most local authorities refused to take on those appointed on their behalf because they alleged that they had no local authority experience and others had qualifications which local authorities and the Local Government Service Commission did not recognise. They felt that if such persons were taken on they would cause problems with the existing staff, indicating a serious deficiency in the interviewing process.

The Recruitment Panel faced a number of problems in recruiting staff for local authorities. The first problem faced by the Panel was that although it was given the responsibilities of advertising, interviewing and making offers of posts to candidates, it was not given power to make final appointments on the spot thereby allowing a lot of time to lapse which often resulted in candidates changing their mind.

The second problem was that there was another recruitment campaign (in the case of the United Kingdom, Canada, and Jamaica) where the National Housing Authority Recruitment Panel went to interview almost

1. Ministry of Local Government and Housing. File No. 101/25/2
Vol. II, Folio 218.

everybody who was a successful candidate for local authorities.¹

As the National Housing Authority was offering better salaries, the candidates accepted better offers at the expense of local authorities.

The third problem faced by the panel was that the salaries and conditions of service offered by local authorities were far inferior to those applying in the United Kingdom and Canada.² It was hard therefore to see how local authorities could succeed on the same ground where there had previously been failure unless the conditions were made more attractive.

In November 1971, the Ministry of Local Government and Housing changed the system of recruiting expatriate staff. There are two main factors that should be taken into account when considering what influenced the Ministry of Local Government and Housing to change this system of recruiting expatriate staff from overseas.

As already explained, there were complaints from local authorities against the decision by the Ministry of Local Government and Housing to take powers of recruiting expatriate officers away from local authorities. Pressure on the Ministry of Local Government and Housing was exerted by local authorities like Lusaka City Council and by the Local Government Association of Zambia whose Secretary wrote to the Permanent Secretary expressing the discontent by the Association over the attitude of the Ministry to centralise recruiting powers. These complaints did not go unnoticed, and the previous system was temporarily restored.

However, only six months after power to recruit expatriate staff from overseas had reverted to local authorities, the Government again changed their minds and decided to centralise recruitment not only for local authorities but also for Government and para-statal

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1. Ministry of Local Government and Housing. File No. 101/25/2 Vol. II. Local Government Recruitment Panel, Folio 214.
 2. Ibid , Folio 214.

organisations. A Circular was issued in this respect which read in part as follows:-

"I have been directed to inform you that Government has decided to centralise the recruitment of expatriate staff for Government, Para-Statal Organisations and Local Authorities with immediate effect.

I am to advise that a team of officers led by an Assistant Secretary is operating from the Zambian High Commission in London. This team will be responsible for interviewing candidates for vacant posts advertised overseas. The British Government has offered to assist by providing professional officers to carry out the interviews as and when necessary. Individual officers in the team have been assigned specific responsibilities in this respect and Mr. A.C. Mapoma will be responsible for Local Authority Personnel."¹

The reason given for this decision was the conservation of funds and to assist local authorities to improve staff position which was worsening due to the fact that the previous Centralised Recruitment Panel had not been very successful, and that local authorities had not in practice been allowed to travel overseas to recruit staff.

The new procedure of recruiting overseas staff as detailed by Circular LGH/102/25/2 dated 18th August, 1972 required local authorities to complete in quadruplicate a form detailing the vacancies to be filled and job descriptions. Vacancies were to receive approval from the Ministry. One copy of the forms were to be sent to the Zambian High Commission in London and one copy each to Personnel Division and to the Ministry of Local Government and Housing. A fourth copy of the forms was to be kept by the council for its records.

The Zambian High Commission in London was requested to arrange for advertising and interviewing and to advise local authorities of recommended candidates copying the recommendations to the Personnel Division and the Ministry of Local Government and Housing. Whenever

1. Ministry of Local Government and Housing. Circular Reference No. 102/25/2 (18 August, 1972).

local authorities approved of the candidates recommended to them, they were required to advise the Office of the High Commissioner to issue a letter offering appointment on their behalf and also make necessary travel arrangements.

Local authorities reacted quickly to this move by the Ministry of Local Government and Housing. The Kitwe City Council were the first to write to the Ministry of Local Government and Housing to express their discontent with the decision. In addition to the reasons given against the establishment of the first Centralised Recruitment Panel, Kitwe City Council pointed out that the salary scales and conditions of service in all the three sectors, namely, government, para-statal organisations and local authorities were different and not standard. Of the three sectors, local authorities had conditions that were not attractive and this would have an adverse effects on the quality of staff that was to be recruited to local government service.¹ This submission was supported by Lusaka, Ndola, Chingola, Kabwe and Luanshya who also wrote to the Ministry of Local Government and Housing expressing their unhappiness with the decision of the Ministry.

The Centralised Recruitment Panel of 1972 did not provide a solution to the staff position in local authorities. In March, 1973, Lusaka City Council complained to the Ministry of Local Government and Housing about a serious shortage of staff. They asked the Ministry to give them permission to recruit their own members of staff as they had done before the Centralised Recruitment Panel of 1970 was established. The permission was not granted because it was said that the Government had a policy to conserve funds by not allowing each individual local authority to go overseas to recruit staff for itself.

1. File No. TCD/7/57/1 Vol. III. Appointments Policy and Procedure
Town Clerk's Department, Lusaka City Council. Folio 13.

However the complaint by the Lusaka City Council and the general shortage of staff expressed by other local authorities resulted in the Ministry of Local Government and Housing requesting the Local Government Association of Zambia to consider the establishment of a Centralised Recruitment Panel by its members.¹ Yet another Centralised Recruitment Panel was therefore formed on the 18th April, 1973. Yet although the Local Government Association of Zambia selected a Centralised Recruitment Panel, the Panel was not approved by the Ministry of Local Government and Housing. The Ministry did not see the necessity of including Councillors in the Panel, and they were later excluded and government officials took their place.

This Panel visited the United Kingdom, India, and Sri Lanka for three weeks in December, 1973. There were 135 vacancies and for these over 50% of them were filled by the Panel. Comparatively, this Panel did better than the two Recruitment Panels of 1970 and 1972. The reason for the success was attributed to the fact that the Panel was given powers by the local authorities themselves to make final offers of posts to applicants other than referring the offers to local authorities for approval as the case was in 1970 and 1972. However, formal letters of appointment were issued by respective local authorities. The other reason why the Panel achieved some success was that the salary scales for local authorities had been increased, although not as much as to attract persons from countries like the United Kingdom where salaries in local authorities were higher than those in Zambia.

The Recruitment Panel of 1973 was disbanded in September, 1975 when the Local Government Service Commission, which was established in December, 1974 by the passage of the Local Government Service Act, became operational. As stated in Chapter VII the Local Government

1. This matter was explained to me by the Town Clerk of Ndola who was a member of the 1973 Recruitment Panel and by the Permanent Secretary's letter addressed to the Town Clerk of Livingstone on this matter.

Service Commission has in fact taken place of the Centralised Recruitment Panel which was only restricted to recruitment. However, the Commission has not made any improvement in the recruitment of staff. For instance, local authorities have ever since the Commission came into being been complaining about lack of initiative on the part of the Commission to recruit the required staff. This is confirmed by the fact that since it was established, the members of the Commission have neither taken a trip overseas to recruit staff nor have they been able to fill the professional and specialised posts by using other means of recruitment. The situation has not changed and in the opinion of the writer, the solution lies in decentralisation of recruitment of staff.

CHAPTER IX

CONCLUSION

CONCLUSION

From the time British colonial rule was established to the present, considerable changes **have** taken place in the Zambian political system. The most significant of these changes came about after the attainment of independence in 1964. From this time, the people of Zambia saw the Government as the promoter of national interest and Government assumed responsibility of interpreting the interest of its people. This has meant two things. Firstly, that the Government has the responsibility to define as well as to promote that interest. This is done by legislative and administrative methods using the public and private institutions which are available. If necessary, it also means creating new institutions. It means, secondly, ensuring that factional or local interests do not impede the promotion of national interest. In terms of relationship between the Ministry of Local Government and Housing (and other government ministries) and local authorities, the responsibility of the Government for national interest has therefore both this positive and this negative aspects.

The relationship between central government and local authorities as seen from this study is legal, political and administrative. And, because of this, the arguments that surround it are often conducted in different terms with some consequent confusion.

First, the relationship between central government and local authorities is legal because it exists between two major groups of governmental institutions, each institution having a separate legal existence. In this respect, it should be noted that local authorities are created by the law of Parliament and that the Ministry of Local Government and Housing, like any other Government Ministry, derives its existence from Parliament. Both the Ministry of Local Government and Housing and local authorities, have legal powers which they can exercise within limits provided by law.

It should be noted that the two sides are not equal. The Ministry of Local Government and Housing is stronger and makes the important decisions. It promotes new laws, including those which confer new powers on local authorities. It always seeks to ensure that government policies relating to local authorities are carried into effect. This means that any reform which makes more difficult the execution of the government policy will be rejected by the Ministry of Local Government and Housing.

Secondly, the relationship between the Ministry of Local Government and Housing and local authorities is political because the power of one group complement and conflict with the power of the other as their interest converge and diverge. However, each side recognizes that the other has a part in the process of public affairs, and that neither could manage its affairs without the other. It is also recognized by both sides that the problems which both face and both must resolve are common problems which can be resolved only by co-operation. As seen from the incidents discussed in earlier chapters, it is doubtful whether the Ministry of Local Government and Housing considers

consultation as a necessary factor to co-operation. This lack of consultation results in local authorities viewing the Ministry of Local Government and Housing with some reservation and even suspicion.

Thirdly, the relationship between the Ministry of Local Government and Housing and local authorities is administrative because it concerns the execution of policies. The relationship between policy making and the execution of that policy can not be followed very strictly. For instance, local authorities make policies for themselves and sometimes have a hand in influencing the policies made by the Ministry of Local Government and Housing or in influencing the change of policies. The other indication that the distinction between policy making and execution can not be followed strictly is where the Ministry of Local Government and Housing, and other government ministries, involve themselves often and sometimes very closely in the administrative process of local authorities. There are areas of administrative activity which the Ministry of Local Government and Housing have sought to dominate through the issue of statutory instruments and circulars. However, there are some areas where local authorities do master their own administration, such as enforcing discipline on members of staff, creating sub-Committees of the Council to deal with specific matters, undertaking projects for which money has been made available in a manner appropriate to them and carrying out routine administration of the Council.

The changes which have occurred in the 1960s and 1970s and which have affected the relationship between the Government and local authorities are as follows: first, the development and acceptance of the idea of national planning,

both financial and physical planning; secondly, the demand for more and better public services, such as housing, roads and water, and the political response to those demands; thirdly, the influx of people from rural areas to urban areas which have made differences between rural areas and urban areas more apparent and which have also resulted in more political activities in urban areas. These three changes have tended to influence the Government not only to centralise power but also to interfere with the powers of local authorities.

Decision-making, even on matters which do not affect major questions of national policy, has become more and more the responsibility of the central government. The selection of capital projects - water schemes, roads, sewage schemes, for example shows this¹. Further, local authorities are subject to investment control over the total amounts of money they may spend on different services and the Ministry of Local Government and Housing virtually decides what project and services they should spend money on.

The Government has made major decisions and policies affecting local authorities which it has frequently reversed a short time after these decisions and policies have been made. Among other things, this suggests that the implications of their decisions and policies as they affect local authorities are not fully examined before they are made. As indicated in this study, lack of consultation with local authorities who are affected by the decisions and policies contribute to some uncertainty in the decisions and policies made by the Government, resulting in frequent policy reversals.

1. See Circular No. 15/1974 dated 28th May, 1974 from the Ministry of Local Government and Housing in File No. TCD/1/3/2 Town Clerk's Department, Lusaka.

In the Recruitment Panel study, we saw that the Ministry of Local Government and Housing saw no need of consulting local authorities on this matter. It is believed by the Under Secretary that consultation could not have solved any purpose as Government had already decided on the matter¹. This attitude of the Ministry of Local Government and Housing antagonised local authorities and suggested that local authorities are mere agents to do whatever Government decides they should do. This caused misunderstanding in their relationship and as indicated, local authorities reacted against the Ministry's interference in their functions. They felt that power was being centralised instead of being decentralised in accordance with government policy.

Furthermore, local authorities felt that in the Centralised Recruitment Panels, the Ministry of Local Government and Housing had not been able to identify the cause for the Panels not being successful in their recruitment trips overseas. It is felt that this lack of ability to identify the cause of the failure of the Centralised Recruitment Panel to recruit staff required by the local authorities is associated with the fact that the Ministry of Local Government and Housing are not close enough to the local people and situation in which Local Government functions. The people who know better than them, the local authorities, are often ignored and not consulted¹.

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1. This information was obtained from the interview I had with the Under Secretary of the Ministry of Local Government and Housing. (Lusaka, 1974).
 2. This emerged during my discussion with the Secretary of the Local Government Association of Zambia. (Ndola, 1974).

In the case of the Head Lease, it is important to note that the complaints of local authorities suggested that they had no prior knowledge of the abolition of the Head-Lease System when they were informed by a Circular. This, therefore, further suggests that local authorities are by and large mere agencies of the central government. I believe that one reason for not consulting local authorities was a feeling of control rather than a feeling of partnership on the part of the Ministry of Local Government and Housing.

The Rent Act, 1972 which the local authorities had to implement brought about changes in the procedure of dealing with rent defaulters. The new procedures that were introduced by the Act, created administrative problems for local authorities. For instance, the staff available in the legal sections of local authorities was insufficient to cope with cases related to evictions. There were delays in getting court orders on eviction cases because they too were short of staff to deal with the increased number of cases. This resulted in delays in recovering council money. Furthermore, because councils were owed much money by rent defaulters, they could not efficiently provide services to their residents which included rent defaulters.

As indicated above, local authorities believe that the Ministry of Local Government and Housing did not expect the Rent Act, 1972 to have such an effect on local authorities because the Ministry did not anticipate the problems local authorities were facing as a result of implementing the Act. The Ministry of Local Government and Housing had the Rent Act amended after seeing that it created administrative problems for local authorities.

When the Rent (Amendment) Act, 1974 was passed by Parliament local authorities welcomed it because it enabled them to recover the money owed to them by rent defaulters or effect evictions without much delay. They had just began to carry out evictions in accordance with the new provisions of the Act when a decision was taken by the Minister to stop them from evicting rent defaulters until after a seminar was held at Chalimbana. The decision was strictly illegal because it had no backing of the law and because local authorities had power given to them by law to deal with rent defaulters in accordance with the provisions of the Act. As indicated in the discussion, the Minister gave reasons for his action. Local authorities however, allege that his decision to stop them to carry out evictions which the local press termed "Massive Eviction" was a political one. They allege that the Minister feared that eviction of many people at the same time would cause an outcry against the Government and in particular, against his Ministry. As indicated already, he was praised by the Zambia Rent Payers Association and other members of the public. They liked him for stopping local authorities from carrying out massive evictions.

There are many factors that should be taken into account when Government control over local authorities is examined in Zambia. In the early years immediately following the attainment of Independence, there existed an element of distrust of European local authority bureaucrats and also civil servants both of whom were as far as the Zambian Government and the Party were concerned, part and parcel of colonialism. There was suspicion that the Europeans who were then serving under an African Government were not happy and that if they were left uncontrolled

they would be performing their work contrary to Government expectations. When political power was won in 1964, it was natural that the strong will and strength with which Independence was won should be enthusiastically exerted on various institutions that came under the control of the new Government. There is no documentary evidence to support this at places which could be possible source of information on this matter (Party Headquarters, Ministry of Local Government and Housing, and major local authorities). However, when this matter was discussed with two ex-Ministers of Local Government and Housing, they both indicated that because the African Government was still new and that it could not do away with the European bureaucrats, it was inclined not to trust local authorities which then had colonial outlooks, influence, and by and large were still in the hands of expatriate bureaucrats¹.

The other reason for Government control over local authorities was that most of the Councillors who were returned in the 1966 Local Government elections had no experience in local Government and many of them were poorly-educated and could not, in the opinion of the new Government, understand the expatriate officers nor could they understand their own role as Councillors². The unfortunate thing is that this trend of rigid control is continuing in an even tougher manner long after many indigenous

1. The views on early mistrust of European Local Authority bureaucrats and Civil Servants emerged during my discussions with Mr. N. Mundia who was Minister of Local Government in 1964 to 1965, Mr. S. Wina who was Minister of Local Government in 1966, and Mr. P. Matoka, a later Minister of Local Government and Housing. (1974).
2. This view was expressed by the Minister of Local Government and Housing Mr. P. Matoka. See also P.D. Taylor, "The Training of Elected Councillors in Zambia". Paper read to the Conference of Permanent and Principal Secretaries of Local Government at Lusaka in July, 1967. Ministry of Local Government and Housing.

bureaucrats have taken over the running of the affairs of local government. In addition to this, courses have been held (at the Institute of Public Administration, Lusaka and Citizenship College, Kabwe) to teach Councillors their role in society. This has helped Councillors to understand their role and also to understand their officers. This makes it hard to justify this continued strict control over local authorities by the Government based on the grounds that Councillors were not able to understand their role.

One of the other causes for strict control over local authorities originates from the Government's desire to "mobilize the people". The decision to centralize power was:

".....aimed at allowing the Central Government to guide the radical changes in the nature, composition, functions and orientation of local authorities so that in the revolution their activities could be in accord with the interest of the people and our political and social philosophy"¹.

Yet when the President was addressing the Local Government Association of Zambia at Livingstone, he told local authorities that such tight controls were to end and that the Party and Government were ready to delegate the necessary power and responsibility to local authorities.

Ignorance of some civil servants in the Ministry of Local Government and Housing of the role of local authorities, and the Ministry, in running local affairs, also causes unnecessary controls over local authorities in the discharge of their functions and responsibilities. This could be connected with

1. Local Government Association of Zambia-Proceedings of the Annual Conference (Livingstone 15th September, 1972). An address by the President to the Conference.

the way these civil servants are appointed and with the fact that civil servants are transferable from one government ministry to the other. For instance from 1966 to 1974 there have been six Permanent Secretaries seven Assistant Secretaries, and many junior civil servants who have been transferred from the Ministry of Local Government and Housing. Some of the new civil servants that have been transferred from other government ministries to fill the vacant places do not have any experience in Local Government affairs. The new recruits are not given any training in Local Government and yet they are expected to know the problems that face local authorities.

Some administrative control over local authorities by the central Government is a consequence of the need for central control of the national economy and of the laying down of national policies. For instance, on 7th June, 1973, the Minister of Local Government and Housing issued Circular No. 20/73 which dealt with the employment of civil servants in para-statal organisations. Attached to this circular was Cabinet Office circular No. 36/1973. Under the circular no contract officer was to be released from government service to take up employment in para-statal or private organisation unless he had served the full period of his contract. Local authorities were expected to order their affairs in the spirit of this circular.

One other reason for strict control over local authorities by the central Government is a result of the weakness and incapability shown by some local authorities in the discharge of their functions and responsibility. A case in point here is the council of the City of Lusaka whose councillors had misconducted themselves in the discharge of their duties in 1968 and this resulted in the establishment of a Commission of Inquiry into the affairs of the council.

The tendency by the Government to centralise power and to make decisions and policies relating to local authorities, without having consultation with them, weakens local authorities and create problems for them as indicated in the proceeding discussions of this study. If this attitude of the Government towards local authorities does not change, the present relationship between the Ministry of Local Government and Housing (and other government ministries) and local authorities, will continue to reflect the diminishing status of local authorities in the government of the country. A new approach by the Government towards local authorities is necessary in the field of consultation and decentralization. . .

No local authority can be completely autonomous as this would mean cutting itself away from the central Government thereby challenging its responsibility to the nation as a whole. As already mentioned also in this discussion, local authorities depend upon Government for the conferment of powers. The Government, through Parliament determines what powers and functions local authorities shall have and they depend on Government for funds to carry out their duties. In the same way, local authorities can not be simply agents of the

Central Government, although the writer tends to think that this is what they are in danger of becoming. Government is obviously entitled to determine national policy and the Ministry of Local Government and Housing is expected to see that national policy is carried out. However, some controls over local authorities are unnecessary and only serve to make the work of local authorities difficult. Unless local authorities are given some discretion in the discharge of their own affairs the policy of decentralisation and participatory democracy will become unworkable. There is need for congruency between the newly introduced principle of participatory democracy and the status of local authorities. A new form of relationship between local and Central Government should of necessity be evolved and it would appear that it demands a balance of control and independence, a balance of partnership and separation.

There is need for the Government in consultation with local authorities to examine existing legislations relating to local Government in order to see what provisions might be repealed with a view to leaving local authorities the maximum freedom in organizing their affairs and carrying out their work. If the attitude of the central Government towards local authorities does not change, local authorities will face perpetual difficulties as a result of unnecessary controls and interventions.

APPENDICES

SCHEDULE

(Section 65)

FUNCTIONS OF COUNCILSPART 1FUNCTIONS OF ALL COUNCILS

1. To establish and maintain offices and buildings for the purpose of transacting the business of the council and for public meetings and assemblies.
2. To insure against losses, damages, risks and liabilities which the council may incur.
3. To prohibit and control the erection and display of advertisements and advertising devices in, or in view of, streets and other public places.
4. To establish and maintain allotment gardens.
5. To take and require the taking of measures for the conservation of natural resources and the prevention of soil erosion, including the prohibition and control of cultivation.
6. To take and require the taking of measures for the control of grass, weeds and wild vegetation and for the suppression and control of plant and insect pests and diseases.
7. To control the keeping and movement of livestock.
8. To establish and maintain pounds.
9. To take measures for the destruction and control of bees and of dangerous animals and reptiles.
10. To control the slaughtering of animals, the meat of which is intended for human consumption; to control the sale of such meat; and to require the disposal of diseased animals and carcasses and of meat which is unfit for human consumption.
11. To establish and maintain abattoirs, cold storage facilities and plants for the processing of by-products from abattoirs

12. To control the movement of the carcasses of animals.
13. To establish, maintain, control and close streets, bridges, ferries and water-courses and to remove obstructions therefrom.
14. To prohibit and control the erection and laying in, under or over, and the removal from, streets and other public places of:-
 - (a) posts, wires, pipes, conduits, cables and other apparatus;
 - (b) temporary platforms, seats and other structures
 - (c) street decorations.
15. To control traffic and the parking of vehicles and, for that purpose, to establish and maintain parking meters and premises for the parking of vehicles.
16. To take measures for the promotion of road safety.
17. To prepare and administer schemes for the encouragement of community development.
18. To establish and maintain systems of lighting in street and other public places.
19. To establish and maintain fire-fighting and fire prevention services and to take and require the taking of measures for the protection of life, property and natural resources from damage by fire.
20. To control persons and premises engaged in or used for the manufacture, preparation, storage, handling, sale or distribution of articles of food or drink.
21. To brew traditional beer.
22. To establish and maintain premises for the sale of, and to sell therefrom, articles of food and drink (including traditional beer and other intoxicating liquor) for consumption on or off the premises.
23. To establish and maintain catering services.
24. To erect, purchase and maintain buildings for use as dwelling or clubs and, where it is in the public interest, for use for business or professional purposes.

25. ✓ To prohibit and control the development and use of land and buildings and the erection of buildings, in the interest of public health, public safety, and the proper and orderly development of the area of the council.
26. To control the demolition and removal of buildings and to require the alterations, demolition and removal of buildings which:-
 - (a) do not conform to plans and specifications in respect thereof approved by the council; or
 - (b) are a danger to public health or public safety.
27. To prohibit, control and require the fencing of land and to control the use of barbed wire and other dangerous materials for fencing.
28. To assign names to localities and numbers to premises and to require the number assigned to any premises to be displayed thereon.
29. To require the trimming and removal of trees and shrubs growing on any land where such trees and shrubs obstruct or endanger the use of streets and other public places.
30. To establish and maintain parks, gardens, pleasure grounds, camping grounds, caravan sites and open spaces.
31. To plant, trim and remove trees, shrubs and plants in street and other public places; and to prohibit and control the planting, damaging, destruction and removal of trees, shrubs and plants in streets and other public places.
32. To establish and maintain swimming baths and bathing places.
33. To establish and maintain art galleries, libraries and museums.
34. To establish and maintain social and recreational facilities and public entertainments.
35. To establish and maintain laundries and baths.
36. To establish and maintain day nurseries.
37. To establish and maintain cemeteries, crematoria and mortuaries and otherwise to provide for and control the burial of the dead.
38. ✓ To control the manufacture, storage, sale and use of petroleum, fireworks, gas and other combustible or dangerous substances; and to establish and maintain magazines and other facilities for the storage thereof.

39. To take and require the taking of measures for the preservation and improvement of public health and the prevention and abatement of nuisances, including measures for the extermination of mosquitoes and other insects, rats, mice and other vermin.
40. To control persons, premises and land engaged in or used for the holding of any fair, circus, fete or other entertainment recreation or assembly to which the public are entitled or permitted to have access, whether on payment or otherwise.
41. To prohibit and control the collection of money from door to door and in streets and other public places.
42. To preserve public decency.
43. To prevent damage and trespass to property, whether public or private.
44. To establish and maintain public information services; and to advertise and give publicity to the advantages and amenities of the area of the council.
45. To provide for and require:-
 - (a) the enumeration and registration of persons or property for any purposes connected with the administration of the area of the council;
 - (b) the registration of births, marriages and deaths, the registration of which is not required by any other written law;
 - (c) the registration of such transactions in connection with land charges as may be prescribed in any written law relating to land charges.
46. To establish and maintain sanitary conveniences.
47. To establish and maintain sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of refuse and effluent, and to compel the use of such services.
48. To establish and maintain drains, sewers and works for the disposal of sewerage and refuse.
49. To take and require the taking of measures for the drainage of water.

50. To control and require the provision of drains and sewers and to compel the connection of any drains and sewers to drains and sewers established by the council.
51. To prohibit and control the carrying on of offensive, unhealthy or dangerous trades.
52. To establish and maintain weighing machines.
53. To sell all products and by-products resulting from the carrying on of any of the undertakings or services of the council.
54. To control the days on which, and the hours during which, shops may be open for the transaction of business.
55. To provide and maintain supplies of water and, for that purpose, to establish and maintain waterworks and water mains.
56. To take and require the taking of measures for the conservation and the prevention of the pollution of supplies of water.

PART II

ADDITIONAL FUNCTIONS OF MUNICIPAL COUNCILS

1. To acquire, use and maintain civic apparel and insignia.
2. To establish and maintain services for the generation, distribution and supply of electricity.
3. To promote legislation which is in the interests of, and to oppose legislation which is not in the interests of, the inhabitants of the municipality.

PART III

ADDITIONAL FUNCTIONS OF TOWNSHIP COUNCILS

To establish and maintain services for the generation, distribution and supply of electricity.

LUSAKA CITY COUNCIL GRANTS RECEIVED FROM 1968 TO 1973

GRANT DETAILS	1968	1969	1970	1971	1972	1973
<u>BLOCK GRANT</u>	K117503	K68936	K333587	K157238	-	-
<u>HEALTH SERVICE</u>						
Administration	44635	50758	47471	44700	K30746	K30746
Education	2568	3042	4043	3600	2592	2592
Infectious Diseases	1085	769	3233	2800	1974	1974
Anti-Malarial Spraying	11790	13339	14414	30100	17004	17074
Other Anti Malarial Services	9321	8373	-	-	-	-
Pest Control	11554	12188	15325	31800	17987	17987
Community Development	39698	42600	5674	-	-	-
<u>FIRE BRIGADE</u>						
	120651	131069	91160	113000	70373	70373
	37530	36839	40876	-	-	-
<u>ROADS MAINTENANCE</u>						
	6240	6240	6240	-	-	-
<u>SEWERAGE</u>						
	59631	-	-	-	-	-
<u>HOUSING</u>						
Unit Grant	280900	255420	278876	420244	351514	305000
Total Government Aid	572455	498504	750739	690482	421887	375373

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