

**CONSTITUENCY DEVELOPMENT  
FUNDS FOR DEVELOPMENT (CDF4  
DEV):  
MAKING CDF WORK FOR ZAMBIANS  
BLOG SERIES**



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**PART 2:  
LEGISLATIVE FRAMEWORK**

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# I Introduction

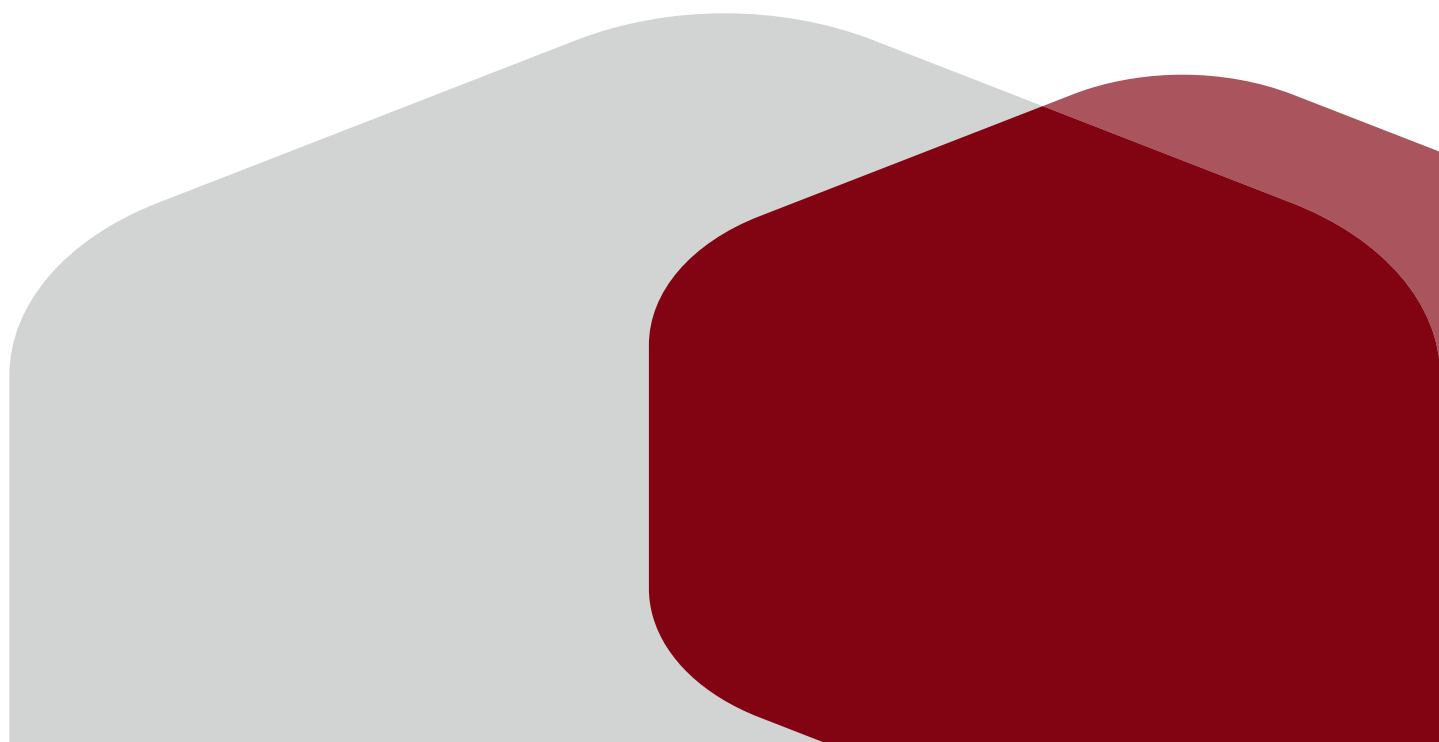
**This blog is the second instalment in a four Part Blog Series** dubbed “CDF for Development (CDF4Dev): Making CDF Work for Zambians” prepared by Caritas Zambia and the PSAM. The “CDF4Dev” Blog Series is intended to sensitize, educate, inspire and motivate the ordinary Zambian to join in and participate pro-actively in the CDF narrative and its implementation.

This second instalment is focused on highlighting the legal framework that gives effect to the management and accountability of the CDF. It locates the fund within the framework of the decentralisation agenda and gives a snapshot of the various provisions and laws that guide its utilization.

## I Background

Since the Hakainde Hichilema led “New Dawn Government” tabled the 2022 National Budget, there has been resounding excitement and interest in the Constituency Development Fund (CDF) from various corners of society in Zambia. This is partly attributed to the massive jump in the budgetary allocation per constituency from K1,6 million to K25 million, the biggest increase historically. Furthermore, the incorporation of selected socio, traditional community based and empowerment schemes that were previously financed through Ministries, has added to the hype.

CDF has been recognized as a key component of the Decentralization agenda over the past few decades as a way of fostering development in communities where it is most needed. Established and approved by Parliament in Zambia in 1995, CDF has been a policy tool used to contribute to the development of infrastructure, create wealth and compliment efforts of poverty eradication at constituency and community level. This is in effect materializing the Decentralization agenda of the governments, past and present. Therefore, it is impossible to detach “CDF” from “Decentralization” and legislation that governs it.



# Legislative Framework

The Constitution of Zambia (Amendment) Act No. 2 of 2016, being the supreme law of the land, fosters decentralized development and in effect, CDF. According to the Decentralization Secretariat<sup>1</sup>, decentralization, if properly implemented, can lead to efficient and effective delivery of services. As a development approach, Zambia chose to decentralise through devolution as it deemed this as one of the most effective mechanisms for the Zambian context. It is meant to ensure technical efficiency and effectiveness in service delivery at local level. Devolution in Zambia entails a situation where functions and resources are transferred to sub national authorities that are representative of and downwardly accountable to local populations<sup>2</sup>. It therefore means that the subnational level and hyperlocal level (communities) becomes the main focus of development.

Decentralization and local government administration in Zambia draws from enshrined Constitutional provisions. The Constitution since its adoption in 2016 provided for more emphasis on enhancing the decentralization process. This is with specific reference to the provision of principles for decentralization in Parts IX, X XI of the Constitution which stipulate the various aspects of administrative functionality, responsibility and resources to be transferred from central government to local authorities and modalities of coordination in that respect.

## KEY DECENTRALISATION LEGISLATION

- Part IX, X & XI of the Constitution of Zambia (Amendment) Act No.2 of 2016
- Local Government Act Cap 281
- Revised Guidelines for the Establishment of Ward Development Committees of 2014
- Local Government Electoral Act. 37
- National Decentralization Policy 2013

1. <http://ie.ds.org.zm/index.php/about-3/why-decentralisation> accessed, 12th July, 2019

## Subsidiary Legislation supporting CDF & Decentralized Development.

The Constitution, implemented with accompanying policies sought to give effect to a coordinated transfer of responsibilities as well as functions from central government to local authorities (GRZ, 2016).

In this light, the country saw a rejuvenation of the decentralization discourse that led to the revision of the National Decentralization Policy in 2013 which was first adopted in 2002. The Decentralization policy serves as a guide to the transfer of authority, functions and responsibility to the lower levels of governance. This saw the subsequent launch of the Decentralization Implementation Plan (DIP) of 2013-2017. The National Decentralization Policy of 2013 along with preceding versions of the Decentralization Implementation Plan therefore sought to empower the sub national structures to take control of their own affairs and promote local level democratic governance.<sup>3</sup>

To advance the process of decentralization, in 2014, Circular No. 10 of 2014 was issued with the purpose of reinforcing government's aspirations to kick-start the process of devolution and to set milestones for the process. It also specifies modalities, institutional arrangements and general provisions of the implementation of the Revised National Decentralization Plan (RNDP) and outlines how it will be phased (3 phases).

In promoting grassroots participation and planning for development and community projects at subnational and community levels, Revised Guidelines for the Establishment of Ward Development Committees were put in place and adopted in 2014.

To compliment these, the Local Government Act No.2 of 2019 was enacted to allow for an integrated local government system that gives effect to the devolution of functions, responsibilities and services at all levels of local government. This Act replaced the Local Government Act of 1991 that was repealed in the same vein. It anticipated democratic participation and enhancement of decision making at the local level.

# CDF Legislative Framework

## Constitutional Provisions

Basically, the 2016 Constitution uplifted the status of the councils in that they are responsible for district administration, coordination and overseeing of programs and projects at that particular level. This is in addition to their original and traditional role of making by-laws. These constitutional provisions together with other pieces of legislation have been recognized as giving the process of decentralisation a firm policy and legislative framework in moving forward to fully decentralize and devolve.<sup>4</sup>

Generally, at the highest level, CDF is couched in the Constitution through decentralization and it emanates from this, together with subsidiary, more specific CDF Laws and regulations, to give effect to its legal framework. Specifically, in the Constitution, the Fund is established under Article 162 of the Zambian Constitution where its appropriation and management is further prescribed in subsidiary legislation. It reads:

*“(1) There is established the Constituency Development Fund. (2) The appropriation of monies to the Constituency Development Fund and the management, disbursement, utilisation and accountability of the Constituency Development Fund shall be prescribed.”*

2. Devolution broadly refers to the legally backed transfer of functions and resources from central government to sub national or parastatal bodies.

3. <https://www.lusakatimes.com/2013/04/10/government-approves-the-decentralisation-policy-to-empower-provinces-and-districts-manage-their-own-affairs/> Accessed 20th August, 2022.

The Constitution thus established the Fund and sets the basis on which subsidiary laws are based, such as the Constituency Development Fund Act No.11 of 2018.

## The Constituency Development Fund Act Of 2018

Since the inception of the CDF, various stakeholders including civil society and policy makers lobbied for the strengthening and establishment of legislation that better regulates the utilization of the Constituency Development Fund (CDF). In 2018, the Constituency Development Fund Act No.11 of 2018 was assented in December.

It provides for the management, disbursement, utilisation and accountability of the Constituency Development Fund established under the Constitution.

The 2018 Act also provides for the establishment of Constituency Development Fund Committees (CDFCs) and lays out their composition and functions under Part II of the Act.

The membership of the CDFCs include two community representatives nominated by the MP from the constituency; three councillors, two of which are elected by the councillors and one nominated of whom is nominated; traditional leadership representation; technical representatives of the directors from planning department, works or engineering services departments and Finance department from the respective constituency where the Local authority is operating.

Furthermore, it provides for respective representation from a religious organization and a civil society organization operating in the constituency, both nominated by the Member of Parliament. Concerns have been raised in this regard<sup>5</sup>, however, that this may give the upper hand to the area Member of Parliament in subjecting CDF Committee members to influence, control and abuse due to these particular nominations.

In terms of functions of the Committee, the Act provides for them to ensure compilation of proper records and reporting documentation. They are mandated to receive and deliberate on project proposals from wards through the Ward Development Committees (WDCs) as well as joint proposals with other constituencies. From the deliberations, a project list is developed and submitted further to the Minister of Local Government and Housing for consideration. The submission of proposed projects draws further guidance from Part IV of the Act.

Regarding disbursement from the Fund, Part III of the Act spells out how the fund is disbursed and audited through the established Constituency Account. Provisions here govern the transparency and accountability of the utilization of the fund by putting in place financial controls mainly vested in the Principal Officer under 10 (1, 2 & 3). The Act categorically prohibits the use of the fund for unintended purposes under Part III, Section (12) and it states;

***“The Fund shall not be used for any purposes other than disbursements to constituency accounts to meet costs of approved projects and administrative expenses not exceeding five per cent of the Fund.”<sup>6</sup>***

Lastly, Part V of the Act provides for other general provisions including offences and punitive measures (Section 28). It further allows for the Minister to establish regulations for better and proper administration of the Act.

4. <http://ie.ds.org.zm/index.php/about> accessed on 28/07/2019

5. <https://zambianobserver.com/withdraw-and-revise-the-illegal-2022-cdf-guidelines-kasonde-mwenda/>  
Accessed 25th August, 2022.

<https://www.youtube.com/watch?v=h6DmsJod4R4> Accessed 30th August, 2022

6. Constituency Development Fund Act No.11 of 2018

## Constituency Development Fund Guidelines of 2022

The Guidelines on the Management, disbursement, Utilization and accountability of the CDF in Zambia have evolved over time due to calls for their strengthening. In the forefront of these calls was civil society – especially the CSO-CDF Alliance and the Decentralisation Alliance Network that have constantly engaged with policy makers (MPs) to introduce revisions to the guidelines. Ultimately, the Ministry of Local Government and Housing engaged stakeholders and revised the 2006 Guidelines with their input in 2016. The change of government saw further political will to enhance management of the CDF, culminating in the 2022 Constituency Development Fund Guidelines being launched in March of 2022 by the Minister of Local Government and Housing Honorable Gary Nkombo<sup>7</sup>.

In addition to seeking to enhance prudence in the manner in which the Fund is administered and managed, the guidelines are meant to ensure effective coordination amongst various stakeholders as the Fund is implemented and administered in efforts of executing CDF Projects to meet community needs and aspirations. The guidelines set the scope of CDF Projects in particular detail and spell out what the CDF may cover and is permissible for application by communities. The guidelines further set out various accountability and transparency mechanisms and controls that have been comprehensively spelt out to govern the process of application, procurement, selection and disbursement with greater clarity on roles and responsibilities.

Notably, with the adoption of the 2022 Guidelines, there is expansion in scope to cover three areas. Firstly, Community Projects, which are defined as those projects identified by communities to benefit the wider members. It insists on the participatory role of communities in addressing their needs drawn from various development plans from the local to national levels. It covers projects that may seek to meet infrastructure, water and sanitation, health, schools, market needs amongst others.

Secondly, the youth, women and community empowerment element is another scope to be given effect through the guidelines. Under this scope, there is a deliberate effort to ensure the Fund is inclusive of specific groups in society. It seeks to empower diverse beneficiaries and entrepreneurs

through providing seed monies in form of grants and loans as organized groups. There is an insistence on supporting and empowering individual as well as cooperatives who have established small businesses and wish to grow these business in the constituency. Under the auspices of this particular scope, the youth have been recognized as being a large portion of communities with the potential to contribute to productivity positively and as such, the empowerment here seeks to address certain challenges, including youth unemployment.

Thirdly, the CDF has expanded scope to cover secondary boarding school and skills development Bursaries in order to provide vulnerable learners with greater access to various educational programs at schools and skills and training institutions at secondary and tertiary level.

The allocations to these three major components is distributed as **60% to community projects, 20% (divided as 40% being grants and 60% being soft loans) to youth, women and community empowerment and the finally 20% being allocated to Secondary School (Boarding) & Skills Development Bursaries**. Across this 100% is a 5% that is designated for administrative purposes as given effect by the CDF Act, leaving the remaining 95% for the prescribed uses above.

7. <http://rainbownewszambia.com/2022/03/06/gary-chilala-nkombo-launches-cdf-guidelines/> Accessed: 22nd August, 2022

8. These groups include the Youths, women, people living with disability and other vulnerable persons in the community.



The Guidelines also provide for monitoring of the implementation of the Ffund under the allocated responsibilities of various stakeholders from the National level through the Ministry, to the Provincial level through the Provincial Local Government Officer, to the district through the Principle Officer, all the way to the Ward level through the Ward Development Executive Committee (WDEC).

## **Contentions around Legislation**

CDF has been a prominent strategy for many governments in the efforts of decentralized planning and development as well as meeting local community needs. In the past, there has been laxity in the management of the funding owing to the fact that legislation was either not in place or subsequently weak in offering a robust framework for CDF administration and utilization. Efforts have been made by the past immediate government, and current to put in place laws and regulations that would ensure better prudent use of the Fund.

However, calls continue to echo through the corridors of civil society, parliament and independent stakeholders and institutions to further revise and amend the legislation in place to ensure reconciliation of legislation. Some key areas of concern are some of the provisions contained especially in the guidelines, that various non-state actors feel need to be reconciled with the Act as well as subsidiary laws. This may entail that the fund especially through the very structures that should provide checks and balances, may subject the fund to abuse and manipulation.

In conclusion, considering the review of legislation and establishment of the legal framework in place to govern the utilization of CDF in this blog, the next installment of this blog series will comprehensively delve into the Process of CDF administration in Zambia. It will highlight the decision-making process to foster a general understanding of how the fund can be accessed by stakeholders party to it at various points of administration. Citizens should be conversant with the CDF administration framework that is in legally in place for greater accessibility and ultimate community benefit. Do look out for the next Blog.

9. <https://acazambia.org/the-acas-position-on-the-2022-cdf-guidelines/> Accessed: 22nd August, 2022

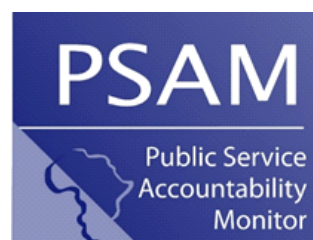
<https://zambianobserver.com/withdraw-and-revise-the-illegal-2022-cdf-guidelines-kasonde-mwenda/>  
Accessed 28th August, 2022.

## Supported by

### PSAM

The Public Service Accountability Monitor (PSAM) is a regional civil society organization based at Rhodes University that “contributes to addressing particular societal problems originating from systemic public resource management (PRM) failures.”

PSAM's activities include research, monitoring, advocacy and capacity building. Working through southern Africa, PSAM generates and shares knowledge about social accountability and the monitoring and advocacy tools that can build more open, participatory and accountable governments.



### and Caritas Zambia

Caritas Zambia is a Catholic Organization that is an Integral structure of the Zambia Conference of Catholic Bishops (ZCCB). Inspired by the gospel and catholic social teachings, Caritas Zambia is a faith-based organization dedicated to the promotion of integral human development through witnessing, animation, conscientisation and institutional strengthening.



Its strategic focus areas are; to have the State that is transparent, accountable and responsive to people's needs, to have a Zambian society which upholds tenets of democracy (promotes participation, rule of law, and respect of human rights), to have improved livelihoods (increased income, food security and nutrition) and to have a Church that influences the State to fulfil its responsibility to eradicate poverty, respect human rights and uphold the rule of law for all.



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