



## DECLARATION OF CIVIL SOCIETY DEMANDS, PRINCIPLES, ISSUES FOR ENGAGEMENT AND ACTION POINTS ON THE CONSTITUTIONAL REFORM PROCESS

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*July 2009*

Representatives of Civil Society Organisations hereby articulate the following position, having met at the 2009 People's Constitutional Convention from 3-4 July for the purposes of determining meaningful engagement in the Constitutional Reform process;

**Deeply conscious** of the mandate given to us by the citizens of Zimbabwe through various democratic initiatives to continuously and collectively work towards resolving the multifaceted challenges confronting Zimbabwe,

**Bearing in mind** that these prevailing socio-economic and political challenges have their roots in the country's flawed constitution,

**Recalling that** Civil Society, women's groups and other progressive forces in Zimbabwe have over the years have lobbied vigorously for a new Constitution despite the repressive and volatile environment,

**Aware** that the process of drafting, adopting and enacting new constitution is a matter of national concern that transcends political, economic, social, gender and cultural divisions,

**Recognizing** that Article VI of the Global Political Agreement (GPA), that forms the basis of Zimbabwe's Inclusive Government, provides for the drafting, adopting and enacting of a new Constitution,

**Affirming** the assertion in Article VI that it is the fundamental right and duty of the Zimbabwean people to make a Constitution by themselves and for themselves,

**Noting with Concern** that the prevailing social, political and economic environment, in particular the security, legislative and human rights conditions are not conducive for a truly people-driven constitutional reform process,

**Reaffirming** our commitments to the principles captured in the Peoples Charter of 2008, especially Chapter 3 on Constitutional Reform, and the SADC Principles and Guidelines on Democratic Constitution Making,

Therefore, make the following declarations:

1. On the contextual issues related to the Constitutional Reform process:

**That, the state and other drivers of the reform process should ensure a conducive environment to meaningful participation of ordinary citizens and Civil Society in the constitutional reform process by;**

- **Removing** the legislative and non-legislative impediments that militate against the meaningful participation of citizens including but not limited to repealing POSA, AIPPA, and BSA .
- **Allowing** the free flow of information and freedom of expression throughout the process, by opening up of the airwaves, greater media freedom, and free citizens access to the media, especially state owned media,
- **Halting** the partisan use of the state media, enforcing journalistic ethics, and encouraging professionalism within those media,
- **Allowing** greater freedom of association and assembly without undue state interference,
- **Ceasing** the public use hate speech,
- **Disbanding** terror bases which being set up in certain communities,
- **Setting-up** effective human rights protection mechanisms thus ensuring human security and protecting people's right to engage with the process without fear of victimization,
- **Allowing** Civil Society unfettered access to the people to ensure meaningful sharing of information on the constitutional reform process,
- **Halting** any legislation meant to hinder or shut down non-governmental organizations,

**That, the possible unwarranted executive interference in the constitutional reform process be avoided by;**

- **Acknowledging** that the Constitutional reform process is an independent national process, being run by a national peoples institution that should be protected from manipulation by political party heads, political parties, the executive and other interest groups,
- **Ensuring** that the institutions responsible for the constitutional reform process are accountable to the people through their representatives in parliament only,
- **Instituting** an independent monitoring mechanism of the constitutional reform process, by civic society,
- **Allowing** the drivers of the constitutional reform process not to approach the people with preconceived input and unscrupulous interests,
- **Refraining** from the imposition of any document in particular the Kariba Draft as a basis for the new Constitution,
- **Binding and guaranteeing** the Constitutional Reform process through an enforceable Act of Parliament,

**That, the Constitutional Reform process should be open and accessible to all Zimbabweans without regard to gender, age, place of origin, political affiliation, or religious affiliation by;**

- **Ensuring** that the entire process from leadership to participation, is cognizant of demographic and geographic realities,

- **Facilitating** the participation of differently abled people by recognising their unique needs to allow meaningful participation in the reform process through the use of accessible facilities, braille, hearing aids and other related amenities,
- **Preparing** for and ensuring the participation of Zimbabweans in the Diaspora in an official and recognized way in the constitutional reform process,
- **Using** a proportional representation of men and women to ensure that women are meaningfully involved, engaged and represented at all levels of the process,
- **Mainstreaming** gender issues in discussions, deliberations and final outcomes of the process,
- **Using** and promoting the use of local languages and cultures in discussions, literature and other related processes,

## 2. On key guiding principles on the process

**That the Constitutional Reform process should be compliant with International norms and standards on Constitution making by;**

- **Facilitating** meaningful participation in the process by all stakeholders,
- **Respecting** peoples views and placing safeguards against the tampering with their input by the drivers of the process, parliament, the executive, political party leaders, and political parties,
- **Ensuring** greater transparency, accountability and integrity, in the manner in which the reform process is carried out, with public access to decision making processes of the select committee, parliament and any other associated bodies,

**That the Constitutional Reform process should respect general democratic values and principles by;**

- **Ensuring** that parliament or the executive does not debate or alter the peoples submissions as endorsed at the Second All Stakeholders Convention in any way Parliament must only debate the report of the Select committee on the process and not the content of the propose draft Constitution,
- **Ensuring** a meaningful period of discussion and deliberation between the gazetting of the draft and the people's verdict on it at a referendum by ordinary citizens,

## 3. On key principles on the content

**That the Constitution must have effective guarantees that ensure democracy, the enjoyment of fundamental freedoms by;**

- **Enshrining** all fundamental civil liberties (freedom of opinion, freedom of expression, freedom of assembly, freedom of association, freedom of movement),
- **Including** social, economic and cultural rights and 3<sup>rd</sup> generation rights in a justiciable and enforceable manner,
- **Limiting** the powers of the executive branch of the state especially the head of state, with possible provisions for recall,
- **Decentralising** governmental powers and allowing more administrative latitude and control to Provinces,

- **Ensuring** a proportional way of choosing peoples representatives to public office and proportional representation as the preferred way of running elections and determining electoral seats,
- **Ensuring** that the traditional leadership, state and constitutional institutions operate in a non-partisan manner,
- **Guaranteeing** citizenship by, birth, descent and naturalisation,
- **Guaranteeing** protection of citizens by the state,

#### 4. On Actions to be undertaken by Civil Society towards meaningful engagement with the Constitutional Reform Process

**That Civil Society will harness the various civic society efforts to engage with the constitutional reform process along the 3 mutually reinforcing tracks (engagement, non-engagement and a hybrid of the 2) accepted by the C.S.O Leaders conference on constitutional Reform by;**

- **Restating** the strategic value of allowing all tracks to exist and coordinate,
- **Continuing** with efforts aimed at greater coordination of civic society on the constitutional reform process, and encourages and facilitate the continued meetings and joint actions of clusters represented at the convention,

**That Civil Society will ensure the continuity of process embarked upon through the 2009 People's Constitutional Convention by;**

- **Popularising** the outcomes and discussions of the convention, its cluster deliberations and key demands on process and content,
- **Engaging** citizens on key issues related to process and content as listed under demands and principles above,
- **Making use** of the demands and principles articulated at the 2009 Peoples Convention on Constitutional reform and the Women's Charter which contains the minimum demands of women in constitutional reform as yardsticks by which to measure the outputs of the process,
- **consider** campaigning against the draft at the referendum, if the people's input is not accurately and fairly captured,
- **Holding** another Peoples Convention on Constitutional Reform ahead of the Second All Stakeholders Conference,

**That Civil Society will collectively and individually engage with the ongoing Constitutional Reform process by;**

- **Setting up** an independent monitoring mechanism of the Constitutional Reform process- using article 6 of the GPA, principles agreed to at the convention and universally accepted norms and standards of constitution making as the benchmarks,
- **Intensifying** civic education and information dissemination on the constitutional reform process and the tenets of constitutionalism via multiple processes that make use of the media, community out reaches, public discussion forums, road shows, marches and other forms of actions aimed at informing and educating the people of Zimbabwe,
- **Engaging** the parliamentary select committee, the parliament, and the executive on key issues related to the process as listed under principles above,

- **Mounting** collective and individual campaigns against the imposition of the Kariba Draft as a basis for the constitutional reform process in Zimbabwe,
- **Engaging** SADC and the African Union as guarantors of the Global Political Agreement to participate as independent observers of the constitutional reform process,

**That Civil Society will engage with the Parliamentary Select Committee and its various subcommittees as the drivers of the Article VI Constitutional Reform Process by;**

- **Mandating** a liaison team to continuously and consistently liaise with the parliamentary select committee on issues of concern, the conventions resolutions, and negotiate for meaningful participation of civic society organizations willing, and citizens in the constitutional reform process,
- **Alerting** the Parliament of Zimbabwe and its Select Committee on constitutional reform of the readiness of Civil Society to lift the burden of civic education from them, as this has been part of the practice and service of civic society for a long time, which they can perform without difficulty,

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*Endorsed by the Civil Coordinating Mechanism on Constitutional Reform for and on behalf of broader Civil Society delegates represented at the 2009 People's Constitution*