

- d) The national government and provincial governments shall have fiscal powers and functions which will be defined in the Constitution;
- e) Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that provinces and local governments are able to provide basic services and execute the functions allocated to them. Accordingly, provisions shall be made pertaining to issues to do with equitable sharing of proceeds realized from natural resources in provinces and communities

## 8. Public Bodies, authorities and Commissions

The establishment, independence and impartiality of Constitutional offices, authorities and Commissions shall be provided for and safeguarded by the Constitution and shall be accountable to Parliament.

## 9. Land protection

The constitution shall protect Zambian land ensuring that land usage is audited and properly accounted for.

## 10. Adoption and Enactment Process

1. Immediately enact a law to protect both the contents and the process of the Constitution. The law to be enacted should clearly spell out the roadmap of the constitution making process. Part of the issues to be addressed in the roadmap should include the timeline, budget and way forward after enacting the new constitution. In short, the piece of legislation should clearly address issues pertaining to Zambia's constitution review programme.
2. The new Constitution shall be adopted through a national referendum as provided for in the Referendum Act, Chapter 14 of the Laws of Zambia. This will allow for the national consensus and give legitimacy to the new legal document. The said referendum

should be held not more than 12 months after the report has been handed over to the President and Zambian citizens. In this regard therefore;

- a) Government needs to appoint commissioners to the Referendum Commission which is a permanent body as established by the aforementioned Act of Parliament
- b) Set the date for the Referendum and accordingly budget for it in the 2014 national budget
- c) Alternatively, Government to explore the possibility of amending the Referendum Act in the next sitting of the National Assembly to ensure that the role to organize and hold the national referendum is vested in the Electoral Commission of Zambia
- d) Ensure that the referendum is held to decide only on 1 question regarding the whole Constitution and NOT parts of the Constitution
- e) For the enactment of the Constitution;
  - i. Presentation of the adopted Constitution Bill to the National Assembly
  - ii. Enactment of the adopted Constitution Bill by the National Assembly without ANY alterations or changes



# THE 10 BASIC MINIMUM PRINCIPLES OF THE CONSTITUTION OF ZAMBIA

Validated at Chisamba, Zambia  
on June 11, 2013



## BASIC MINIMUM PRINCIPLES OF THE CONSTITUTION

For the Constitution to meet the aspirations of the people of Zambia, the following basic principles listed below must be included:

### 1. Enjoyment of fundamental rights

Specifically, the Constitution shall provide for the respect, protection and fulfillment of the following rights:

- a) Economic, social and cultural rights which shall be interpreted broadly
- b) Civil and political rights as provided and protected by international human rights norms and standards.

For example:

- Action to address imbalances, such as rights or special provisions for the women, children, youths, elderly, disabled, disadvantaged
- Access to information so that there can be open and accountable administration at all levels of government.
- Recognition of diversity of language and culture shall be acknowledged and protected, and conditions for their promotion shall be encouraged.
- Right to assembly and right to join any society including linguistic, cultural and religious associations, shall, on the basis of non-discrimination and free association, be recognized and protected.
- The right of employers and employees to join and form labour unions and right to fair labour practices.

### 2. Status of the constitution and Amendments to Constitution

Given that that the constitution is the supreme law

of the land, alterations and/or amendments to the Constitution shall require special procedures involving special majorities, for example referendum for the bill of rights and 2/3 or 50% plus 1 for other provisions.

### 3. Equality before the law and Rule of Law

The legal system shall ensure the equality of all before the law and an equitable legal process. Equality before the law includes laws, programmes or activities that have as their object the improvement of the conditions of the disadvantaged, including those disadvantaged on the grounds of race, religion or gender.

### 4. Separation of powers

There shall be a separation of powers between the legislature, executive and judiciary, with appropriate duties and checks and balances to ensure accountability, responsiveness and openness.

Accordingly;

- a) The Vice president shall be a running mate observing the equality clause from preamble
- b) Cabinet ministers shall be appointed from outside the national assembly
- c) Judges and magistrates shall be appointed and removed by an independent body
- d) There shall be a constitutional court which shall be a special court with exclusive jurisdiction in constitutional matters and is supreme in interpreting and enforcing the bill of rights

### 5. Representation of the people

There shall be a representative government embracing multi-party democracy, regular elections, universal adult suffrage, and a common voters' roll.

The electoral systems shall be as follows:

- a) The President shall be elected by a 50% + 1

electoral system or majoritarian system of election

- b) For the parliamentary and local government elections; (mixed member proportion (MMP)) representation that will guarantee the following
  - Guaranteed representation of women, youths and persons with disabilities
  - Responsiveness to the constituency or electorate
- c) The elections date shall be enshrined in the Constitution provided that such elections shall be held as general or tripartite elections

### 6. Traditional Leaders and Customs

The role, institution, status of traditional leadership shall be recognized and protected in the Constitution. Indigenous law shall be recognized and applied by the courts, as long as it does not go against fundamental rights contained in the Constitution

### 7. Structure of Government (decentralization and devolving of power)

There shall be decentralization and devolution of government power at national, provincial and local levels.

Provided that;

- a) At each level of government there shall be democratic representation;
- b) The national government shall not exercise its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the provinces;
- c) A framework for local government powers, functions and structures shall be set out in the Constitution. The comprehensive powers, functions and other features of local government shall be set out in parliamentary statutes or in provincial legislation or in both;