

***The rising of women means the rising of the nation – no more poverty and starvation, many sweating for a few to benefit.<sup>1</sup>***

*A Presentation to the Parliamentary Select Committee  
(COPAC):  
An Overview of Responses of WOZA/MOZA members to the  
Constitutional Outreach Talking Points*

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<sup>1</sup> Quote from the Song, Bread and Roses by James Oppenheim inspired by women textile workers on strike in Lawrence Mass. USA, 1912.

## Introduction

In preparing this presentation to parliament, we do so in sisterhood and brotherhood with Zimbabweans who long for social justice to be within reach of every Zimbabwean equally. Our country is suffering political, legal, economic and social collapse and we desperately need a constitution that will give us back our dignity, a constitution with laws and policies that make women and men equal and eliminates ALL forms of discrimination. The time has come to address imbalances and oppression so that we can exercise our full citizenship and participate in and shape the nature and form of our democracy. As a woman's organisation, we also use this platform to demand affirmative action for women so as to achieve a fully equal society. As peace loving citizens we submit our views and demand that they be heard and respected. We look forward to a better life with dignity, peace and security that genuine constitutional reform can bring to our country.

## Who is WOZA?

Women of Zimbabwe Arise was formed in 2003 as a women's civic movement to:

- Provide women, from all walks of life, with a united voice to speak out on issues affecting their day-to-day lives.
- Empower female leadership that will lead community involvement in pressing for social justice.
- Encourage women to stand up for their rights and freedoms.
- Lobby and advocate on issues affecting women.

In 2006, male members were recruited and their numbers have been steadily growing.

During 2006, WOZA conducted an eleven-month nationwide consultation conducting 284 workshops with 10,000 rural and urban participants. **The People's Charter – a blueprint for a better Zimbabwe** was the result. The people spoke clearly about the social justice they want in a new Zimbabwe. This process has informed the demands WOZA and MOZA march and campaign for.

Further to this process, on the 9<sup>th</sup> February 2008, WOZA participated in the civic society Peoples' Convention in Harare and are a signatory to the '**Zimbabwe Peoples' Charter**'.

## Background to the consultation

In July 2009 WOZA and MOZA began to prepare members for constitutional reform. We designed community civic education and consultative processes drawing from previous experience and expertise developed in our own activists. This 15 month consultative and civic education process began with the publishing and distribution of a booklet entitled – "**Helping Zimbabweans to understand and write their own Constitution with help from WOZA**". Over 80 000 copies in 3 languages were distributed. The booklet was accompanied by a series of questions which members were encouraged to answer in study circles.

Upon formation of the Parliamentary Select Committee and the adoption of the 26 COPAC thematic areas and publication of the Talking Points, another phase of civic education began with the objective of preparing members for the outreach process. In May we conducted 314 workshops, which drew 5,754 participants, 4,968 being female, and 786 male. The workshop content was drawn from the African Community Publishing Development Trust '**A Peoples Guide to Constitutional Debate**' covering the 26 Thematic areas. Contributions from members were recorded and combined into a draft which was presented to the WOZA National Assembly in August 2010.

During the COPAC outreach process in Bulawayo and Harare, we were able to mobilise members to attend meetings and present their views fully informed and confident as a result of our civic education. We asked workshop participants to attend and report back as regards their participation in the outreach process. Bulawayo reported 2,993 members (2,852 female and 141 male) attended outreach meetings. Some members reported delays and intimidation and

harassment. In Harare, there was widespread intimidation and members were not able to report satisfactory attendance. Participation in the second round of the COPAC outreach process was also not clearly reported due to previous intimidation and poor prior advertising and venue changes.

Rural members were included in the workshops. An initial 16 rural workshops were conducted in Matabeleland with 1,692 participants, 1,232 female and 460 male. A second phase of 23 workshops drew 3,451 participants, 2,902 female and 549 male.

After the civic education workshops, the draft was taken to a final phase of workshops in September 2010 for verification and to develop consensus and deepen responses. 248 Workshops were conducted with 5,585 participants of which 4,983 females and 602 male members.

A total of 9,036 members (7,885 females and 1,151 males) attended the final phase of the civic education in 37 urban (Bulawayo and Harare) and 23 rural areas. The age range of these participants was 14 to 93 years.

As a result of the violence and intimidation experienced in Zimbabwe both directly in the meetings and within the general environment of intolerance which obtains in the country, members asked that we compile their views and present these to COPAC. The following presentation therefore represents the consensus position of the members of WOZA and MOZA as harvested from our parallel outreach process. We look forward to our views being respected and included in any draft prepared for a referendum.

### **WOZA AND MOZA CONTRIBUTIONS TO COPAC TALKING POINTS**

The main constitutional problem that Zimbabwe faces is the excess of executive power which is then abused with impunity. We need to limit executive powers, emphasize the separation of powers, and provide adequate checks and balances to ensure that power is not held in the hands of a single individual or small clique of individuals. The following submission includes the answers to COPAC talking points by members of WOZA/MOZA.

**COPAC 1. PREAMBLE.** A preamble is an opening statement that introduces a constitution. A preamble normally carries the major historical legacies and challenges of a nation and its values and dreams. What are the national legacies, values and aspirations that should be set out in the preamble?

#### **Fundamental National Legacies**

1. Recognising the contribution of all people, male and female, who contributed to the liberation struggle and other struggles to realise full independence.
2. We had the capacity to feed the nation and contribute significantly to regional food security through proper use of our land.
3. After Independence we had developed a highly educated nation.
4. A country with a wealth of natural resources, tourist attractions with potential revenue that have not been used for the benefit of the majority.
5. An unfortunate legacy of violence with impunity perpetrated in the name of politics.
6. Gross human rights violations were committed against the people of Zimbabwe before and after Independence.
7. An unfortunate economic meltdown, resulting in poverty and starvation after independence due to the misuse of power by those in authority.
8. Tribal imbalances within the leadership.
9. Controversial election results and election cases not resolved.

#### **National values**

1. We value and respect the sanctity of human life and the contribution of all people to national pride.
2. Value all people equally, granting them dignity and respect.

3. Respect for diverse traditions and cultures and religions with the exception of practices which violate human rights.
4. Transparency and accountability.
5. Responsible conservation and sustainable use of all natural resources.
6. Democratically elected leaders at all levels who consult the people.

### **Aspirations - dreams**

1. To live in a peaceful, tolerant society that respects diversity of people.
2. A stable, democratic, political and economic infrastructure that provides basic social amenities and fair and equitable distribution of natural resources.
3. Separation of powers with checks and balances to prevent corruption and misuse of office.
4. Professional government services appointed on the basis of experience and qualifications and adequately resourced.

**COPAC 2. FOUNDING PRINCIPLES OF THE CONSTITUTION.** Founding principles are those values that citizens commit themselves to their adherence. They are the foundations of the constitution and they reflect the manner in which the people desire to be governed. What are the basic legacies, values and principles that we need to build a strong foundation for our new constitution?

### **Founding principles**

1. Respect for the constitution as the supreme law.
2. Full separation of powers between the executive, legislature, and judiciary.
3. Respect for the rule of law
4. Equality before the law; free access to justice; to professional legal support and the right to a fair trial.
5. The principle of equality must be a prominent principle as without it there can be no achievement of social, economic, political, cultural and legal rights.
6. Respect for all human life.
7. The provision of basic means of survival through social welfare for those not able to provide for themselves
8. Free quality primary school education and affordable secondary and tertiary education.
9. Natural resources, including land and mineral resources to benefit the local community first and the rest of the nation second - not individuals or a political party.
10. The promotion of and support for people to participate in governance.
11. A Bill of Rights that shall be guaranteed and fully protected (justiciable).

**COPAC 3. CITIZENSHIP.** Citizenship is one's membership of a country, which a person gets because they were born in that country or their parents were born in that country lived in that country or were registered in that country. a) How should citizenship be acquired? Should dual/multiple citizenship be allowed?

1. The constitution to allow for everyone born in Zimbabwe to be a citizen automatically.
2. 'Citizenship by Descent' – any person with at least one parent being a citizen should automatically be a citizen.
3. Citizenship to be acquired through Marriage only after five years and upon taking up residency. This should be applied for either spouse.
4. Citizenship after 10 years of residence as long as the person remains within the confines of the law.
5. Citizenship is a right which should be protected from being withdrawn. Therefore, there should be a clause stating that once a person is legitimately a citizen of Zimbabwe, that citizenship cannot be taken away.
6. The constitution should allow a Zimbabwean to hold dual or multiple citizenships.

**COPAC 4. BILL OF RIGHTS.** A Bill of Rights sets out the basic rights and freedoms of the people.

- a) What basic rights and freedoms should be protected and guaranteed in the constitution?
- b) What social, economic and cultural rights should be included in the constitution?
- c) Should we keep the death penalty?

### **Basic Rights and Freedoms**

1. Right to life.
2. Right to freedom of association and assembly.
3. Right to free expression and speech.
4. Right to peaceful protest.
5. Right to practice any religion without persecution.
6. Right to affordable and decent basic living needs – shelter, water and food.
7. The right to be protected from the arbitrary deprivation of property and the right to fair compensation where deprivation is deemed to be in the public interest.
8. Right to sexual and reproductive choices.
9. Right to information, and freedom of the media.
10. Right to privacy.
11. Right to nationality and the relevant documentation.
12. Freedom from torture and cruel and inhumane and degrading treatment.
13. Right to a clean and healthy environment.
14. The right to administrative justice (fair service by government departments).

### **15. Right to personal security and fair treatment when in lawful custody**

- a) Protection against arbitrary displacement from their homes. The state is obliged to offer security and other humanitarian support to internally displaced persons.
- b) Protected from public and domestic violence.
- c) Right to liberty, and freedom from arbitrary arrest and detention.
- d) Rights of detained persons to legal assistance; to food; to medical treatment; to be brought before a court and to be treated humanely.
- e) Rights of convicted persons to appeal, to food, to medical treatment, clothing, hygienic conditions, information and education and to be treated humanely.

### **16. Equality**

- a) There should be no discrimination against people on the basis of race, tribe, culture or ethnicity, place of origin, birth, gender, age, religious belief, political opinion or affiliation, disability, HIV/AIDS status; marital status; pregnancy and sexual orientation.
- b) The principle of equality shall be embodied at all levels in legislation and government policy. Specific legislation shall be put in place to ensure the practical realisation of equality.
- c) For the achievement of practical equality, affirmative action programmes should be allowed that discriminate in favour of disadvantaged groups such as women. This should be a right and not a privilege.
- d) Women and men shall have equal status and capacity in civil and customary law, including, among others, full contractual rights, and the rights to acquire and hold rights in property, the rights to inheritance and the right to secure credit and citizenship.

### **17. Political Rights**

- a) The right to free, fair and regular elections.
- b) Right to vote in secrecy.
- c) The right to form political parties and to participate in political activities.
- d) The right to stand for public office and to campaign freely.

### **Social, Economic and Cultural Rights**

#### **1. Social Rights**

- a) Must include, but not be limited to, the right to affordable and decent basic living needs – shelter, water and food.

- b) Where individuals are unable to support themselves and where government has capacity to provide, a system of social insurance should cater for basic needs for a dignified existence.
- c) Right to leisure and recreation activities.
- d) Environmental rights.

## 2. **Right to health**

- a) The right to physical and mental health and healthcare, including home-based care.
- b) There shall be a right to maternal health care including prenatal, delivery and postnatal healthcare services.
- c) Basic life sustaining services, such as water and sanitation, must be made accessible to all Zimbabweans by the state.
- d) The right to information on all reproductive health issues including HIV and AIDS, sexually transmitted infections and family planning as well as nutritional information for women during pregnancy and while they are breast-feeding.
- e) The right of all people to control their bodies, including the right to abortion for medical reasons.
- f) No one may be refused emergency medical treatment.

## 3. **Education**

- a) The right to free compulsory and quality primary education, affordable secondary and tertiary education.
- b) The curriculum must allow for the diverse needs and aptitudes of all children.
- c) There shall be a consultative process around the development of education policy.
- d) Ensure that all educational materials do not promote stereotypes that will perpetuate discrimination.
- e) There shall be a right to literacy training and adult education.
- f) Affirmative action should be applied to ensure women's enrolment in tertiary education institutions.
- g) No woman or girl shall be excluded from education and training on the basis of pregnancy, domestic and child care responsibilities.
- h) The right to be protected from political interference in educational institutions.
- i) The right to establish an educational institution provided it meets established professional standards.
- j) Right to school leaver loans for tertiary education and vocational training programmes.

## 4. **Economic Rights**

- a) Right to be consulted on major changes in economic policy.
- b) Right to earn a living through informal trade. (We should not have to get a licence for informal trade.)
- c) Right to an adequate standard of living.
- d) There shall be legislation to protect consumers.
- e) The right to be protected from competition and or foreign producers that affect the development of local manufacturing and agricultural industries.
- f) The right to free internal trade and protection from monopolies whether government or private.

## 5. **Cultural Rights**

- a) Right to practice one's culture and traditions as long as they fall within the confines of the law.
- b) Protection from cultural practices which violate human rights including the depriving of widows and children of their inheritance.

## 6. **Children's Rights**

- a) A child is any individual under the age of 18 years.
- b) They shall have the right to be heard in any judicial proceedings relating to them.

- c) Right to an identity, that is birth registration and nationality.
- d) Protection from all forms of abuse.
- e) Right to parental care and an alternative where parental care is impossible.
- f) Basic nutrition, shelter, health care services and social services.
- g) Right to be protected from exploitative labour practices.
- h) The right to be protected from being used in armed or political conflicts.
- i) Right not to be detained except as a measure of last resort.
- j) A child's best interest is of paramount importance in every matter concerning him or her.

**Protection provisions:** All rights should be guaranteed and fully protected (justiciable) with clear protection provisions and remedies for violations provided in the courts.

**Limitation clause:** All rights can only be limited where it is reasonable and justifiable in terms of a law of general application and to the extent that the limitation is justifiable in an open and democratic society based on human dignity, equality and freedom.

### **International Law:**

International law commitments made by Zimbabwe as a nation should automatically become part of Zimbabwean law without being enacted by the Zimbabwean parliament, unless the parliament specifically objects. This would allow human rights instruments acceded to by Zimbabwe to be part of domestic law and enable citizens to protect such rights in the courts.

### **Death Penalty**

As covered in the principles, we respect human life and so no person shall be sentenced to death.

**COPAC 5. WOMEN AND GENDER ISSUES.** What specific rights should be protected and guaranteed to women by the constitution?

1. There shall be a Ministry for Women's Affairs that must promote affirmative action to correct past injustices and promote women's participation in all spheres of public life.
2. Every woman should be protected from political intimidation and threat to her person.
3. Recognise in law all forms of marriages and unions that are nondiscriminatory. These include customary, civil, and religious; marriages of co-habitation should be seen as defacto marriages and be treated as such.
4. Allow for freedom of choice in terms of the property sharing accompanying the marriage.
5. Women shall share in the decision-making regarding the nature and frequency of sexual contact within marriage and intimate relationships. Marital rape must be a punishable offence under the criminal law.
6. Married women shall be entitled to share guardianship over their children. A single mother shall have the right to sole guardianship and access to documentation.
7. Women and men have a right to an equitable division of property, maintenance and arrangements in respect of minor or dependant children both during and at the dissolution of a marriage.
8. Right to land ownership and house ownership by women, and the equal allocation of land in communal areas
9. Right to reproductive health and to abortion for medical reasons.
10. Full widow's rights - to inherit, get death certificate.
11. Right to work with equal pay and equal opportunities.

**COPAC 6. YOUTH.** a) Who are the youth in Zimbabwe? From what age to what age?  
b) What specific rights for the youth should be guaranteed in the constitution?

### **Who are the Youth?**

There is no such classification as 'youth' in international law and therefore we do not believe it is necessary to invent one for Zimbabwe. We believe that the current term 'youth' is a tool of

political manipulation and children who reach the age of 18 years become adults and should be able to claim their rights as adults.

### **Additional Considerations**

1. Youth should be consulted as regards their participation at all levels and spheres of their political and economic governance, articulating their demands on their own behalf. They are part of the adult population.
2. The right not to be required to attend national service as constituted as a political activity.
3. Programmes that cater to young adults needs such as national service, capacitation and income generating projects should fall under specific ministries.

<b>COPAC 7. THE DISABLED.</b> What specific rights for the disabled should be guaranteed in the constitution?
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1. Right to housing and facilities fitted for their needs.
2. Right to all necessary therapy as part of health delivery services, equipment and mobility aids, including skin creams for albinos.
3. Right to accessible social amenities and public buildings
4. Provision of education for those with special needs.
5. Protection from all forms of exploitation.
6. People living with disabilities must be able to exercise their right to vote in a conducive environment, assisted by a person of their choice.
7. People living with disabilities who require socio and economic support should be supported by government.
8. Provision of assisted access to information.

<b>COPAC 8. MEDIA.</b> What specific rights should the constitution guarantee to the media?
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1. Freedom of expression including the right to criticise must be a guaranteed right.
2. Right to plurality of news and to publish a newspaper.
3. Right to register and operate a community radio station/ television.
4. Right to practice journalism without a licence.
5. Right of journalists to protect sources of information.
6. Right to publish or broadcast in any language.
7. The right to access news and information in any officially recognised indigenous language.
8. The right to self-regulation as a profession.

<b>COPAC 9. WAR VETERANS.</b> What specific rights should be afforded to war veterans in the constitution?
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As we are writing a constitution for generations to come, this is not a constitutional issue. Existing government should make provision for veterans of any wars who require assistance.

<b>COPAC 10. LAND.</b> How should the constitution address the issue of land?
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1. A Land, Environment and Natural Resources Commission will have the responsibility of ensuring an equitable, nondiscriminatory distribution of land holding on commercial farms, irrigation schemes and communal lands including fair distribution between women and men.
2. As regards commercial land, there shall be security of tenure and transfer of tenure must be available on the condition of its productive use.
3. Provide for legislation that can ensure communal land is fairly allocated with security of tenure. The legislation must also provide for equality in the allocation and use of land to women, independent of male family members.
4. There shall be no government monopoly in regard to marketing of crops.
5. There should be provision for seasonal loans as part of an agricultural support programme.
6. The right to access the courts for land disputes.

**COPAC 11. EMPOWERMENT.** How should the constitution deal with the empowerment of previously disadvantaged groups?

We are of the view that the vulnerable should be catered for in the 'affirmative action' clause in the Bill of Rights. We recognise that within the following groups there exist some vulnerable and disadvantaged people that can be identified and assisted: women, widows, disabled, albinos and orphans, and also some war veterans, people who are restrictees and detainees, the chronically ill and living with HIV, children and youth deprived of an education through political or economic turmoil.

However, in the implementation of 'affirmative action', the following is required:

1. Employment generated from development and infrastructure programmes shall also benefit women. They shall have access to the full range of basic development resources and services necessary to sustain a healthy and productive life. There should be facilitation of skills training and loans / grants for small to medium businesses
2. Identified affected women shall participate in designing and implementing development programmes to meet their needs. They should also participate more effectively in the planning, management and preservation of the environment and use of natural resources.
3. The system of social services should cater for the special needs of groups such as the disabled, the elderly, single parents and rural women and orphans.
4. Social welfare pensions and disability grants should be available to vulnerable women, irrespective of age, on the basis of need.

**COPAC 12. ENVIRONMENT.** How should the constitution deal with the issue of the environment?  
**COPAC 13. NATURAL RESOURCES.** How should the constitution deal with the issue of natural resources?

1. Natural Resources include our land, water, minerals, vegetation, wildlife, parks and natural heritage sites.
2. Natural resources belong to all the people and information regarding their existence, extent, value and utilisation must be made public.
3. The people must enjoy the right to a clean, healthy and sustainable environment.
4. To create a Land, Environment and Natural Resources commission (see responses in COPAC 10) to oversee the protection and sustainable use of natural resources including ensuring that proper standards are followed for the storage, transportation and disposal of toxic waste.
5. The commission to work with provincial governments in consultation with local people to ensure that benefits of resources come to the locals first in the form of the jobs and services, and that resources are not abused by provincial and central government.
6. Respect and care for environment to be legislated. Legislation shall set standards for environmental protection, provide strict penalties for those found guilty of damaging the environment, and support civic education around its use. Rangers enforcing protection must be given powers of arrest.
7. No ungazetted urban farming shall be permitted and there shall be hefty fines for illegal mining / riverbank cultivation.

**COPAC 14. LABOUR.** What specific rights should be granted to workers in the constitution?

1. Employees have the following absolute rights
  - a. Right to safety and a healthy environment at work, including protective clothing
  - b. Compensation for injuries or death resulting from work related activities
  - c. Right to rest and leave periods
  - d. Right to form unions, engage in collective bargaining
  - e. Right to fair labour practices
  - f. Right to strike and exercise any peaceful means of protest
  - g. Right to approach labour courts

2. The right to equal pay for equal work, men and women. Legislation shall provide for
  - a. Transparent and fair procedures in recruitment, promotion and dismissals of workers.
  - b. Protection from and punishment of sexual harassment in the workplace.
  - c. Regulation of child labour.
  
3. As the economy allows, government should promote the provision of
  - a. Right to work
  - b. A wage or salary that is above the poverty datum line, overtime pay and meaningful retrenchment packages.
  - c. Right to pension on retirement.
  - d. Paid maternity leave with job security, adequate provision of childcare facilities and reasonable working hours to accommodate family responsibilities both in the private and public sector.
  - e. There shall be limitations on temporary contracts.

**COPAC 15. RELIGION.** How should the constitution of Zimbabwe deal with the issue of religion?

1. We shall have the freedom to practise any religion, to participate in its services and meetings without discrimination or restriction as long as human rights are not violated.
2. To safeguard the separation of church and state.

**COPAC 16. SYSTEMS OF GOVERNMENT.**

**Federal State:** A federal system of governance obtains where a country is divided into two or more states with their own governments, which then agree to have one national government. **Unitary State:** A unitary system is where power is held by a single central government that controls all the political and administrative power. **A Devolved State:** Devolution is whereby in a unitary system, political and administrative power is shared between a national government and lower level spheres of the state, for example, provinces and local authorities.

- a) What system of government should Zimbabwe have? (Federal, Unitary, Devolved)
- b) Should there be provincial governments and **how should they be constituted?**
- c) Should there be local governments and how should they be constituted?
- d) What should be the functions of provincial and local governments?
- e) How many provinces should we have?
- f) How should they be determined?

**System of Government**

At present, too much power is held by government in Harare, which controls all resources and has ultimate control over local councils, whose existence is not protected in the constitution. The constitution should provide for sharing of power at provincial and local levels.

Devolution is a solution as follows:

**PROVINCIAL GOVERNMENT**

1. We propose a provision for a provincial assembly composed of 25 elected constituency representatives, who will elect their chairperson.
2. We propose an elected governor who will be the chief executive of the provincial government. He/she will appoint and chair an executive committee selected from members of the assembly.
3. The assembly will make laws in the areas of its competence which will be valid within that province.
4. A provincial law will be passed by a simple majority and must be accepted to by the governor.
5. Areas of provincial competence include: roads, housing, health, mines, natural resources, finance and agriculture. Members of the executive committee will manage these portfolios.
6. The constitution must provide for the manner in which revenue collection will be shared between provincial and national government.

7. Provincial governments will work with local councils to ensure that revenues from the province benefit local communities.

## LOCAL GOVERNMENT

1. Urban and rural councils should be provided for in the constitution, with their members elected by the voters and their powers explicitly specified in the constitution. They will deal with immediate service issues such as roads, sewerage, water distribution, local health delivery, cemeteries, housing, markets and local recreation.
2. There should be a Mayor for each urban and rural council elected by voters.
3. Councils should have the power to create by-laws to cater for their areas of competence.
4. There should be provision for cooperation between provincial and local government but their independence must be protected from undue interference.
5. Council powers to generate revenue should be specified.
6. To work with provincial government to ensure that revenues from the province benefit local communities

## Number of Provinces

The number of provinces with such assemblies should be reduced from the present 10 to five, namely: Matabeleland, Manicaland, Masvingo, Mashonaland and Midlands. Consideration should be given to identify different names so as to build peace and unity.

**How should provinces be determined?** Members responded that they required geography to be used to determine provinces

**COPAC 17. ARMS OF THE STATE.** There are three principal functions of the state: making laws, interpretation of laws and implementation of laws. These rest in the legislature, judiciary and the executive respectively

### COPAC 17.1. The Executive:

- a) How should executive power be **organized and distributed**? (Should there be a President, a Prime Minister or both?)
- b) How should they be elected/appointed?
- c) Should all ministers be MPs?
- d) Should all ministers not be MPs?
- e) Should some ministers be MPs and others not?
- f) How should ministers be appointed?

## How should executive power be organized and distributed?

1. Executive President elected directly by all voters in first past the post system.
2. 2 terms of office of no more than 5 years each
3. Age limit between 40 to 65.
4. The president must not be above the law – no special privileges and should be able to be prosecuted and sued.
5. The president must not be able to dissolve parliament
6. A cabinet of no more than 15 ministers. Individuals with expertise, who are not members of parliament, should be appointed to cabinet. The president will appoint members to cabinet in consultation with a parliamentary select committee. Each appointment must be approved by a simple majority of parliamentarians. A cabinet member may be removed from this position by 50% vote in parliament.
7. The powers to appoint and remove judges, the attorney general, and the heads of the uniformed services should be removed from the executive and replaced by professional bodies.
8. There shall be a public declaring of assets by all executive officials, the president and cabinet. During their term of office, management of those assets must be delegated elsewhere.

### **COPAC 17.2. The Legislature**

- a) How many Houses of Parliament should we have?
- b) Should there be MPs who are appointed?
- c) Should MPs be allowed to cross the floor with their seats?
- d) Should any seats be reserved for: (i) Women (ii) Traditional leaders (iii) The disabled (iv) Special interest groups?

1. Our Parliament is far too large for a country the size of Zimbabwe and has become an unnecessary drain on the budget. There should be only one house of parliament, all of whose members are elected by the people; there shall be no appointed seats. The number of members should not be more than 100.
2. Parliament should have a fixed term of five years.
3. MPs must not be allowed to cross the floor with their seats.
4. There shall not be any seat reserved or appointed for any group.
5. A parliamentary committee system should be provided for in the constitution, with committee chairs members of parliament who are not cabinet ministers. The chairs of said committees should be remunerated in accordance with their responsibility. The legal committee must study all proposed legislation to ensure that it does not violate any section of the constitution before it goes to a second reading
6. We propose a recall system of MPs. People in the constituency will petition for recall by obtaining signatures from 51% of those who voted in that constituency. A by-election will then be held.
7. Removal of the president by parliament for incompetence, incapacity, and breach of the constitution or abuse of executive powers: Parliament may remove the President by a 2/3 majority vote.
8. MPs must be elected to represent their constituency.
9. The total number of people elected to sit in the national assembly and all the provincial assemblies will be 225 (25 in each provincial assembly)

**COPAC 17.3. The Judiciary.** a) How should our court system be organized? b) How should judges be appointed?

#### **How should court system be organised?**

1. The constitution should make provision for
  - a) Village/ Community Court
  - b) Family Court
  - c) Magistrates Court
  - d) Labour Court
  - e) High Court
  - f) Supreme Court
  - g) Constitutional Court
2. The judiciary should be an independent and impartial arm of government. It should facilitate, protect and provide justice, uphold the constitution and prevent executive abuse of power.
3. Women shall be fully represented on, and participate in the selection of all candidates for all judicial, including traditional courts.
4. There shall be accessible and affordable legal services, including the recognition of paralegals.
5. The special needs of women in prisons including their relationship with children should be adequately provided for.

#### **How should judges be appointed?**

1. The constitution should protect judges from undue interference or influence by the executive power. They should be appointed by the Independent Judicial Services Commission (JSC), which should include civil society representation, their appointments being approved by

parliament. They must have the correct educational qualifications and have experience in legal practice with a good record of upholding the law.

2. It should only be possible to remove a judge from office through a defined legal process on the basis of incompetence, bias, corruption or criminal activity.
3. The retirement age of judges should be fixed at 70 years of age.

**COPAC 18. ELECTORAL SYSTEMS.** What type of electoral system should Zimbabwe have?  
First past the post? Proportional representation? Hybrid?

1. First past the post with results announced within 48 hours of any election.
2. We require an electoral court with a six-month deadline for concluding issues.
3. There shall be a transparently appointed delimitation commission which delineates constituencies at national, provincial and local government level in consultation with the public, and reports to the electoral commission.

**COPAC 19. INDEPENDENT PUBLIC OFFICES.**

- a. What independent public offices should be created in the constitution? How should they be appointed?
- b) How should the constitution provide for? i) The Attorney General? ii) Auditor and Comptroller General?  
iii) Public Protector/Ombudsman?
- c) What are the functions of the Attorney General (AG) that should be provided for in the constitution?
- d) Should the Attorney General, who is the legal advisor to the government, also be the national prosecutor?

1. There shall be the following public commissions whose commissioners will be appointed for a term of five years, renewable once:
  - a) Security Services Commission, which includes responsibility for the Defence, Prison and Police and intelligence Services.
  - b) Judicial Service Commission (JSC).
  - c) Electoral Commission that is independent with a transparent process of choosing commissioners.
2. Legislation will provide for each Commission to be composed of appropriate representatives of professional bodies and civil society.
3. Members of the Commissions will be nominated by the appropriate committee of parliament after public hearings. Nominees for Commissions must then be approved by 50% of Members of Parliament.
4. All security arms of government should be apolitical, uphold the rule of law and uphold fundamental human rights in the course of their duty on a non-partisan basis.
5. The Public Ombudsman must be independently appointed by the parliamentary legal committee.
6. The Auditor and Comptroller General must be independently appointed by the appropriate committee of parliament.
7. The Attorney General should be the legal advisor to government only and there should be a separate National Prosecution Authority.
8. The JSC will nominate Judges, the Attorney General and the head of the National Prosecution Authority whose appointments must be approved by the parliament.
9. The Security Services Commission (SSC) will nominate the heads of the uniformed services and intelligence, whose appointments shall be approved by parliament.
10. The national budget must provide for adequate funding for the operation of all public offices and the salary and benefits of officers must not total more than 15% of any such budget.
11. All Commissioners, Judges, Attorney General, Auditor, Comptroller General should be required to publicly declare their assets.

### **COPAC 20. INDEPENDENT COMMISSIONS**

- a) What independent commissions should be provided for in the constitution?
- b) How should their independence be protected?
- c) How should independent commissions be appointed?

#### **Independent commissions**

1. Commissions provided for in the constitution must be genuinely independent of influence by the executive. Their members should be appointed by a process which excludes overbearing influence from the executive, through participation by civil society, transparent public processes, and approval by parliament. Their budgets should be provided for in the constitution and their commissioners should be required to publicly declare their assets. Salaries of commissioners must not be more than 15% of total grants secured.
2. The following Commissions should be established:
  - a) Media
  - b) Human Rights
  - c) Truth and Justice (to replace the Healing Organ)
  - d) Land, Environment and Natural Resources
  - e) Anti Corruption
  - f) Gender and anti discrimination
3. A Parliamentary committee must supervise the appointment of Commissioners. Positions should be advertised allowing people to apply. There should be a process of public hearings and those selected must be approved by a 50% vote in parliament before being appointed. Appointment should be based on qualification and experience.
4. Women must be represented in any Independent Commission created through the Constitution. At least 40% of the commissioners in any Independent Commission must be women.

### **COPAC 21. EXECUTIVE COMMISSIONS.** What executive commissions should be provided for in the constitution?

The head of the executive should have the power to appoint special commissions in consultation with the relevant parliamentary committee. There must be a provision to compel the executive to make public within 30 days any report that is presented to him or her by any such commission.

### **COPAC 22. PUBLIC FINANCE.** This includes the management and accounting of public funds, Consolidated Revenue Fund, the preparation and the management of the budget and the auditing and monitoring of the use of public finances.

- a) Which aspects of Public Finance should be regulated by the constitution?
- b) How should the constitution provide for the management of the national budget?

#### **Which aspects of Public Finance should be regulated by the constitution?**

1. Transparency and accountability
2. Money inflows. The state's power to seek International loans should be limited in terms of what they request loans for, the amount of the loan and repayments schedule. Parliament must approve any international loan above a stipulated amount before it is agreed to.
3. Audits of government revenue and expenditure must be undertaken on an annual basis and made public.

#### **How should the constitution provide for the management of the national budget?**

1. People should be consulted whenever a budget is being prepared for local, provincial and national budget priorities.
2. Supplementary budgets can only be sought with consultation of the parliamentary finance committee hosting of a public hearing.
4. Government must present a gendered analysis of any budget presented to parliament.

5. The budget must indicate how revenue will be shared between the local, provincial and national governments.

**COPAC 23. CENTRAL BANK.** What aspects of the Central Bank should be regulated by the constitution?

1. The governor of the reserve bank must be appointed by the finance committee of parliament after a public hearing process. The governor should be required to publicly declare assets.
2. There shall be consultation as regards drastic economic changes within the country. There must be consultation with the finance committee of parliament.

**COPAC 24. TRADITIONAL LEADERS.** What role should be accorded to traditional leaders in the constitution?

1. Traditional leaders to remain in their village exercising strictly cultural roles.
2. There must be provision for them to convene village courts, but with limited jurisdiction over strictly customary matters and not criminal matters.
3. Women should be recognised as traditional leaders where appropriate.

**COPAC 25. LANGUAGES, ARTS AND CULTURE.** How should the constitution deal with the issues of languages, arts and culture?

**Language**

1. All official languages, including indigenous languages to be catered for.
2. Primary education must be available in the mother tongue of children.

**Arts:** The promotion of art should be included within the powers of provincial governments.

**Culture:** Covered under Bill of Rights.

**COPAC 26. TRANSITIONAL MECHANISMS.** Those guidelines in the constitution that will help us move from the old constitution to the new one. What guidelines do we want to be included in the constitution?

1. A draft in all official languages within 30 days to study and provide feedback to the drafting committee. This feedback to be inputted into the final draft within 30 days. (60 days from the publication of the draft to the production of the final draft.)
2. Parliament must then sit to approve the final draft within 14 days and a referendum must be held within 30 days of the parliamentary vote.
3. Super majority = Percentage 60%. Voting section by section – minimally we need to have the Bill of Rights voted on separately to the other parts of the constitution.
4. After the referendum, the new constitution, if approved, must pass into law within 30 days
5. Voting by ID for the referendum. All citizens and permanent residents to be allowed to vote
6. A new election will be held within 30 days of the passing of the new constitution through parliament.

**Amendments to the Constitution**

It must be possible to amend the constitution, but it should be a process which ensures that the people understand the changes to be made and agree to them in a referendum. Any amendments should therefore be approved by  $\frac{3}{4}$  of parliament and  $\frac{3}{4}$  of each provincial council. It should not be possible at all to amend the rights guaranteed in the constitution unless it is to add rights; it should not be possible to take away any rights.