

Draft Constitution Of Zimbabwe

To Be Approved Or Rejected By Zimbabweans On March 16, 2013 In A National Constitutional Referendum

The complete draft constitution is over 170 pages. To make it easier for you to review the key elements of the document, particularly given that the referendum is on March 16th, 2013, the Voice of America created this “Constitution at a Glance.” This document highlights what we, the editors at VOA’s Zimbabwe service (Studio 7), believe are the most important sections of Zimbabwe’s draft constitution. Importance of each section was measured by the potential impact of that section on average Zimbabweans. Some sections that differ greatly with the current constitution in the country are also included, even if the impact is not so great or difficult to determine at this stage.

While this document contains no additions, it omits much. Sections that have been omitted from this “reduced” version of the draft constitution are indicated by this symbol: ↓

To be sure you understand the entire draft constitution, we recommend that you read the complete document, which is also available on our website, www.voazimbabwe.com.

PREAMBLE

We the people of Zimbabwe,

United in our diversity by our common desire for freedom, justice and equality, and our heroic resistance to colonialism, racism and all forms of domination and oppression,

Exalting and extolling the brave men and women who sacrificed their lives during the Chimurenga / Umvukela and national liberation struggles,

Honouring our forebears and compatriots who toiled for the progress of our country,

Recognising the need to entrench democracy, good, transparent and accountable governance and the rule of law,

Reaffirming our commitment to upholding and defending fundamental human rights and freedoms,

Acknowledging the richness of our natural resources,

Celebrating the vibrancy of our traditions and cultures,

Determined to overcome all challenges and obstacles that impede our progress,

Cherishing freedom, equality, peace, justice, tolerance, prosperity and patriotism in search of new frontiers under a common destiny,

Acknowledging the supremacy of Almighty God, in whose hands our future lies,

Resolve by the tenets of this Constitution to commit ourselves to build a united, just and prosperous nation, founded on values of transparency, equality, freedom, fairness, honesty and the dignity of hard work,

And, imploring the guidance and support of Almighty God, hereby make this Constitution and commit ourselves to it as the fundamental law of our beloved land.

CHAPTER 1
FOUNDING PROVISIONS



2 Supremacy of Constitution

(1) This Constitution is the supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency.

(2) The obligations imposed by this Constitution are binding on every person, natural or juristic, including the State and all executive, legislative and judicial institutions and agencies of government at every level, and must be fulfilled by them.



17 Gender balance

(1) The State must promote full gender balance in Zimbabwean society, and in particular—

(a) the State must promote the full participation of women in all spheres of Zimbabwean society on the basis of equality with men;



(2) The State must take positive measures to rectify gender discrimination and imbalances resulting from past practices and policies.

18 Fair regional representation

(1) The State must promote the fair representation of all Zimbabwe's regions in all institutions and agencies of government at every level.



20 Youths

(1) The State and all institutions and agencies of government at every level must take reasonable measures, including affirmative action programmes, to ensure that youths, that is to say people between the ages of fifteen and thirty-five years—

(a) have access to appropriate education and training;



(c) are afforded opportunities for employment and other avenues to economic empowerment;



(e) are protected from harmful cultural practices, exploitation and all forms of abuse.



21 Elderly persons

(1) The State and all institutions and agencies of government at every level must take reasonable measures, including legislative measures, to secure respect, support and protection for elderly persons and to enable them to participate in the life of their communities.



22 Persons with disabilities

(1) The State and all institutions and agencies of government at every level must recognise the rights of persons with physical or mental disabilities, in particular their right to be treated with respect and dignity.



26 Marriage

The State must take appropriate measures to ensure that—

(a) no marriage is entered into without the free and full consent of the intending spouses;



(c) there is equality of rights and obligations of spouses during marriage and at its dissolution; and



27 Education

(1) The State must take all practical measures to promote—

(a) free and compulsory basic education for children; and

(b) higher and tertiary education.

(2) The State must take measures to ensure that girls are afforded the same opportunities as boys to obtain education at all levels.



CHAPTER 3

CITIZENSHIP

35 Zimbabwean citizenship

(1) Persons are Zimbabwean citizens by birth, descent or registration.

(2) All Zimbabwean citizens are equally entitled to the rights, privileges and benefits of citizenship and are equally subject to the duties and obligations of citizenship.



(4) Zimbabwean citizens have the following duties, in addition to any others imposed upon them by law—

(a) to be loyal to Zimbabwe;



(d) to the best of their ability, to defend Zimbabwe and its sovereignty.

36 Citizenship by birth

(1) Persons are Zimbabwean citizens by birth if they were born in Zimbabwe and, when they were born—

(a) either their mother or their father was a Zimbabwean citizen; or

(b) any of their grandparents was a Zimbabwean citizen by birth or descent.



37 Citizenship by descent

Subject to section 36(2), persons born outside Zimbabwe are Zimbabwean citizens by descent if, when they were born—

- (a) either of their parents or any of their grandparents was a Zimbabwean citizen by birth or descent; or
- (b) either of their parents was a Zimbabwean citizen by registration;

and the birth is registered in Zimbabwe in accordance with the law relating to the registration of births.



PART 2

FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

48 Right to life

(1) Every person has the right to life.

(2) A law may permit the death penalty to be imposed only on a person convicted of murder committed in aggravating circumstances, and—



(3) An Act of Parliament must protect the lives of unborn children, and that Act must provide that pregnancy may be terminated only in accordance with that law.

49 Right to personal liberty

(1) Every person has the right to personal liberty, which includes the right—

- (a) not to be detained without trial; and
- (b) not to be deprived of their liberty arbitrarily or without just cause.



50 Rights of arrested and detained persons

(1) Any person who is arrested—

- (a) must be informed at the time of arrest of the reason for the arrest;
- (b) must be permitted, without delay—
 - (i) at the expense of the State, to contact their spouse or partner, or a relative or legal practitioner, or anyone else of their choice; and
 - (ii) at their own expense, to consult in private with a legal practitioner and a medical practitioner of their choice;



- (d) must be released unconditionally or on reasonable conditions, pending a charge or trial, unless there are compelling reasons justifying their continued detention; and
- (e) must be permitted to challenge the lawfulness of the arrest in person before a court and must be released promptly if the arrest is unlawful.



52 Right to personal security

Every person has the right to bodily and psychological integrity, which includes the right—

- (a) to freedom from all forms of violence from public or private sources;



53 Freedom from torture or cruel, inhuman or degrading treatment or punishment

No person may be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment.



56 Equality and non-discrimination

- (1) All persons are equal before the law and have the right to equal protection and benefit of the law.



(3) Every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.



57 Right to privacy

Every person has the right to privacy, which includes the right not to have—

- (a) their home, premises or property entered without their permission;
- (b) their person, home, premises or property searched;
- (c) their possessions seized;
- (d) the privacy of their communications infringed; or
- (e) their health condition disclosed.

58 Freedom of assembly and association

(1) Every person has the right to freedom of assembly and association, and the right not to assemble or associate with others.

- (2) No person may be compelled to belong to an association or to attend a meeting or gathering.

59 Freedom to demonstrate and petition

Every person has the right to demonstrate and to present petitions, but these rights must be exercised peacefully.

60 Freedom of conscience

(1) Every person has the right to freedom of conscience, which includes—

- (a) freedom of thought, opinion, religion or belief; and



61 Freedom of expression and freedom of the media

(1) Every person has the right to freedom of expression, which includes—

- (a) freedom to seek, receive and communicate ideas and other information;



(2) Every person is entitled to freedom of the media, which freedom includes protection of the confidentiality of journalists' sources of information.



62 Access to information

(1) Every Zimbabwean citizen or permanent resident, including juristic persons and the Zimbabwean media, has the right of access to any information held by the State or by any institution or agency of government at every level, in so far as the information is required in the interests of public accountability.

(2) Every person, including the Zimbabwean media, has the right of access to any information held by any person, including the State, in so far as the information is required for the exercise or protection of a right.

(3) Every person has a right to the correction of information, or the deletion of untrue, erroneous or misleading information, which is held by the State or any institution or agency of the government at any level, and which relates to that person.



63 Language and culture

Every person has the right—

- (a) to use the language of their choice; and
- (b) to participate in the cultural life of their choice;

but no person exercising these rights may do so in a way that is inconsistent with this Chapter.



65 Labour rights

(1) Every person has the right to fair and safe labour practices and standards and to be paid a fair and reasonable wage.

(2) Except for members of the security services, every person has the right to form and join trade unions and employee or employers' organisations of their choice, and to participate in the lawful activities of those unions and organisations.



(6) Women and men have a right to equal remuneration for similar work.



66 Freedom of movement and residence

(1) Every Zimbabwean citizen has—

- (a) the right to enter Zimbabwe;
- (b) immunity from expulsion from Zimbabwe; and
- (c) the right to a passport or other travel document.

(2) Every Zimbabwean citizen and everyone else who is legally in Zimbabwe has the right to—

- (a) move freely within Zimbabwe;
- (b) reside in any part of Zimbabwe; and
- (c) leave Zimbabwe.

67 Political rights

(1) Every Zimbabwean citizen has the right—

- (a) to free, fair and regular elections for any elective public office established in terms of this Constitution or any other law; and
- (b) to make political choices freely.

(2) Subject to this Constitution, every Zimbabwean citizen has the right—

- (a) to form, to join and to participate in the activities of a political party or organisation of their choice;
- (b) to campaign freely and peacefully for a political party or cause;
- (c) to participate in peaceful political activity; and
- (d) to participate, individually or collectively, in gatherings or groups or in any other manner, in peaceful activities to influence, challenge or support the policies of the Government or any political or whatever cause.

(3) Subject to this Constitution, every Zimbabwean citizen who is of or over eighteen years of age has the right—

- (a) to vote in all elections and referendums to which this Constitution or any other law applies, and to do so in secret; and
- (b) to stand for election for public office and, if elected, to hold such office.



69 Right to a fair hearing

(1) Every person accused of an offence has the right to a fair and public trial within a reasonable time before an independent and impartial court.

(2) In the determination of civil rights and obligations, every person has a right to a fair, speedy and public hearing within a reasonable time before an independent and impartial court, tribunal or other forum established by law.

(3) Every person has the right of access to the courts, or to some other tribunal or forum established by law for the resolution of any dispute.

(4) Every person has a right, at their own expense, to choose and be represented by a legal practitioner before any court, tribunal or forum.

70 Rights of accused persons

(1) Any person accused of an offence has the following rights—

- (a) to be presumed innocent until proved guilty;
- (b) to be informed promptly of the charge, in sufficient detail to enable them to answer it;
- (c) to be given adequate time and facilities to prepare a defence;
- (d) to choose a legal practitioner and, at their own expense, to be represented by that legal practitioner;
- (e) to be represented by a legal practitioner assigned by the State and at State expense, if substantial injustice would otherwise result;
- (f) to be informed promptly of the rights conferred by paragraphs (d) and (e);

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71 Property rights

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(3) Subject to this section and to section 72, no person may be compulsorily deprived of their property except where the following conditions are satisfied—

- (a) the deprivation is in terms of a law of general application;
- (b) the deprivation is necessary for any of the following reasons—
 - (i) in the interests of defence, public safety, public order, public morality, public health or town and country planning; or
 - (ii) in order to develop or use that or any other property for a purpose beneficial to the community;

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- (d) the law entitles any person whose property has been acquired to apply to a competent court for the prompt return of the property if the court does not confirm the acquisition; and
- (e) the law entitles any claimant for compensation to apply to a competent court for the determination of—
 - (i) the existence, nature and value of their interest in the property concerned;
 - (ii) the legality of the deprivation; and
 - (iii) the amount of compensation to which they are entitled;and to apply to the court for an order directing the prompt payment of any compensation.

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72 Rights to agricultural land

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(2) Where agricultural land, or any right or interest in such land, is required for a public purpose, including—

- (a) settlement for agricultural or other purposes;
- (b) land reorganisation, forestry, environmental conservation or the utilisation of wild life or other natural resources; or
- (c) the relocation of persons dispossessed as a result of the utilisation of land for a purpose referred to in paragraph (a) or (b);

the land, right or interest may be compulsorily acquired by the State by notice published in the *Gazette* identifying the land, right or interest, whereupon the land, right or interest vests in the State with full title with effect from the date of publication of the notice.

(3) Where agricultural land, or any right or interest in such land, is compulsorily acquired for a purpose referred to in subsection (2)—

- (a) no compensation is payable in respect of its acquisition, except for improvements effected on it before its acquisition;

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(4) All agricultural land which—

- (a) was itemised in Schedule 7 to the former Constitution; or

(b) before the effective date, was identified in terms of section 16B(2)(a)(ii) or (iii) of the former Constitution;

continues to be vested in the State, and no compensation is payable in respect of its acquisition except for improvements effected on it before its acquisition.

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(7) In regard to the compulsory acquisition of agricultural land for the resettlement of people in accordance with a programme of land reform, the following factors must be regarded as of ultimate and overriding importance—

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(c) the people of Zimbabwe must be enabled to re-assert their rights and regain ownership of their land; and accordingly—

(i) the former colonial power has an obligation to pay compensation for agricultural land compulsorily acquired for resettlement, through an adequate fund established for the purpose; and

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75 Right to education

(1) Every citizen and permanent resident of Zimbabwe has a right to—

(a) a basic State-funded education, including adult basic education; and

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76 Right to health care

(1) Every citizen and permanent resident of Zimbabwe has the right to have access to basic health-care services, including reproductive health-care services.

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77 Right to food and water

Every person has the right to—

(a) safe, clean and potable water; and

(b) sufficient food;

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78 Marriage rights

(1) Every person who has attained the age of eighteen years has the right to found a family.

(2) No person may be compelled to enter into marriage against their will.

(3) Persons of the same sex are prohibited from marrying each other.

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86 Limitation of rights and freedoms

(1) The fundamental rights and freedoms set out in this Chapter must be exercised reasonably and with due regard for the rights and freedoms of other persons.

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(3) No law may limit the following rights enshrined in this Chapter, and no person may violate them—

(a) the right to life, except to the extent specified in section 48;

- (b) the right to human dignity;
- (c) the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment;
- (d) the right not to be placed in slavery or servitude;
- (e) the right to a fair trial;
- (f) the right to obtain an order of *habeas corpus* as provided in section 50(7)(a).

87 Limitations during public emergency

(1) In addition to the limitations permitted by section 86, the fundamental rights and freedoms set out in this Chapter may be further limited by a written law providing for measures to deal with situations arising during a period of public emergency, but only to the extent permitted by this section and the Second Schedule.



CHAPTER 5 THE EXECUTIVE



PART 2 THE PRESIDENT AND VICE PRESIDENTS

89 The President

The President is the Head of State and Government and the Commander-in-Chief of the Defence Forces.

90 Duties of President

(1) The President must uphold, defend, obey and respect this Constitution as the supreme law of the nation and must ensure that this Constitution and all the other laws are faithfully observed.

(2) The President must—

- (a) promote unity and peace in the nation for the benefit and well-being of all the people of Zimbabwe;
- (b) recognise and respect the ideals and values of the liberation struggle;
- (c) ensure protection of the fundamental human rights and freedoms and the rule of law; and
- (d) respect the diversity of the people and communities of Zimbabwe.



92 Election of President and Vice-Presidents

(1) The election of a President and two Vice-Presidents must take place within the period specified in section 158.

(2) Every candidate for election as President must nominate two persons to stand for election jointly with him or her as Vice-Presidents, and must designate one of those persons as his or her candidate for first Vice-President and the other as his or her candidate for second Vice-President.



93 Challenge to presidential election

(1) Subject to this section, any aggrieved candidate may challenge the validity of an election of a President or Vice-President by lodging a petition or application with the Constitutional Court within seven days after the date of the declaration of the results of the election.



95 Term of office of President and Vice-Presidents

(1) The term of office of the President or a Vice-President commences on the day he or she is sworn in and assumes office in terms of section 94(1)(a) or 94(3).

(2) The term of office of the President or a Vice-President extends until—

(a) he or she resigns or is removed from office; or

(b) following an election, he or she is declared to be re-elected or a new President is declared to be elected; and, except as otherwise provided in this Constitution, their terms of office are five years and coterminous with the life of Parliament.



98 Presidential immunity

(1) While in office, the President is not liable to civil or criminal proceedings in any court for things done or omitted to be done in his or her personal capacity.

(2) Civil or criminal proceedings may be instituted against a former President for things done and omitted to be done before he or she became President or while he or she was President.

PART 3

MINISTERS, DEPUTY MINISTERS AND CABINET

104 Appointment of Ministers and Deputy Ministers

(1) The President appoints Ministers and assigns functions to them, including the administration of any Act of Parliament or of any Ministry or department, but the President may reserve to himself or herself the administration of an Act, Ministry or department.



(3) Ministers and Deputy Ministers are appointed from among Senators or Members of the National Assembly, but up to five, chosen for their professional skills and competence, may be appointed from outside Parliament.

(4) In appointing Ministers and Deputy Ministers, the President must be guided by considerations of regional and gender balance.



109 Vote of no confidence in Government

(1) The Senate and the National Assembly, by a joint resolution passed by at least two-thirds of their total membership, may pass a vote of no confidence in the Government.



(5) If the President does not act in accordance with subsection (4) within fourteen days after the passing of the vote of no confidence in the Government, Parliament stands dissolved.

PART 4

EXECUTIVE FUNCTIONS

110 Executive functions of President and Cabinet

(1) The President has the powers conferred by this Constitution and by any Act of Parliament or other law, including those necessary to exercise the functions of Head of State.

(2) Subject to this Constitution, the President is responsible for—

(a) assenting to and signing Bills;

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(d) making appointments which the Constitution or legislation requires the President to make;

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(g) deploying the Defence Forces;

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(3) Subject to this Constitution, the Cabinet is responsible for—

(a) directing the operations of Government;

(b) conducting Government business in Parliament;

(c) preparing, initiating and implementing national legislation;

(d) developing and implementing national policy; and

(e) advising the President.

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111 War and peace

(1) The President has power to declare war and make peace, and must advise the Senate and the National Assembly within seven sitting days.

(2) The Senate and the National Assembly, by a joint resolution passed by at least two-thirds of the total membership of Parliament, may resolve that a declaration of war should be revoked.

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113 States of public emergency

(1) The President may by proclamation in the *Gazette* declare that a state of public emergency exists in the whole or any part of Zimbabwe.

(2) A declaration of a state of public emergency ceases to have effect after fourteen days beginning with the day of publication of the proclamation in the *Gazette* unless, before the end of that period, the declaration is approved by at least two-thirds of the total membership of Parliament at a joint sitting of the Senate and the National Assembly.

(3) If Parliament is dissolved during the period of fourteen days after a state of public emergency has been declared, the declaration ceases to have effect after twenty-one days, beginning with the day of publication of the proclamation in the *Gazette*, unless within that period the declaration is approved by a majority of all the Members of the new Parliament at a joint sitting of the Senate and the National Assembly.

(4) A declaration of a state of public emergency which has been approved under subsection (2) or (3) remains in effect for three months from the date on which the proclamation was published in the *Gazette* unless it has earlier been revoked or ceased to have effect under this section.

(5) If a declaration of a state of public emergency is not approved after consideration by Parliament, or if for any reason it is not considered by Parliament within the period specified in this section, the President must, within seven days, by proclamation in the *Gazette*, revoke the declaration.

(6) If, by a resolution passed by a majority of the members present at a joint sitting of the Senate and the National Assembly, Parliament resolves that a declaration of a state of public emergency—

- (a) should be continued for a further period not exceeding three months, the President must without delay, by proclamation in the *Gazette*, extend the declaration for that further period;
- (b) should be revoked or that it should apply within a smaller area, the President must without delay, by proclamation in the *Gazette*, revoke the declaration or provide that the declaration relates to that smaller area.

(7) The Constitutional Court, on the application of any interested person, may determine the validity of—

- (a) a declaration of a state of public emergency;
- (b) any extension of a declaration of a state of public emergency.

(8) Any court may determine the validity of any legislation enacted, or other action taken, in consequence of a declaration of a state of public emergency.



CHAPTER 6

THE LEGISLATURE

PART 1

LEGISLATIVE AUTHORITY

116 The Legislature

The Legislature of Zimbabwe consists of Parliament and the President acting in accordance with this Chapter.

117 Nature and extent of legislative authority

(1) The legislative authority of Zimbabwe is derived from the people and is vested in and exercised in accordance with this Constitution by the Legislature.

(2) The legislative authority confers on the Legislature the power—

- (a) to amend this Constitution in accordance with section 328;
- (b) to make laws for the peace, order and good governance of Zimbabwe; and
- (c) to confer subordinate legislative powers upon another body or authority in accordance with section 134.

PART 2

PARLIAMENT

118 Parliament

Parliament consists of the Senate and the National Assembly.

119 Role of Parliament

(1) Parliament must protect this Constitution and promote democratic governance in Zimbabwe.

(2) Parliament has power to ensure that the provisions of this Constitution are upheld and that the State and all institutions and agencies of government at every level act constitutionally and in the national interest.

(3) For the purposes of subsection (2), all institutions and agencies of the State and government at every level are accountable to Parliament.

PART 4

THE NATIONAL ASSEMBLY

124 Composition of National Assembly

(1) The National Assembly consists of—

- (a) two hundred and ten members elected by secret ballot from the two hundred and ten constituencies into which Zimbabwe is divided; and
- (b) for the life of the first two Parliaments after the effective date, an additional sixty women members, six from each of the provinces into which Zimbabwe is divided, elected through a system of proportional representation based on the votes cast for candidates representing political parties in a general election for constituency members in the provinces.



PART 5

TENURE OF MEMBERS OF PARLIAMENT



129 Tenure of seat of Member of Parliament

(1) The seat of a Member of Parliament becomes vacant—

- (a) on the dissolution of Parliament;
- (b) upon the Member resigning his or her seat by written notice to the President of the Senate or to the Speaker, as the case may be;
- (c) upon the Member becoming President or a Vice-President;



(i) if the Member is convicted—

- (i) in Zimbabwe of an offence of which breach of trust, dishonesty or physical violence is an essential element; or
- (ii) outside Zimbabwe of conduct which, if committed in Zimbabwe, would be an offence of which breach of trust, dishonesty or physical violence is an essential element;



- (k) if the Member has ceased to belong to the political party of which he or she was a member when elected to Parliament and the political party concerned, by written notice to the Speaker or the President of the Senate, as the case may be, has declared that the Member has ceased to belong to it;
- (l) if the Member, not having been a member of a political party when he or she was elected to Parliament, becomes a member of a political party;



(2) A Member referred to in subsection (1)(i) who has noted an appeal against his or her conviction may continue, until the final determination of the appeal, to exercise his or her functions as a Member and to receive remuneration as a Member, unless a court has ordered that he or she should be detained in prison pending the outcome of the appeal.



PART 6

LEGISLATIVE AND OTHER POWERS

130 Powers and functions of Senate and National Assembly

(1) Except as provided in the Fifth Schedule, in the exercise of their legislative authority both the Senate and the National Assembly have power to initiate, prepare, consider or reject any legislation.



(6) When a Bill is presented to the President for assent and signature, he or she must, within twenty-one days, either—

- (a) assent to it and sign it, and then cause it to be published in *Gazette* without delay; or
- (b) if he or she considers it to be unconstitutional or has any other reservations about it, refer the Bill back to Parliament through the Clerk of Parliament, together with detailed written reasons for those reservations and a request that the Bill be reconsidered.



141 Public access to and involvement in Parliament

Parliament must—

- (a) facilitate public involvement in its legislative and other processes and in the processes of its committees;
- (b) ensure that interested parties are consulted about Bills being considered by Parliament, unless such consultation is inappropriate or impracticable; and



PART 8

DURATION, DISSOLUTION AND SITTINGS OF PARLIAMENT

143 Duration and dissolution of Parliament

(1) Parliament is elected for a five-year term which runs from the date on which the President-elect is sworn in and assumes office in terms of section 94(1)(a), and Parliament stands dissolved at midnight on the day before the first polling day in the next general election called in terms of section 144.

(2) The President must by proclamation dissolve Parliament if the Senate and the National Assembly, sitting separately, by the votes of at least two-thirds of the total membership of each House, have passed resolutions to dissolve.

(3) The President may by proclamation dissolve Parliament if the National Assembly has unreasonably refused to pass an Appropriation Bill referred to in section 305.

(4) A decision to dissolve Parliament in terms of subsection (3) may, on the application of any Member of Parliament, be set aside on review by the Constitutional Court.



144 General election resulting from dissolution of Parliament

(1) Where Parliament has not earlier passed resolutions to dissolve in terms of section 143(2), the President must by proclamation call and set dates for a general election to be held within the period prescribed in section 158.



CHAPTER 7

ELECTIONS

PART 1

ELECTORAL SYSTEMS AND PROCESSES

155 Principles of electoral system

- (1) Elections, which must be held regularly, and referendums, to which this Constitution applies must be—
- (a) peaceful, free and fair;
 - (b) conducted by secret ballot;
 - (c) based on universal adult suffrage and equality of votes; and
 - (d) free from violence and other electoral malpractices.



PART 3

DELIMITATION OF ELECTORAL BOUNDARIES

160 Number of constituencies and wards

(1) For the purpose of electing Members of Parliament, the Zimbabwe Electoral Commission must divide Zimbabwe into two hundred and ten constituencies.

(2) For the purpose of elections to local authorities, the Zimbabwe Electoral Commission must divide local authority areas into wards according to the number of members to be elected to the local authorities concerned.



CHAPTER 8

THE JUDICIARY AND THE COURTS

PART 1

THE COURT SYSTEM

162 Judicial authority

Judicial authority derives from the people of Zimbabwe and is vested in the courts, which comprise—

- (a) the Constitutional Court;
- (b) the Supreme Court;

- (c) the High Court;
- (d) the Labour Court;
- (e) the Administrative Court;
- (f) the magistrates courts;
- (g) the customary law courts; and
- (h) other courts established by or under an Act of Parliament.



164 Independence of judiciary

(1) The courts are independent and are subject only to this Constitution and the law, which they must apply impartially, expeditiously and without fear, favour or prejudice.

(2) The independence, impartiality and effectiveness of the courts are central to the rule of law and democratic governance, and therefore—

- (a) neither the State nor any institution or agency of the government at any level, and no other person, may interfere with the functioning of the courts;



165 Principles guiding judiciary

(1) In exercising judicial authority, members of the judiciary must be guided by the following principles—

- (a) justice must be done to all, irrespective of status;
- (b) justice must not be delayed, and to that end members of the judiciary must perform their judicial duties efficiently and with reasonable promptness;
- (c) the role of the courts is paramount in safeguarding human rights and freedoms and the rule of law.



(4) Members of the judiciary must not—

- (a) engage in any political activities;
- (b) hold office in or be members of any political organisation;
- (c) solicit funds for or contribute towards any political organisation; or
- (d) attend political meetings.



167 Jurisdiction of Constitutional Court

(1) The Constitutional Court—

- (a) is the highest court in all constitutional matters, and its decisions on those matters bind all other courts;
- (b) decides only constitutional matters and issues connected with decisions on constitutional matters, in particular references and applications under section 131(8)(b) and paragraph 9(2) of the Fifth Schedule; and



169 Jurisdiction of Supreme Court

(1) The Supreme Court is the final court of appeal for Zimbabwe, except in matters over which the Constitutional Court has jurisdiction.

(2) Subject to subsection (1), an Act of Parliament may confer additional jurisdiction and powers on the Supreme Court.



171 Jurisdiction of High Court

(1) The High Court—

- (a) has original jurisdiction over all civil and criminal matters throughout Zimbabwe;



CHAPTER 9

PRINCIPLES OF PUBLIC ADMINISTRATION AND LEADERSHIP

194 Basic values and principles governing public administration

(1) Public administration in all tiers of government, including institutions and agencies of the State, and government-controlled entities and other public enterprises, must be governed by the democratic values and principles enshrined in this Constitution, including the following principles—

- (a) a high standard of professional ethics must be promoted and maintained;
- (b) efficient and economical use of resources must be promoted;
- (c) public administration must be development-oriented;
- (d) services must be provided impartially, fairly, equitably and without bias;



CHAPTER 11

SECURITY SERVICES

PART 1

GENERAL PROVISIONS

206 National security

(1) The national security objectives of Zimbabwe must reflect the resolve of Zimbabweans to live as equals in liberty, peace and harmony, free from fear, and in prosperity.



(3) In particular, the protection of national security must be pursued with the utmost respect for—

- (a) the fundamental rights and freedoms and the democratic values and principles enshrined in this Constitution; and
- (b) the rule of law.

207 Security services



(2) The security services are subject to the authority of this Constitution, the President and Cabinet and are subject to parliamentary oversight.

- (3) Membership of the security services must reflect the diversity of the people of Zimbabwe.

208 Conduct of members of security services

(1) Members of the security services must act in accordance with this Constitution and the law.

(2) Neither the security services nor any of their members may, in the exercise of their functions—

- (a) act in a partisan manner;
- (b) further the interests of any political party or cause;
- (c) prejudice the lawful interests of any political party or cause; or
- (d) violate the fundamental rights or freedoms of any person.

(3) Members of the security services must not be active members or office-bearers of any political party or organisation.

(4) Serving members of the security services must not be employed or engaged in civilian institutions except in periods of public emergency.



PART 2

DEFENCE FORCES



212 Function of Defence Forces

The function of the Defence Forces is to protect Zimbabwe, its people, its national security and interests and its territorial integrity and to uphold this Constitution.

213 Deployment of Defence Forces

(1) Subject to this Constitution, only the President, as Commander-in-Chief of the Defence Forces, has power—

- (a) to authorise the deployment of the Defence Forces; or



(4) By a two-thirds majority of the total membership of Parliament at a joint sitting of the Senate and the National Assembly, Parliament may resolve that a deployment of the Defence Forces outside Zimbabwe should be rescinded.



214 Political accountability for deployment of Defence Forces

When the Defence Forces are deployed—

- (a) in Zimbabwe to assist in the maintenance of public order; or
- (b) outside Zimbabwe;

the President must cause Parliament to be informed, promptly and in appropriate detail, of the reasons for their deployment and—

- (i) where they are deployed in Zimbabwe, the place where they are deployed;
- (ii) where they are deployed outside Zimbabwe, the country in which they are deployed.



PART 3

POLICE SERVICE

219 Police Service and its functions

(1) There is a Police Service which is responsible for—

- (a) detecting, investigating and preventing crime;
- (b) preserving the internal security of Zimbabwe;
- (c) protecting and securing the lives and property of the people;
- (d) maintaining law and order; and
- (e) upholding this Constitution and enforcing the law without fear or favour.



(3) The Police Service must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.



PART 4

INTELLIGENCE SERVICES

224 Establishment of intelligence services



(2) Any intelligence service of the State must be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority as established by this Constitution.



CHAPTER 12

INDEPENDENT COMMISSIONS SUPPORTING DEMOCRACY

PART 1

GENERAL

232 Independent Commissions

The following are the independent Commissions—

- (a) the Zimbabwe Electoral Commission;
- (b) the Zimbabwe Human Rights Commission;
- (c) the Zimbabwe Gender Commission;
- (d) the Zimbabwe Media Commission; and
- (e) the National Peace and Reconciliation Commission.

233 Objectives of independent Commissions

The independent Commissions have the following general objectives in addition to those given to them individually—

- (a) to support and entrench human rights and democracy;
- (b) to protect the sovereignty and interests of the people;
- (c) to promote constitutionalism;
- (d) to promote transparency and accountability in public institutions;
- (e) to secure the observance of democratic values and principles by the State and all institutions and agencies of government, and government-controlled entities; and
- (f) to ensure that injustices are remedied.



PART 6

NATIONAL PEACE AND RECONCILIATION COMMISSION

251 Establishment and composition of National Peace and Reconciliation Commission

(1) For a period of ten years after the effective date, there is a commission to be known as the National Peace and Reconciliation Commission consisting of—

- (a) a chairperson appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders; and
- (b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.



252 Functions of National Peace and Reconciliation Commission

The National Peace and Reconciliation Commission has the following functions—

- (a) to ensure post-conflict justice, healing and reconciliation;
- (b) to develop and implement programmes to promote national healing, unity and cohesion in Zimbabwe and the peaceful resolution of disputes;
- (c) to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice;



PART 2

NATIONAL PROSECUTING AUTHORITY

258 Establishment and functions of National Prosecuting Authority

There is a National Prosecuting Authority which is responsible for instituting and undertaking criminal prosecutions on behalf of the State and discharging any functions that are necessary or incidental to such prosecutions.



260 Independence of Prosecutor-General

(1) Subject to this Constitution, the Prosecutor-General—

- (a) is independent and is not subject to the direction or control of anyone; and
- (b) must exercise his or her functions impartially and without fear, favour, prejudice or bias.

(2) The Prosecutor-General must formulate and publicly disclose the general principles by which he or she decides whether and how to institute and conduct criminal proceedings.

261 Conduct of officers of National Prosecuting Authority

(1) The Prosecutor-General and officers of the National Prosecuting Authority must act in accordance with this Constitution and the law.

(2) No officer of the National Prosecuting Authority may, in the exercise of his or her functions—

- (a) act in a partisan manner;
- (b) further the interests of any political party or cause;
- (c) prejudice the lawful interests of any political party or cause; or
- (d) violate the fundamental rights or freedoms of any person.

(3) Officers of the National Prosecuting Authority must not be active members or office-bearers of any political party or organisation.



CHAPTER 14

PROVINCIAL AND LOCAL GOVERNMENT

PREAMBLE

Whereas it is desirable to ensure:

(a) the preservation of national unity in Zimbabwe and the prevention of all forms of disunity and secessionism;

(b) the democratic participation in government by all citizens and communities of Zimbabwe; and

(c) the equitable allocation of national resources and the participation of local communities in the determination of development priorities within their areas;

there must be devolution of power and responsibilities to lower tiers of government in Zimbabwe.

PART 1

PRELIMINARY

264 Devolution of governmental powers and responsibilities

(1) Whenever appropriate, governmental powers and responsibilities must be devolved to provincial and metropolitan councils and local authorities which are competent to carry out those responsibilities efficiently and effectively.

(2) The objectives of the devolution of governmental powers and responsibilities to provincial and metropolitan councils and local authorities are—

- (a) to give powers of local governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them;
- (b) to promote democratic, effective, transparent, accountable and coherent government in Zimbabwe as a whole;
- (c) to preserve and foster the peace, national unity and indivisibility of Zimbabwe;
- (d) to recognise the right of communities to manage their own affairs and to further their development;
- (e) to ensure the equitable sharing of local and national resources; and

- (f) to transfer responsibilities and resources from the national government in order to establish a sound financial base for each provincial and metropolitan council and local authority.



PART 3

LOCAL GOVERNMENT

274 Urban local authorities

(1) There are urban local authorities to represent and manage the affairs of people in urban areas throughout Zimbabwe.

(2) Urban local authorities are managed by councils composed of councillors elected by registered voters in the urban areas concerned and presided over by elected mayors or chairpersons, by whatever name called.



275 Local authorities for rural areas

(1) There are rural local authorities, established in accordance with this section, to represent and manage the affairs of people in rural areas.



276 Functions of local authorities

(1) Subject to this Constitution and any Act of Parliament, a local authority has the right to govern, on its own initiative, the local affairs of the people within the area for which it has been established, and has all the powers necessary for it to do so.



CHAPTER 15

TRADITIONAL LEADERS

280 Traditional leadership

(1) The institution, status and role of traditional leaders under customary law are recognised.

(2) A traditional leader is responsible for performing the cultural, customary and traditional functions of a Chief, headperson or village head, as the case may be, for his or her community.

281 Principles to be observed by traditional leaders

(1) Traditional leaders must—

- (a) act in accordance with this Constitution and the laws of Zimbabwe;
- (b) observe the customs pertaining to traditional leadership and exercise their functions for the purposes for which the institution of traditional leadership is recognised by this Constitution; and
- (c) treat all persons within their areas equally and fairly.

(2) Traditional leaders must not—

- (a) be members of any political party or in any way participate in partisan politics;
- (b) act in a partisan manner;
- (c) further the interests of any political party or cause; or



CHAPTER 16

AGRICULTURAL LAND



289 Principles guiding policy on agricultural land

In order to redress the unjust and unfair pattern of land ownership that was brought about by colonialism, and to bring about land reform and the equitable access by all Zimbabweans to the country's natural resources, policies regarding agricultural land must be guided by the following principles—

- (a) land is a finite natural resource that forms part of Zimbabweans' common heritage;
- (b) subject to section 72, every Zimbabwean citizen has a right to acquire, hold, occupy, use, transfer, hypothecate, lease or dispose of agricultural land regardless of his or her race or colour;
- (c) the allocation and distribution of agricultural land must be fair and equitable, having regard to gender balance and diverse community interests;
- (d) the land tenure system must promote increased productivity and investment by Zimbabweans in agricultural land;
- (e) the use of agricultural land should promote food security, good health and nutrition and generate employment, while protecting and conserving the environment for future generations;
- (f) no person may be deprived arbitrarily of their right to use and occupy agricultural land.

290 Continuation of rights of State in agricultural land

(1) All agricultural land which—

- (a) was itemised in Schedule 7 to the former Constitution; or
- (b) before the effective date, was identified in terms of section 16B(2)(a)(ii) or (iii) of the former Constitution;

continues to be vested in the State.



291 Continuation of rights of occupiers of agricultural land

Subject to this Constitution, any person who, immediately before the effective date, was using or occupying, or was entitled to use or occupy, any agricultural land by virtue of a lease or other agreement with the State continues to be entitled to use or occupy that land on or after the effective date, in accordance with that lease or other agreement.

292 Security of tenure for occupiers of agricultural land

The State must take appropriate measures, including legislative measures, to give security of tenure to every person lawfully owning or occupying agricultural land.

293 Alienation of agricultural land by State

(1) The State may alienate for value any agricultural land vested in it, whether through the transfer of ownership to any other person or through the grant of a lease or other right of occupation or use, but any such alienation must be in accordance with the principles specified in section 289.

(2) The State may not alienate more than one piece of agricultural land to the same person and his or her dependants.

(3) An Act of Parliament must prescribe procedures for the alienation and allocation of agricultural land by the State, and any such law must be consistent with the principles specified in section 289.

294 Alienation of agricultural land by owners or occupiers

Subject to any limitation imposed by law, an owner or occupier of agricultural land has the right to transfer, hypothecate, lease or dispose of his or her right in agricultural land.

295 Compensation for acquisition of previously-acquired agricultural land

(1) Any indigenous Zimbabwean whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State for the land and any improvements that were on the land when it was acquired.

(2) Any person whose agricultural land was acquired by the State before the effective date and whose property rights at that time were guaranteed or protected by an agreement concluded by the Government of Zimbabwe with the government of another country, is entitled to compensation from the State for the land and any improvements in accordance with that agreement.

(3) Any person, other than a person referred to in subsection (1) or (2), whose agricultural land was acquired by the State before the effective date is entitled to compensation from the State only for improvements that were on the land when it was acquired.

(4) Compensation payable under subsections (1), (2) and (3) must be assessed and paid in terms of an Act of Parliament.

296 Establishment and composition of Zimbabwe Land Commission

(1) There is a commission to be known as Zimbabwe Land Commission consisting of—

- (a) a chairperson and deputy chairperson; and
- (b) a minimum of two and a maximum of seven other members;

appointed by the President.



297 Functions of Zimbabwe Land Commission

(1) The Zimbabwe Land Commission has the following functions—

- (a) to ensure accountability, fairness and transparency in the administration of agricultural land that is vested in the State;
- (b) to conduct periodical audits of agricultural land;
- (c) to make recommendations to the Government regarding—
 - (i) the acquisition of private land for public purposes;
 - (ii) equitable access to and holding and occupation of agricultural land, in particular—
 - A. the elimination of all forms of unfair discrimination, particularly gender discrimination;
 - B. the enforcement of any law restricting the amount of agricultural land that may be held by any person or household;