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## **Crisis in Zimbabwe Coalition statement on the constitution making process**

The Crisis in Zimbabwe Coalition (hereafter, The Coalition) registers its deep concerns over the continued control and politicisation of the constitution making process by the three political parties signatory to the Inter-Party Political Agreement (IPA), the two Movement for Democratic Change (MDC) formations and ZANU PF. The Coalition is further concerned by the stalling of and inordinate delays being seen in the implementation of the constitution making process, despite assurances by COPAC that the process would not be delayed any longer.

### **1. CIVIC SOCIETY PARTICIPATION AND REPRESENTATION IN THE COPAC LED PROCESS**

On numerous occasions in instances where a Civic Society presence was required as per the prescriptions of Article 6 of the IPA and other associated documents, The Coalition has been disturbed by the fact that instead of reaching out to bonafide civic society actors, political parties represented in Parliament have routinely created Civic Society Organisations, a phenomenon which first came to light at the poorly organised and managed First All stakeholders Conference in July 2009.

The above assertion is further qualified by information doing the rounds to the effect that the three political parties under the guise of a Constitutional Reform Management Committee, appointed as the two civil society representatives, Professor Phineas Makurane and Dr Hope Sadza to sit on the Project Board of the Constitutional Reform Process funding mechanism, whose name suggests that it seeks to support participatory constitution making in Zimbabwe. The Board which is meant to play an oversight role in the interest of ensuring that the commitments by government and COPAC, “ to conduct a participatory, transparent and inclusive constitution making process” are upheld.

The Coalition is disturbed by the fact that instead of moving for Civic Society representatives that are self selected by Civics and are accountable to Civic Society in its organised manner, The Politicians sitting in the Management Committee sort to mutate and transform Professor Makurane and Dr. Sadza into Civic Society representatives, a situation that is entirely unacceptable. The trend and tendency exhibited by the politicians running the Constitutional Reform process is sure to lead to one conclusion. Civil Society in particular and Society in general will support things that they are party to and will resist things that are foisted on them without meaningful representation. The two esteemed academics are simply that and while they are part of broader civil society, they do not represent anyone and are accountable to no one. They were chosen as chairs of the All

Stakeholders Conference, precisely because they were deemed to be independent and acceptable as “neutral by the same political parties.

## **2. TREATMENT OF THE CONSTITUTIONAL REFORM PROCESS AS AN EXTENSION OF THE INTERPARTY NEGOTIATIONS**

In July 2009, political parties had the most representation at the First All Stakeholder’s Conference, which was disrupted by ZANU PF supporters. The conference only re-commenced following a tripartite intervention by the three principals, Prime Minister Morgan Tsvangirai, Deputy Prime Minister Arthur Mutambara and President, Robert Mugabe buttressing the political nature of the process and how, to all intents and purposes the process is being managed as a negotiation by the three political parties exclusively. The Coalition states that the Constitutional Reform process should be people and value driven, and locally owned. This, by implication, necessitates that in all processes and structures a broad church of society is reflected outside just the political actors and their chosen surrogates or “comfort zones”. While the three political parties and their principals enjoy a lot of support amongst the Zimbabwean population, it is falacial to conclude that they represent everyone and all interests. The greatest principal in this process are the people of Zimbabwe. Everything done under this process should respect the sovereign wishes of ordinary citizens not just the partisan interests of political actors, in search of a false peace.

The handling of a sacrosanct process like the constitution making process as an extension of the political haggling taking place in terms of the inter-party negotiations is exemplified by the numerous gliches that the process has experienced because of differences between the politicians. These incidents include but are not limited to; the haggling over numbers of delegates to the All Stake Holders Conference of July 2009, delays and challenges in submitting delegates to thematic committees, disruption in January 2010 over differences in who to appoint as rappers amongst other issues, and the delays in the commencement of the Outreach process.

## **3. CIVIC SOCIETY’S GUIDING RESOLUTIONS**

The Coalition reiterates the position of civil society organisations taken at the Peoples Convention of 8-9 February 2008, and the Peoples Convention on Constitutional Reform of July 3 and 4 2009 that the constitution making process should be people driven and centred, and should be characterised by transparency, meaningful citizens’ participation, free assembly, free speech and meaningful consultation.

Some civil society organisations agreed to engage in the process as they felt that inspite of its documented and stated deficiencies, it would offer ordinary Zimbabweans an opportunity of getting a new, home grown people centred, democratic constitution, leading to a return to norm compliance by our state through democratic, free and fair elections, under a new democratic constitutional order. However, developments of the past months have revealed that political parties seem bent on monopolising the process, as an exclusive political actors party. If this trend continues, the constitution which will eventually come out will in all likelihood represent the views and

opinions of the political parties' elites and not of their members, let alone ordinary Zimbabweans, some who are neither ZANU PF nor MDC.

The Coalition wishes to remind the political parties that a constitution is greater than the political views of the ruling elites as it reflects the 'soul of the nation'. As such, the people should define the outcome and not the political parties.

These concerns, if unchecked will continue to make people lose faith in the constitution making process as it continues to be treated as an exclusive ball game between the political parties, a situation which can lead to eventual lack of ownership of the constitution by ordinary Zimbabweans and the possibilities of a rejection of whichever draft that comes out of the process.

#### **4. THE EFFECTS OF POLITICISATION OF THE CONSTITUTIONAL REFORM PROCESS**

Not only has the process been politicised at a national level but it has also cascaded to communities where supporters of one political party are victimising and intimidating residents to adopt the infamous Kariba Draft constitution. Violence has engulfed mostly rural areas on party lines and this could result in another June 2008 violent scenario. People in the different communities are unaware of the fact that the constitution is non-partisan as it defines the lives of each and every Zimbabwean. As long as politicians fail to clearly articulate this point to their supporters, the process will be ill-fated and will suffer a still birth.

The Coalition is also concerned with the stalling of the process by COPAC. The outreach meetings, which were supposed to end in November 2009 are yet to commence while the media blackout on the progress or lack of it in the constitution making process persists. The people of Zimbabwe, who are the proprietors of the constitution, have been reduced to mere spectators by the Parliamentary Committee.

The inclusive government should stop its bully tactics and its know-all mentality as it is not the custodian of knowledge nor does it represent all views in the constitutional review process. This political charade should cease forthwith.

The Coalition wishes to make it clear that;

- Civil society will not be used to rubber stamp a process whose course is negotiated and outcome pre-determined by exclusively political parties without the input of other sectors of society.
- Where it is warranted and demanded by law or process, there should be involvement of genuine civil society representatives, who are self selected by civic society, with the government and the Management Committee, desisting from manufacturing and forming their own civil society to create a facade of an inclusive process.

- The constitution making process is not the preserve of political parties but rather, of the people of Zimbabwe thus the people should be kept abreast of developments . Zimbabweans have a right to define their own future by penning a constitution which they desire.

In light of the above, The Coalition demands that;

1. Both the MDC and ZANU PF desist from hijacking the people's constitutional project by using it as a political battlefield. The constitution of Zimbabwe surpasses political interests and should thus be reflective of the will of the people.
2. The three political parties castigate political violence during the constitution making process and clarify to their supporters that drafting of a new constitution should be non-partisan.
3. COPAC operates transparently and accountably and reports to citizens on the progress or lack of it in the constitution making process
4. COPAC prioritises the outreach programs and sets the ball rolling for the crafting of a new constitution by addressing all outstanding issues around the process.
5. The inclusive government urgently addresses the calls for institutional and legislative reform to ensure that citizens engage freely and deliberate on the constitution without fear of victimisation. In particular, we call upon the government to ensure that the police force operates within the confines of the law and desists from further stifling the voice of the masses.

The Coalition reminds COPAC, the Inclusive Government and other stakeholders that “ People Support what they are party to creating, and reject what they are not” . If the above and other demands made by civic society are not addressed, rejecting the process and withdrawing from activities which are related to the process can easily become a reality.

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