



STATEMENT ON THE LAUNCH OF THE

ZESN/ZPP/ZLHR INDEPENDENT CONSTITUTION MONITORING PROJECT (ZZZICOMP)

Harare, Zimbabwe, 27 January 2010

For over a decade, Zimbabweans have demanded a new, democratic and people-driven constitution. In signing the Interparty Political Agreement (IPA), Zimbabwe's political leaders acknowledged in Article 6 that *"it is a fundamental right and duty of the Zimbabwean people to make a constitution by themselves and for themselves"* and *"that the process of making this constitution must be owned and driven by the people and must be inclusive and democratic"*.

It is in this context that the Zimbabwe Peace Project (ZPP), Zimbabwe Election Support Network (ZESN) and Zimbabwe Lawyers for Human Rights (ZLHR) Independent Constitution Monitoring Project (ZZZICOMP) has been set up to independently assess and evaluate the Article 6 constitution-making process against established principles, benchmarks and standards of constitutionalism and constitution-making, including openness and transparency, inclusivity, legitimacy, accessibility and receptiveness.

ZZZICOMP's goal is to objectively monitor, observe and report on the work of the Constitution Parliamentary Select Committee (COPAC), the public outreach programme, the work of the Thematic Committees and the Drafting Committee, and the final document produced in order to adjudge how democratic and transparent the constitution-making process is, and if it accurately reflects the input of broad and diverse popular participation.

The three partners in ZZZICOMP are non-partisan, independent and professional organisations whose main functions are to promote peace, promote democratic elections and to foster a culture of human rights and constitutionalism in Zimbabwe. None of the organisations are formally participating in the constitution-making process through representation in the outreach teams, the Thematic Committees, or the Drafting Committee, and so believe they will be able to engage in effective collaboration to independently monitor the constitution-making process and to contribute to increased public confidence in the outcome of such monitoring.

Already 420 monitors, as well as further provincial coordinators and other key personnel have been trained for this project. They are now on the ground across the country observing the operating environment in general, and are ready to commence the more intensive monitoring once the outreach teams have been deployed. They are dispersed nationwide in order to systematically gather information during the consultative processes, to comment on the operating environment and any breaches of the IPA in relation to the process, and to highlight any violations, violence, or other discrepancies which occur in the constituencies and wards in which they are operating.

The monitoring of the constitution-making process will also act as a confidence-building measure for the people by holding those leading the process to account and insisting on greater transparency, pressuring for a conducive operating environment, availability of diverse information relating to constitution-making, and ensuring that the draft constitution ultimately produced is a true reflection of the input provided by those participating in consultative and outreach processes.

ZZZICOMP is mindful that the IPA is a political compromise document and excludes civil society and the general public in its intent, formulation and implementation. This means that ZZZICOMP has a critical role to play in consistently scrutinizing the constitution-making process, offering encouragement if and where any positive progress is attained, but ultimately holding parties accountable where they fail to adhere to the scope and spirit of Article 6 of the IPA.

We stress that the constitution-making process must comply not only with the provisions of Article 6 of the IPA but with Zimbabwe's regional and international obligations and established norms, standards and best practices which will entrench constitutionalism, respect for the rule of law and democracy. It is against this that the Article 6 process will ultimately be judged.

ZZZICOMP will be producing regular updates and monthly monitoring reports which will be widely distributed for use by all who have an interest in the constitution-making process.

Because of ZZZICOMP's representative grassroots structures and proficiency in monitoring and observation, we believe that we remain a critical voice for a large portion of the Zimbabwean population who have seen their voices and wishes in relation to constitution-making in Zimbabwe silenced twice before in our history, and are wary of being manipulated in the same way once again.

Further, as responsible citizens and organisations we realize and are invested in contributing to the real need for change and transformation in Zimbabwe at the social, political and economic levels. A new constitution can contribute greatly to this objective, but only insofar as it is produced, owned and internalized by the people and reflects their desires and aspirations, rather than the objectives of those pursuing more narrow political or other agendas.

PRELIMINARY CONCERNS

In relation to the current constitution-making operating environment, we are of the considered view that the conditions which will make it possible for people to participate freely in the Article 6 process have not been created. Repressive legislation that inhibits freedom of assembly, association, expression and movement has not been repealed or amended, and continues to be selectively applied by the authorities.

The private media remains suffocated, while the public media remains in the control of retrogressive forces. The quality of reporting on the process by both the private and public media has been largely superficial and lacks both investigative quality, and substantive information which will assist the public to access and be educated about the many diverse issues relating to the process and content of constitution-making. It is only with such information that people can decide for themselves whether they wish to contribute to the process or not, and what they want to see addressed in any new constitution.

Selective application of the law targeting human rights defenders and perceived and real supporters of the Movement for Democratic Change is still rampant. The institutions of justice delivery remain unreformed and continue to contribute to the culture of impunity. Incidents of political violence continue to be documented, and the polarization of society that marred the 2008 elections has not been addressed. In January alone, there are at least 8 documented and confirmed incidents of torture, assault and various forms of intimidation, allegedly by ZANU PF youths, Zimbabwe Republic Police and Zimbabwe National Army personnel in Mudzi, Kuwadzana, Domboshava, Chimbondoro, Chiramwiwa and Harare.

In some provinces, such as Mashonaland Central (Mazowe and Bindura districts and Mt Darwin) and in Midlands (in Gweru Urban ward 3), our long term monitors have reported that some politicians are allegedly holding meetings in communities suggesting responses to various questions that they allege will be raised during the outreach.

Generally, there have been reports from other provinces such as Matabeleland North (Nkayi North), Harare (Chitungwiza), Mashonaland West (Hurungwe, Makonde, Kariba) and Mashonaland East (Hwedza, Mudzi

West and Uzumba), suggesting that politicians are urging villagers to support the Kariba draft as the basis for the constitution-making and threatening that without the Kariba draft “*there will be no constitution in Zimbabwe*”. In other instances, people are being threatened with unspecified action for raising concerns that “the process is not transparent or mulled”. The project is currently ascertaining whether such meetings and events are taking place in all the provinces.

We have noted with concern that the progress and transparency of the process has been marred from the onset. Since the formation of the Parliamentary Select Committee in April 2009 in accordance with the IPA timeline, its activities have been shrouded in secrecy, and confusion, with a general lack of information on progress. The establishment of the COPAC secretariat in December 2009 has done little to address these concerns, and there is still a high level of political interference in the operations of this secretariat, which is contributing to the confusion and delays. Those selected to be part of the outreach teams include a number of known perpetrators of human rights violations, and the ratio of political representatives when compared with civil society representatives is excessive. Further interrogation of this list, as well as the 100-200 extra individuals accredited in a non-transparent manner during the COPAC training, is continuing.

We also note with concern the perception created by COPAC that there will be 70% representation from civic society, yet within the 70% there are also political parties dominating hence making it a politically driven process. In addition we have also observed that there is under representation of women in structures created by COPAC which include co-chairs of the Parliamentary Select Committee, co-chairs of the thematic committees, resource persons and outreach teams.

We urge COPAC to select quality rapporteurs who understand the concepts of the process, the thematic issues and who will capture them accurately.

ZZZICOMP calls for an environment that enables Zimbabweans to freely decide whether they wish to contribute to the constitution making process or not without fear of reprisals. We also expect that a clearer deployment plan and methodology will be issued to the public in time for the monitoring preparations.

-ENDS-

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Background of the Partnering Organisations

ZESN

The Zimbabwe Election Support Network is a network of 30 independent, non-partisan NGOs that has been observing all aspects of the electoral process in Zimbabwe since 2000. Its vision is a Zimbabwe where democratic electoral environment and democratic processes are upheld. The organisation has also been observing elections in other countries and deriving best practices for electoral reforms. Over the years observation of electoral processes by ZESN has contributed immensely to instilling confidence, deterring electoral fraud and providing independent findings to various stakeholders. ZESN reports have thus been used and referred to by many as sources of reliable and credible information.

ZLHR

Zimbabwe Lawyers for Human Rights is a not for profit human rights organization whose core objective is to foster a culture of human rights in Zimbabwe as well as to encourage the growth and strengthening of human rights at all levels of Zimbabwean society through observance of the rule of law. ZLHR is committed to upholding respect for the rule of law and the unimpeded administration of justice, free and fair elections, the free flow of information and the protection of constitutional rights and freedoms in Zimbabwe and the surrounding region. It keeps these values central in its programming activities.

ZPP

Zimbabwe Peace Project is an NGO which promotes peace through monitoring and documentation of politically motivated human rights violations. The vision of ZPP is to see Zimbabwe transform into a society that cherishes the pursuit and realization of justice, freedom, peace, human dignity and development. ZPP has strong monitoring and documentation system with a presence in the 210 constituencies in Zimbabwe. ZPP is one of the premier organizations compiling information on the human rights situation on a regular basis in Zimbabwe. ZPP reports have been used as reference material by local and regional election observers, civil society organizations, embassies and international organizations.