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**ZAMBIA'S CONSTITUTIONAL REVIEW:
WHAT SORT OF PRINCIPLES AND ISSUES?**

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INTRODUCTION

The appeal for a Constitution that will “stand the test of time” appears to be a fundamental demand that is generally shaping the political, economical and ethical minds of the public in Zambia today. This is rightly so because the significance of a good Constitution is key to democracy, good governance, the rule of law and the development of the country.

At the core of this demand are three important questions: (1) Why do we need a new Constitution? (2) What should be the content of the new Constitution? (3) What process should we follow in reviewing the Constitution?

Currently, there are many issues that have arisen from these underlying questions. These are issues that cannot be overlooked and are threatening the calm and intelligent deliberations necessary to put a good Constitution in place.

It appears, then, that there is a need to affirm in a more nuanced way the very close inter-connection between *content* and *process* issues in order to assure a Constitution that will “stand the test of time”. Such an affirmation, however, should recognise and invoke the need for a constitutional consensus.

This *Policy Brief* of the Jesuit Centre for Theological Reflection (JCTR) aims at outlining some moral insights which could be helpful as Zambia reviews its Constitution and also makes explicit comment on the current Draft Constitution submitted by the Constitution Review Commission (CRC). Therefore, the *Policy Brief* has a two-fold purpose: (a) to offer some input to the on-going debates and (b) to submit formally the JCTR response to the CRC Draft Constitution.

CONTEXT

The Wila Mung'omba Constitution Review Commission is the fourth Commission to review the Zambian Constitution since independence. The constitutional changes followed upon recommendations from the Mainza Chona, the Patrick Mvunga and the John Mwanakatwe Commissions, resulting in the 1973, 1991 and 1996 Constitutions. Various factors, including economical and political factors, necessitated these reviews.

Unfortunately, many Zambians have not embraced the final content of the three Commissions because they have lacked constitutional legitimacy. That is, they are considered fruits of a “government-driven-process” rather than a “people-driven-process.” This is primarily because the Inquiries Act, which established these “Commissions of Inquiry”, gives government the powers to reject or accept people’s recommendations through a “white paper”. This was most evident with the Mwanakatwe Commission (1996) where over 80% of the recommendations were rejected outright by then-President Chiluba.

As a consequence, the current Constitution (amended and approved by Parliament in 1996) continues to raise a lot of concerns that require rigorous and comprehensive review. For example, that amended version inserted into the Preamble the “Christian Nation” declaration, contained ambiguous citizenship language, and rejected incorporation of economic, social and cultural rights, children’s and women’s rights in the Bill of Rights.

Inadequacies are also noticed in the electoral legislation and practice, such as, the presidential election petition process. Moreover, the Supreme Court opinions after the 1996 elections and 2001 elections clearly pointed out flaws such as the role of the Chief Justice as Returning Officer, the status and composition of the Electoral Commission and the use of the public media.

Hence, in April 2003 the Mung'omba Constitution Review Commission was appointed by President Mwanawasa to review the Constitution in order to enhance democracy and good governance. And in August 2003 the Electoral Reform Technical Committee (ERTC) was formed to review the electoral legislation and to propose comprehensive electoral legislative reforms. Therefore, these two processes raise hope for good electoral legislation and a good Constitution.

ETHICAL DIMENSION

The JCTR realises that the debate around what should be contained in the final Constitution (*content*) and how to adopt the Constitution (*process*) is not only a political debate or discussion, but is very fundamentally an *ethical* one.

This is why the JCTR believes that there is a value-added dimension that the Church's Social Teaching (CST) can contribute to the on-going constitutional debate. JCTR considers CST to be realistically very important, contextually very worthwhile, and potentially very influential.

Therefore we state early in this *Policy Brief* that the CST supports calls for a Constitution that takes into consideration at least the following value dimensions:

(a) Human Dignity

CST's input to the constitution-making places primary emphasis on the respect for the dignity of the human person. That is, the worth of being human is not constituted by any human declaration or institution, but rather given by God, a universally shared reality.

The inalienable dignity of every person and the rights that flow from that dignity – in the first place, the right to life and the defence of life – as well as the well being and full development of individuals, are core to CST message. Hence, human dignity, realised in community with others, becomes the norm against which all-social institutions and state activities (including, the review of the Constitution) must be measured.

However, on the individual level this dignity is denied when due regard is not given to values such as freedom, the right to profess one's religion, physical and mental integrity, the right to life's necessities and the right to life itself. On the social and political level, it is infringed upon when human beings cannot exercise their right to participate, when they are subjected to unjust and illegitimate coercion, when they are subjected to nepotism, bribery and corruption and when they are subjected to physical and mental torture.

(b) Common Good

Common good is described by the CST as "the sum total of those conditions of social living whereby all people are enabled more fully and more readily to achieve their own perfection." This means that each person both benefits from and contributes to the fullness of life.

Therefore, to be excluded from playing a significant participative role in the life of society is a serious injustice, for it frustrates legitimate aspirations to express oneself in human freedom. Moreover, it damages the social fabric of community and frustrates the realisation of social justice, development and peace.

(c) Protection of Human Rights and Freedoms

Protection of human rights and freedoms entails having a Bill of Rights that incorporates a broad range of human rights and freedoms. For example, there should be explicit inclusion of economic, social and cultural rights; rights of disadvantaged groups including children, women, disabled and the elderly; and a clear legal process to assure implementation and protection of these rights and freedoms.

(d) Respect for the Principle of Subsidiarity

The principle of subsidiarity requires that decisions should be made at the closest possible level to the people affected; hence, the need for devolution of power. This entails respect for the wider society's involvement and participation in the affairs of the nation at grassroots level (beyond mere consultation, but as main actors). Such participation requires both (i) a democratic mechanism that assures adequate representation of all interest groups and (ii) a technical capacity that assures competent input into the content and process of a new Constitution.

(e) Respect for the Principle of Responsibility

Social and moral responsibility implies the power and the duty of all citizens to consciously take upon themselves to act or not to act and to be answerable for their decisions. While exercising their rights, citizens must respect the rights of others and always fulfil the duties of seeking the common good for all. It also entails respect for the rule of law and respect for the principle of separation of powers, that is, co-existence of the three organs of government (legislature, judiciary and executive). Responsibility also extends to the protection of the environment the common habitant of all of us.

(f) Special Concern for the Vulnerable Groups in Society

Special concern for vulnerable groups in society – sometimes referred to as the “preferential option for the poor” demands good social security legislation and pro-poor budgeting and implementation – including the need to disburse 100% of the funds meant for poverty reduction programmes. It calls for concrete measures to be undertaken such as affirmative action to enable more women, youths and people with disabilities in decision-making positions.

All the above values -- e.g., human dignity, human rights and freedoms, common good, respect for the principles of subsidiarity and responsibility and special concern for the poor – as espoused by CST are part of the minimum conditions necessary for life in community and the nation as a whole. They must be respected, promoted, defended and cherished by all Zambians. In the construction of the fundamental law of the land, our Constitution, these values must be foundational.

CONTENT

The JCTR's analysis of the Interim Report and Draft Constitution submitted to the public by the Mung'omba Commission reveals some issues with which we agree with and some issues with which we disagree. What follows here in this *Policy Brief* is the formal submission made to the CRC with explanations for our comments and recommendations. As can be seen from the text, our submission is clearly based upon the set of values that we have earlier made explicit.

1. JCTR AGREES WITH THE COMMISSION ON THE FOLLOWING ISSUES BASED ON THE REASONS GIVEN:

(a) The Bill of Rights

We strongly endorse the CRC proposal to redesign Part III of the current Zambian Constitution in order to update our Bill of Rights. We specially endorse the following recommendations: provisions guaranteeing human dignity (article 37); equality of men and women (article 40); protection of women and further rights for women (article 79), special measures for achieving gender equality (article 80); children's rights (article 42); rights of the elderly (article 41); rights of persons with disabilities (articles 45, 46); environment (article 71); access to information (article 72); freedom of media (article 54); consumer rights (article 62); freedom of religion, belief and opinion (article 51).

In addition, we applaud the explicit incorporation of economic, social and cultural rights in the Bill of Rights – rendering them justiciable. Notably, these include the rights to language and culture (article 47); to labour relations and pensions (article 65), social security (article 66), health (article 67), education (article 68), shelter and housing (article 69), food, water and sanitation (article 70).

We further commend the Commission for recommending the expansion of the “locus standi” to include “a group of persons or a person or institution acting on behalf of any other person” (article 86). We support the establishment of a Constitutional Court (article 204) within the judicial system to deal with matters related to human rights violations. Indeed, “the Constitution should explicitly provide relief to aggrieved parties against the State in enforcing judgements” (Interim Report, Chapter 3).

(b) Loan Contraction Process

The recommendation to engage Parliament to be involved in loan contraction was one of the submissions made by the Jubilee-Zambia, the debt cancellation campaign hosted by the JCTR. As is often emphasised by Jubilee-Zambia, the public should be the prime beneficiaries of any loan contracted in their name. Therefore, there must be constitutional guarantees that enable people to effectively participate in and control the debt contraction process.

In this regard, we welcome the Commission’s recommendation that “the Constitution should provide that international and domestic contracts for public debt and loan guarantees should be approved by National Assembly before taking effect” (Interim Report, Chapter 21). This is explicitly provided for in article 164(3), (f); article 331 and article 332.

(c) Executive Reforms

We support the recommendations of appointing Cabinet Ministers and Deputy Ministers from outside the National Assembly, subject to Parliamentary approval (articles 152, 153).

We applaud the appointment of Cabinet Ministers from outside Parliament for the following reasons: (i) this enables the government to engage as Ministers appointees from the wider pool of expertise; (ii) this avoids MP distraction of duties (for example, constituency and ministerial demands) and (iii) a process can be developed that will allow Ministers when necessary or whenever required to do so to appear before Parliament to answer any questions, as recommended by the Commission (Interim Report, Chapter 8).

(d) Electoral Reforms

The demand to review electoral legislation is indeed a very vital component of the constitutional review. Therefore, we endorse the following recommendations: the requirement of the 50% plus one of the total votes cast for a winning presidential candidate (article 130); the chair of the Electoral Commission of Zambia to be the Returning Officer for the presidential election [article 134(6)]; the Vice-President to be elected by universal adult suffrage as a running mate of presidential candidate [article 149(3)]; a losing presidential or parliamentary or local government election candidate not to be eligible for appointment to Cabinet (article 106).

Other outstanding recommendations we affirm include the legal provision for a Fast Track Ad Hoc Electoral Tribunals to settle disputes of presidential [article 136(3)], parliamentary (article 171) and local government (article 240) elections; a definite month for Tripartite Elections and that Day to be a public holiday (article 107).

Moreover, we welcome the proposed mixed member proportional representation of National Assembly (article 165) and local government (article 239); by-elections to be held only where a vacancy is due to death, incapacitation of an MP or Councillor, nullification of an election or where a vacant seat was held by an independent MP or Councillor (articles 168 and 249 respectively); and the electorate to have an opportunity to recall a member of the national assembly (article 193) or councillor (article 242).

We feel that all of these electoral reforms are necessary to improve the electoral system in Zambia which has been marred over the years by unfairness and irregularities. Many of these reforms have also been recommended by the Electoral Reform Technical Committee and are therefore indications of holding very wide public support.

(e) The Removal of “Christian Nation Declaration” in the Preamble

With regard to the “Christian Nation Declaration,” we endorse the recommendation made by the Commission that the Constitution “should not declare Zambia as a Christian Nation” (Interim Report, Chapter 1). We agree with the Commission that the declaration is discriminatory and violates the provisions of the Constitution relating to freedom of worship and conscience.

Moreover, we support the removal of the declaratory paragraph for the following six reasons: First, there is no solid scriptural foundation for such a declaration. Second, there is no necessity for such a declaration in order to freely promote Christianity in the country. From independence in 1964 to the constitutional amendment of 1996, there was no “Christian Nation Declaration” to promote Christianity and yet our religious spirit flourished in personal and social affairs.

Third, there is clear evidence that such a declaration has been previously used to promote personal political agendas, for example, the abuse of “slush-funds”. Fourth, there is no demonstration that such a declaration has been empirically verified. The Zambian Catholic Bishops’ pastoral letter “The Future Is Ours” in 1992 urged that a Nation is not Christian by *declaration* but only by *deeds*, especially the deeds of justice and concern for the poor.

Fifth, there is strong concern that the declaration in fact could act as a discriminatory bloc against the non-Christians, thereby creating a sense of “second class citizenship” in Zambia. This is also clearly observed by the Human Rights Commission that the declaration has the “potential of subjugating other religions and beliefs and excluding non-Christians from participating fully and effectively in the affairs of the country, and would breed religious intolerance” (The Post, 5 October 2005). Sixth, there is a great danger in ignoring intolerance and violence that can characterise such declarations, as often witnessed in “religious states”. For instance, in Spain (Catholic/Christian nation) and Saudi Arabia (Islamic nation).

In our view, the right to freedom of religion is clearly protected in article 51 of the Bill of Rights, which guarantees the right to freedom of conscience, religion, thought, belief and opinion. This article offers a clear and equal legal protection to all religions. Indeed, we maintain that true religious freedom cannot exist unless there is a clear separation of the State and religion.

(f) Mode of Adoption of the Constitution

On the mode of adoption of the Constitution, we support the Commission’s recommendation of adoption of the Constitution by the Constituent Assembly and a National Referendum (Interim Report, Chapter 26). This mode is constitutionally wise, legally possible and popularly demanded. It is surely a necessity if we are to see the opening of the Constitution to reflect a truth: “We the People....”

2. JCTR DISAGREES WITH THE COMMISSION ON THE FOLLOWING ISSUES BASED ON THE REASONS GIVEN:

(a) The Right to Life

The right to life is guaranteed in article 36 of the Bill of Rights, which protects life from the moment of conception, but stipulates two exceptions in clause 2 under which a foetus can be deprived of life and clause 3 under which a convicted criminal can be deprived of life. We do not believe that these exceptions should be in the Constitution.

Article 36(2) gives Parliament powers to enact a law that (a) allows abortion relating to mother’s health, but (b) allows “to the extent otherwise set out in legislation”. This latter exception has no constitutional restraint, opening to the situation whereby Parliament could simply legislate “abortion on demand” -- i.e., for any reason whatsoever. Such language is surely dangerous to the right to life and should be removed from the Draft Constitution.

A change in this regard is supported by the Convention on the Rights of the Child (1989), signed by Zambia in 1990, that clearly states, “The laws of the State must protect children before and after they are born.” Therefore, Zambia is both legally and morally called upon to preserve human life before and after birth.

Article 36(3) retains the death penalty in Zambia. We believe that the arguments advanced in the Interim Report for abolition of the death penalty are absolutely convincing. But the recommendation given for the retention is that “for the time being, the death penalty be retained; and that further debate and a national referendum be conducted on the subject” (Interim Report, Chapter 3). We do not believe that further discussion can override the basic moral principle of preserving life and can warrant any justifications for retention of death penalty, such as a supposed deterrent to would-be offenders.

We would like to re-echo the Zambian Catholic Bishops’ words from their pastoral letter “Choose Life” of 1997 that “every human life is sacred and demands the greatest respect and protection at every stage of development” (# 3). This human life includes even the life of an offender.

Moreover, even though Zambia has not yet signed the Second Optional Protocol to the International Covenant on Civil and Political Rights of 1989 that provides for the abolition of the death penalty, Zambia should still join the rest of the international community, especially other African states, that have explicitly rejected the death penalty in their Constitutions.

Quite evidently, *de facto* evidence (increasing statistics of people on death row), *de jure* evidence (reluctance of sitting Presidents to sign death warrants) and the moral principle to preserve life provide a solid basis for which Zambia should do away with death penalty. The new Constitution should make this very explicit and clear.

(b) Refugee Citizenship

The issue of refugee citizenship needs further clarification and special considerations. Refugees appear in three provisions: article 20(3), concerning citizenship by registration; article 42(6), concerning children; and article 60, which deals with refugees and *non-refoulement*. Articles 42 and 60 concerning refugee children are indeed welcome.

However, the citizenship by registration provision [article 20(3)] explicitly excludes refugees who are born in Zambia from obtaining Zambian citizenship. We do not agree with this provision for the following reasons:

- This is a direct and biased discrimination against refugees, as opposed to other persons born in Zambia of non-Zambian parents;
- The thrust of the provision is contrary to incorporating long-term refugees more fully into the Zambian society in which they can contribute to the betterment of the society that has benefited them over the years;
- The proposed article 6 in the current Constitution only entitles persons to *apply* for citizenship. The actual *grant* of citizenship is governed by Chapter 124 of the Laws of Zambia which permits the citizenship board to grant or deny citizenship to applicants. The discretion of the board is unregulated and unreviewable in court. Citizenship can be denied for any reason or no reason at all. The proposed article 20 does not rectify this violation of due process.

Therefore, we endorse the observations made by the Jesuit Refugee Service (JRS) that: (a) article 20(3) be amended to eliminate the language in section 3 which excludes refugees from citizenship by registration (b) the words “to apply” in sections 1 and 2 of article 6 should be stricken and the provisions should each read “is entitled to be registered as a citizen.”

(c) Removal of the Word “Secular”

There have been considerable debates and confusions surrounding the word “secular” being used in Part II, “Republic of Zambia and its Sovereignty” of the Draft Constitution which reads:

- 8(1) Zambia is a secular State without a state religion.
- 8(2) State and religion are separate.

The JCTR understands that the word “secular” in constitutional law does not mean espousing for a “godless” nation or one that is freely immoral. However, due to the ambiguity and misunderstanding that has been generated in some circles in Zambia by the inclusion of the word “secular”, we see that its use can have unnecessarily divisive potential. Indeed, as the recent debate demonstrates, this issue has been unfortunately distracting from much more important constitutional issues that the public should be focusing on.

We therefore recommend that the word “secular” in Article 8 be explicitly dropped. We recommend instead that the following wording be used to simply state that:

- 8(1) Zambia has no state endorsed religion.
- 8(2) State and religion are separate.

MODE OF ADOPTION OF THE CONSTITUTION

The question of *process* of adopting the Constitution has been the subject of much heated debate and lively demonstrations. This has been particularly heightened in recalling the rejection by the Chiluba administration in 1996 of almost 80% of the recommendations made by the Mwanakatwe Commission.

Since then, the source of conflict lies in the failure to reach consensus between two interests: (i) the need to encourage popular engagement in the method of review of the Constitution (through a Constituent Assembly) and (ii) the need to ensure government’s authority is not undermined (hence, frequent use of the Inquiries Act). And yet all stakeholders agree that the bone of contention in constitution-making is in fact the continued application of the Inquiries Act.

Quite clearly, the government under the Inquiries Act reserves the power to determine the terms of reference and the power to appoint commissioners. The Commission, after collection of people’s views, submits its reports (the Draft Constitution and the Interim Report) to the President. Then the President and Cabinet issue a “White Paper” (government’s reactions to the recommendations of the Commission) whereby they accept or reject any recommendation and make any modifications that they desire.

But it is extremely important in this discussion to honestly acknowledge, as has been widely noted, that the Inquiries Act was never designed for constitutional review. Rather its structure and process is intended to inform the President on any matter of public interest or concern. For example, it might be appointed to review an accident or the operations of an institution so that government could properly make a response. And yet, successive Zambian governments since Independence have used and defended this method in reviewing the Constitution, the fundamental law of the land. History has shown that this has more often been to the advantage of the government in power than to the people of the nation.

As rightly noted by the Mung’omba Commission in its Interim Report, this “method of review and adoption of the Constitution allows the government to override the wishes of the people” (Interim Report, Chapter 26). In previous constitutional reviews, petitioners have suggested an alternative process to allow a body with broad representation to debate and *adopt* the content of the Draft Constitution before Parliament *enacts* it into law.

During the Mvunga Commission, most petitioners said, “The method of adoption of the Constitution should be considered as an important factor in determining its legitimacy. They, therefore, submitted that the Draft Constitution should be debated and adopted by a Constituent Assembly or National Convention”. (Interim Report, Chapter 26) Contrary to petitioners’ demands, however, the Mvunga Commission recommended that the Constitution should be adopted and enacted by Parliament.

On the other hand, the Mwanakatwe Commission agreed with the overwhelming views of petitioners and found it unavoidable and compelling to recommend unanimously that there be adoption of the Constitution by a Constituent Assembly and a National Referendum. A referendum is in fact required for purposes of amending or making alterations to Part III of the Constitution, which is the Bill of Rights.

The Mung’omba Commission similarly reiterates the same recommendation for adoption of the Constitution by a Constituent Assembly followed by a National Referendum. The Commission makes clear that it is not impossible to establish a Constituent Assembly -- what is needed is only to pass the necessary legislation (Act of Parliament). This legislation can give legal effect to the Constituent Assembly, laying down the processes and procedures, allocating the necessary resources, as well as stating the composition and functions.

What we have reviewed historically here reaffirms the clear need for change in the constitution-making process. *Such a change is desirable, inevitable, possible and necessary if Zambia is to have a durable Constitution that truly represents the will of the people.* Undoubtedly, a good Constitution will only come through a properly safeguarded process that will explicitly incorporate most of the recommendations people have submitted.

For these reasons, the JCTR supports the Mung’omba Commission’s recommendation of adoption of the new Constitution by the Constituent Assembly and a National Referendum (Interim Report, Chapter 26).

WAY FORWARD

Zambia is in immediate need of good electoral reforms and a solid Constitution. For this reason, at this moment of constitutional review, there is need to embrace the values of constitutional dialogue, compromise and patriotism in order to move the process forward.

(a) Constitutional Dialogue

The first value is *constitutional dialogue*. Simply understood, dialogue involves a courteous discussion with a view to reaching or at least drawing closer to a consensus. And central to constitutional dialogue is a corollary duty for interested groups to be open and ready to listen and to share positions that would see a better future. This is a recipe for political tolerance.

The way forward about the new Constitution is in government’s continued engagement in dialogue with all stakeholders, the church, civil society representatives and opposition political parties.

After all, this must be done in order to achieve a common desire and a common purpose. One Eastern province proverb rightly captures the benefit of this experience: “*Anthu awiri sayenda limodzi asanapangane*” (No two people shall walk together without making an agreement). A good Constitution (consequently with good electoral reforms) must necessarily be a result of a national consensus.

(b) Constitutional Compromise

The second value is *constitutional compromise*. At some point in time of their dialogue, the government, civil society organizations, the church and opposition political parties would have to sacrifice some of their positions to allow for better electoral reforms and constitutional clauses. This would not, of course, mean wholesale abandonment of key elements in the Constitution.

To compromise is not to admit defeat or to give away one's important values. It is better understood to mean a move to cooperate, to make concessions, to engage in "give and take," or to find the middle ground. To compromise over the constitutional reforms is a sign of statesmanship.

(c) Constitutional Patriotism

The third value is *constitutional patriotism*. 2006 elections will be a time when as Zambians we will have a chance to vote for all our leaders – the President, Members of Parliament and Councillors. Calls for new electoral reforms would enrich the process that would eventually bring in the winners through an agreed Electoral Act and Constitution. Truly patriotic Zambians want free and fair elections and will take steps to assure that.

Indeed, what we all need is a revived patriotic spirit of *nationalism*. This means that Zambians love their country so much that they are willing to work extra hard for a good Constitution and good governance. For example, members of the Constituent Assembly (CA) would not expect sitting allowances and staying in expensive accommodations – thereby cutting down on the expenses for the CA (funding expenses seem to be a hiccup for both government and cooperating partners).

Moreover, just as the nationalists who fought for our independence in 1964 were courageous and selfless, focusing all their attention and energies on the good of independence, we need similar virtues if we are to have a good Constitution for Zambia.

These three values – *dialogue, compromise and patriotism* -- are necessary to move forward at the present moment and would greatly contribute to national stability and afford an opportunity for all to be heard.

CONCLUSION

The JCTR believes that the success or failure of the present Constitution review hinges on the mode of its adoption. Therefore, consensus on the constitution-making process is vital. However, as observed by the Mung'omba Commission, there is no legal provision relating to adoption in the current Constitution. Hence, calls for Parliament to enact an enabling legislation to allow for the establishment of a Constituent Assembly are reasonably justified to assure a good Constitution.

It is clear in the debates now that there is need for all stakeholders to reach consensus in both *content* and *process*. There is a moral demand that involvement in these two processes should not be an option, preserve or monopoly of a few.

In the well-worn and time-honoured phrase, *democracy* has been defined as "government of the people, by the people and for the people." Thus, to have a truly democratic Constitution for Zambia, everyone is looking for a Constitution:

- **of Zambians, *inclusive* of everyone**
- **by Zambians, *participative* by everyone**
- **for Zambians, *beneficial* for everyone**

Indeed, a good Constitution is one that is broad based, inclusive, open and allows every citizen to participate in its building process. Citizens become proud of it, own it, pledge to support its contents and are ready to defend its cause because it truly reflects a fundamental national consensus. After all, the people of Zambia are the ultimate custodians of the laws of the land. We say that very explicitly in the opening of our Constitution: "We the people...."

In this *Policy Brief*, the JCTR makes clear our belief that an effective and equitable end to the current constitution-making is worth struggling for with wisdom, courage and selflessness.

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