Resolutions of the Civil Society Leaders Conference held on the 18th-19th of October 2012.

We, Civil Society Organisations, meeting under the banner of the Constitutional Coordination Mechanism, at a Civil Society Leaders Conference, at Pandhari Lodge from the 18th – 19th of October, have deliberated on the COPAC Draft Constitution and plans for the 2nd All Stakeholders Conference, with the view of coming up with coordinated and common positions on the conference and coming up with minimum standards, building consensus, and agreeing on key issues, strategies and of areas of engagement with COPAC.

NOTING – The value and importance of a constitution to our country, wherein the country is faced with the 2nd All Stakeholders Conference, and asserting our devotion to the finalisation of the constitution making process as captured by our conference theme **"OUR COUNTRY, OUR INPUT, OUR CONSTITUTION"**

AWARE – of our diversity as Civil Society organisations and the different approaches within CSOs with regards the process, but affirming our commitment to a coordinated and common approach

MINDFUL – Of the absence of a clear defined framework for CSOs participation in the Constitution making Process generally, and the confusion around same on the 2nd Stakeholders Conference specoifically,

Mindful of the continued inflexibility of political parties represented in the COPAC process, and the rebuffed moves by COPAC and Political parties to accredit Civil Society Delegates and Monitors to the 2nd All Stakeholders Conference under the auspices of Political Parties,

Acknowledging – The progressive nature of the draft in terms of the human rights bill and the capability of the draft to promote and protect human rights through judicial independence, separation of powers, recognition of the rule of law

REALISING – That our lived realities as citizens of Zimbabwe are different, that a constitution should speak to these lived realities, and noting that the draft in its current form has taken giant steps in addressing such through the participation of women, protection of women's rights,

COGNISANT - Of the inclusion of economic and social rights in the draft and that these rights can impact positively on the quality of life of citizens through the justiceability of such

Further, make the following resolutions:

1. That the draft, in its current form, is a progressive document that has more positives than negatives, and can be acceptable in comparison with the Lancaster House Constitution.
2. That inspite of the foregoing, and in noting that it is not a perfect document, we will continue to fight for the drafts improvement at the 2nd All Stakeholders Conference and following process, including after or if it is accepted as the principal law of the country.
3. That in furthering point 1 and 2 above, Civil Society will participate at the 2nd All Stakeholders Conference, but not under the ambit of political parties
4. That as CSOs, we will celebrate our diversity, and will work towards harnessing our diversity for the realisation of a coordinated, common and united approach.
5. That we commit ourselves to our role as genuine players, stakeholders and watch dogs in the affairs of our country, in a non partisan manner for the national interest of Zimbabwe.
6. That we commit ourselves to the building of a genuine, broad based, seen, felt, heard and inclusive leadership of CSOs in order to facilitate meaningful coordination among ourselves and Zimbabweans on key democratic processes.
7. We Re-affirm our desire for Collective activism and broad based strategies on key democratic processes and issues.
8. We will embark on a massive education campaign, and popularise the Draft Constitution in all indigenous languages, for the

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benefit of all Zimbabweans, and the promotion of a meaningful national debate on the same.

9. That we continue to be bound by our democratic values and commitment to universalism of human rights in the country
10. That from the 2nd All Stakeholders Conference going forward, we commit to doing all we can to safe guard the gains that have been seen through the Current Draft Constitution, without forgotteing our commitment on the other hand, as expressed in 2 above.

During the Course of the Civil Society Leaders Indaba, we held 14 Concurrent workshops, where we noted the following:

1. Women's Workshop – After a thorough analysis of the COPAC draft Constitution, 75 percent of the demands coming from women and identified as women's minimum demands at the onset of the constitution-making process are incorporated in it. The following are the 10 reasons, sponsored by the Women's Movement on why women should support the draft:

It has an equality clause for women and men
Prohibits unfair discrimination
Recognises women specific rights
Outlaws negative customary practices
Proposes affirmative action to redress existing inequalities
Protects women's rights to property including in marriage
Obliges the state to ensure women's access to resources
Prevents and protects women from domestic violence
Equality of rights in marriage and widowed and divorce
Recognises rights of children and protects girls from forced marriages
No gender budgeting provisions

The Women's Workshop, however, noted that the Draft has some shortcomings, which need to be addressed as follows:

The 50/50 principle does not extend to senate, parliament and local government while we applaud the 60 seats we are not sure they guarantee parity and equality.
The Death penalty clause is discriminatory and should be corrected with the total removal; of the death penulty.

2. Youth Workshop – Note that the draft has, generally, managed to capture youth issues in a progressive manner, but has gaps in that

there is no representative body for the youth,
The draft fails to institute representation of young women,
The failure to mention youth in the bill of rights.

With regards to the Stakeholders Conference, the youth resolved to push for access to the conference and participate with a developed position paper with minimum demands and clear benchmarks.

3. Media Workshop - The workshop concluded that the draft is a big improvement because the right to freedom of expression has been explicitly expressed and there are guarantees for media freedom and access to information. Furthermore artistic freedom is recognised under the draft and guarantees for academic freedom. The draft also makes an attempt to create an independent broadcasting authority and the protection for journalist as it does not compel journalist to reveal their sources. However, the workshop noted the negatives, that is:

the entrenchment of statutory media regulations like the Zimbabwe Media Commission, and
lack of clarity on timeliness of accessing information

4. Governance and Democracy Workshop – Noted that the draft largely addresses issues specific to this sector, noting that the Draft guarantees supremacy of the constitution whereby amendments to key provisions of the constitution must have peoples' consent of a 2/3 majority and the calling of a referendum. Further in terms of the Bill of Rights, the workshop noted that it protects civil and political rights. The workshop further noted that Devolution of power is a positive provision in that the responsibilities of the government are devolved to recognise right of communities to manage own affairs, ensure equitable sharing of resources, enhance participation and promote democracy. The group resolved that That the draft, in its current form, is a progressive document that has more positives than negatives, and with a few improvements on 'Chapter 17: Elections' and Independent Commissions like ZEC, the draft can be acceptable in comparison with the Lancaster House Constitution. The workshop also noted

the following under transitional arrangements as something worthy of suggesting to the 2nd All Stakeholders Conference and lobbying COPAC and parliamentrians further on:

The Auditing of the Judiciary and Judicial decisions including those of the Attorney General and other Public Office bearers as part of transitioning as well as cleaning the slate ahead of a new constitutional dispensation.

The institution of a group or body to over see the above, and vet public officers in future, as examplified by the Kenyan vetting and approval system.

5. Human Rights Workshop – Acknowledged the progressive nature of the draft in terms of the human rights bill and the capability of the draft to promote and protect human rights through judicial independence, separation of powers, and recognition of the rule of laws and establishment of institutions that promote and protect human rights. However, there are areas where improvements can still be made.

6. Social and Economic Justice – The workshop noted that there is a big improvement in terms of guaranteeing social and economic rights within the draft where public finance and administration is concerned, with room for improvements in terms of justiceability which in the Draft is hampered by the claw back provision in respect of availability of resources. Further in terms the protection of the right to land there is no clarity and comprehensiveness on the rights of settled people and those displaced for the purposes of development in the areas of compensation.

7. Children's Rights - Appreciated the draft constitution section on children's rights, though there is a need for specification on how these rights can be accessed by children

8. Differently abled - Noted that the draft captures a number of positive issues with regards disability. There are however negative issues that need to be attended to before this draft becomes a constitution that can facilitate the full enjoyment of rights by the disabled

- There is under representation of people with disabilities in the senate and no representation of the same in the house of assembly, we have proposed a 15% self representation of PLWD in both houses
- The use of ambiguous terms such as encourage, foster and consider might make enforcement almost impossible
- Proposal for the establishment of a disability commission
- All forms of communication should be in languages or forms compatible with the PWD
- The constitution should define disability and not just classify it as physical and mental disability but as disability
- State to provide adequate support systems which will enable PWD's to fully participate in mainstream society
- Disability should be mainstreamed in all national activities and structures

9. Residents Workshop - Agreed to adopt and defend the COPAC draft constitution, though there are some issues to be sorted out:

- Residents workshop reiterated the issue of autonomy from poltical actors and donors for CSO's, and that Civil Society participation must be self driven and not driven or paddocked into donor needs or political party comforts. Advocate for the establishment of a local government commission
- Recognition of Residents Associations as key stakeholders within the local government sphere
- Devolution of Power: That, principles governing the relationship between local and central government must be clearly outlined.
- The constitution should provide for the independence and autonomy of local governments
- Creation of a Local Government Commission: That the creation of the Local Government Commission be specifically provided for in the constitution and appointed in a manner that guarantees the independency of the commission.
- Recognition of Residents Associations as key stakeholders with the local government sphere: That The constitution provides for residents associations' input in the appointment of the Local Government Commission,
- Funding of Local authorities: That Councils must consult residents concerning budget formulation and the constitution must clearly define participation
- Power of Recall: That the Executive authority be given by the constitution and that All Mayors be directly elected by residents.

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10. Churches - Not all concerns are addressed

Demand for complete abolishment of the death penalty, abortion

Demands for the rights of freedom of worship

11. Arts and Culture – Observed that the COPAC draft was genrally good for all citizens, and deserves to be supported but falls short of addressing specific sector issues that were submitted to COPAC for inclusion in the constitution, e.g.;

Around the need to establish an arts and culture commission.

need to define culture broadly, and also defining 'harmful cultural practices'

12. Students – Noted that Preamble is silent on education and that the right to education not fully guaranteed and is silent on where the resources will come. The workshop also resolved that the Draft Constitution must carry the right to education beyond the description of 'basic', welfare and academic freedoms, health, employment, and shelter.

13. LABOUR – Whilst noting the progressive nature of the draft, the workshop raised concerns on the following

There is inconsistency between chapter 4 and chapter 10. One section seems to give rights while the other takes away.

Recommends harmonisation of labour laws

The workshop was not in support of the civil service commission, labour rights must be equal and the same, without separation of public service. Civil servants are deprived of rights to negotiation

14. HEALTH - The workshop acknowledged the as being progressive as it does the following:

Ensures the state accountable to provide for the right to health.

Addresses the social determinants of health including the right to food and clean water.

Guarantees the constitutional protection of prisoners from violations and ensures that conditions of detention are consistent with human dignity.

While noting the progressive sectors, the following issues were raised:

The draft is silent on maternal health and the protection of lives of unborn children there-by contradicting the bill of rights, in which every person has the right to life.

Chapter 4 Section 3.3 provides that the right to health care is reserved for Zimbabwean citizens only while overlooking the protection of in-transit non-citizens, and refugees who may fall sick.

Resolutions were that demanding accountability for the right to health and developing a mechanism to guard against non-implementation of polices is of great importance.

In Conclusion:

WE **reiterate** that the COPAC draft as currently written is good but not perfect, and deserves the support and defense of well meaning Zimbabweans.

We **state** that because of the above, we see the COPAC Draft Constitution, should it receive a yes vote at the Referendum, as a useful document and charter in as far as taking forward an agenda for democratisation and transformation of our country, as well as facilitating a transition to the same.

That because of the foregoing, the completion of the COPAC Process is not the end of the discourse around constitutional reform and by no means closes this chapter, as we strive for change and improvement as a nation.