



ensuring a people-driven constitution

DRAFTING INSTRUMENTS

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**Second
All Stakeholders Conference
October 2012**

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FOREWORD

You will recall that in compliance with the requirements of Article VI of the Global Political Agreement, The Constitution Parliamentary Select Committee (COPAC) conducted an outreach programme to solicit for the views of the people. The people spoke eloquently on a number of issues. COPAC then undertook an exercise of extracting constitutional issues from the national statistical reports, both versions 1 and 2. This culminated in the production of a document on **Constitutional Issues** which is enclosed in this booklet.

Whilst the people spoke well on most issues, there were also some gaps in the information they provided. Specifically, some technical questions were not adequately addressed. People generally answered the question “what” but did not address the issue of “how” to achieve the intended objective. The Select Committee then embarked on an exercise to identify and fill the gaps with the assistance of technical experts to give effect to what the people had said. The result was a document on **Gap Filling** which is enclosed in this booklet.

As the Select Committee sifted through the Constitutional Issues, it emerged that key underlying principles were emerging from what the people had said during outreach. As the people spoke, they were inadvertently singing a song which had a chorus with some unique words. The Select Committee converted this chorus into **Constitutional Principles**. The document of Constitutional Principles is also enclosed in this booklet.

It is important to note that the Draft Constitution produced by the Select Committee on 18 July 2012 is a product of the use of the above stated documents and best practice.

.....
Hon. M. P. Mangwana

.....
Hon. D. T. Mwonzora

.....
Hon. E. T. Mkhosi

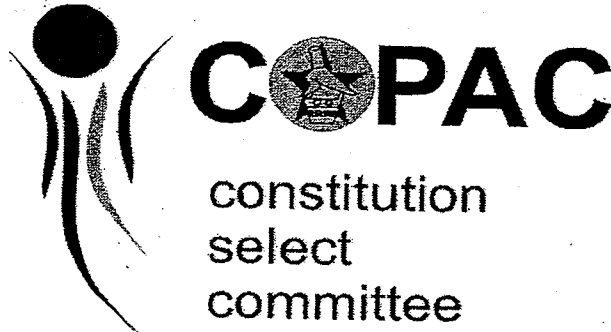


LIST OF PROPOSED CONSTITUTIONAL ISSUES

RAINBOW TOWERS

HARARE

14 NOV – 22 NOV 2011



ensuring a people-driven constitution

LIST OF PROPOSED CONSTITUTIONAL ISSUES

RAINBOW TOWERS

HARARE

14 NOV – 22 NOV 2011

List of Proposed Constitutional Issues, Rainbow Towers, Harare, 14 Nov – 22 Nov 2011

As proposed and agreed by the Technical Committee for the attention of the

Select Committee

Name	Signature
Hon. M. P. Mangwana (MPM)	
Hon. E. T. Mkhosi (ETM)	
Hon. D. T. Mwonzora (DTM)	
Hon. F. Buka	
Hon. Chief Charumbira	
Hon. A. Chibaya	
Hon. W. Chidakwa	
Hon. G. Chimanihire	
Hon. G. Gombami-Dube	
Hon. B. Gaule	
Hon. J. Gumbo	
Hon. I. Kay	
Hon. M. Khumalo	
Hon. J. Majome	
Hon. C. Makuyana	
Hon. E. Matamisa	
Hon. T. Mathuthu	
Hon. T. Mohadi	
Hon. O. Muchena	
Hon. R. Muchihwa	
Hon. M. Mutsvangwa	
Hon. B. Tshuma	

List of Proposed Constitutional Issues, Rainbow Towers, Harare, 14 Nov – 22 Nov 2011

As proposed and agreed by the Technical Committee

Name	Signature
Hon. I Gonese (Chairperson, IG)	
Hon. J F Mudenda (Chairperson, JFM)	
Mrs. Angela S. Mahlamvana-Tofa (Chairperson, ASMT)	
Mr. Cosmas Chibaya	
Adv. F.G Gijima	
Dr. Maxwell Hove	
Mr. J James	
Chief. M Khumalo	
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Prof. J Makumbe	
Mr. G Masimirembwa	
Mr. J Moyo	
Hon. S Mushonga	
Mr. M Ncube	
Mrs. E Ndewere-Mususa	
Mr. Rejoice Ngwenya	
Mrs. B Nyamusamba	
Mr. Kucaca I Phulu	
Mr. J Tshuma	
Adv. H Zhou	

List of Proposed Constitutional Issues, Rainbow Towers, Harare, 14 Nov – 22 Nov 2011

As recorded by the Rapporteurs to the Technical Committee

Rapporteurs

Name	Signature
Mrs. Cecilia R Chimbiri	
Ms. Isabel Chioniso	
Ms. Thandiwe Gosha	
Bishop M B Gwedegwe	
Mrs. Virginia Makanza	
Mrs. Theresa Muchovo	
Mr. Peter Mukuchamano	
Mr. Matambo Ngoma	
Mr. Paul Vurayai	

List of Proposed Constitutional Issues, Rainbow Towers, Harare, 14 Nov – 22 Nov 2011

As recorded by the Rapporteurs to the Technical Committee

Supporting Resources

COPAC Secretariat

Mr. G. Marunda

Mrs. S Fundira-Buhera

Mrs. FT Mabeza

Mr. A Masumba

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Mr. T. Mudzengi

Mrs. C Gavi *

Mrs. G Ganyani

Mrs. A Hobwana

Mr. E Nyamukachi

Mr. G Sibanda

Mr. O Ruwodo*

Mr. C Mbiri.

Mr. F Madziwa

Mr. A Chiwara

Mrs. S Makombe

Mrs. P Marecha

Ms. I Madamombe

Ms. R Njanji

Ms. V Dube

Presenters

Justice. Ben Hlatswayo

Mr. Hassen Ebrahim

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Mr. Mfaro Moyo

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* COPAC Secretariat under UNDP

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Introduction

The Technical Committee proceedings commenced with a discussion on what materials were to be used as source documents for purposes of achieving its terms of reference. There was also a need to be clear of the deliverables and the final product expected by the Select Committee. In that regard the following views were proffered:

- That the Technical Committee would use the National Report, Provincial reports, Draft Constitutional Principles, Masvingo List of Constitutional Principles as revised at Pandhari, and the Draft Constitutional framework as primary source documents
- That the Technical Committee would use the Masvingo list of Constitutional Principles as revised at Pandhari
- That the Technical Committee would use the Current Constitution, the 1999 draft constitution, the NCA draft and any other constitutional documents.
- That the technical team could refer to regional constitutions, make use of any other constitutions for best practice

It was then resolved

1. To have clear terms of reference from COPAC. (These were subsequently drafted and submitted to the technical committee).
2. To use the following as primary source documents as listed in the terms of reference
 - National report
 - Provincial reports
 - Masvingo documents as revised at Pandhari Workshop
 - Draft Constitution Principles
 - Draft Constitutional Framework
3. To make reference to other constitutional documents

The terms of reference for the Technical Committee were as follows:

- Develop an agreed list of issues to be included in the Constitution and propose the language to be used
- Reclassify and realign issues along Thematic
- Identify list of issues which some members feel should be included but where there is no consensus. The reasons for the disagreement to be specified
- Identify issues which need further discussion
- Identify issues which have to be referred to the Select Committee
- Develop a proposal on the Framework for the Constitution
- Make a proposal on the drafting instruction for drafters
- Identify possible gaps and how they can be filled

The Technical Committee then proceeded to analyse the issues by Thematic:

1. PREAMBLE AND FOUNDING PRINCIPLES

PROPOSED ISSUES TO BE IN THE CONSTITUTION

The issues recommended by the Technical Committee as Constitutional Issues are inter alia; Sovereignty and Independence, recognition and upholding of human rights, unity of the people, name of country is Zimbabwe, recognition of the founding fathers, nationalists and heroes, recognition of traditional leaders, good governance, patriotism to country, supremacy of the Constitution, respect National Anthem, Flag, Emblems, and Shrines, history of the country, traditions and cultures, democracy and democratic principles and rule of law.

Other issues recommended are people power, peace and security, liberty, freedom of expression, association and movement, diversity of the people, tribes & languages, Supremacy of God, liberation history, no racism, tribalism, oppression, Gender equality rights, post-independence, internal conflicts, challenges, Equality before the law, and accountable administration (imported from Bill of Rights).

Additional views:

The Technical Team further recommended that Preamble and Founding Principles be separated.

PARKED AND REFERRED TO THE SELECT COMMITTEE

The Technical Committee agreed in Principle that the issue.

1. Lands and natural resources as our heritage is a Constitutional issue.
2. Land can be catered for under land as a Thematic on its own
3. Natural Resources can also be catered for under Natural Resources thematic

However the Technical Committee could not reach a consensus on where the issue could be placed.

A decision was made to park and refer to the Select Committee for further determination.

The Technical Team recommended to park the following bracketed statement (23) (Gukurahundi, Murambatsvina and June 27, 2008).

TRANSFERRED ISSUES

The Technical Committee recommended transferring 'War veterans' as an issue to its relevant thematic area.

REMOVED ISSUES

The Technical Committee recommended to remove (27) Unity Accord, GPA, (28) Food Security and (29) Recognise national holidays as Non Constitutional issues.

TABLE 1 – PREAMBLE AND FOUNDING PRINCIPLES DETAILS OF ISSUES

PREAMBLE AND FOUNDING PRINCIPLES		
Concept	#	ISSUES
Legacies, values , aspirations and principles		
		AGREED TO BE IN THE CONSTITUTION
(Preamble)	1	Sovereignty and Independence
	2	Recognise and uphold human rights
	3	Unity of the people
	4	Name of country is Zimbabwe
	5	Founding fathers, nationalists and heroes
	6	Recognise traditional leaders
(Founding Principles only)	7	Good governance
(Both Preamble & FP)	8	Patriotism to country
	9	Supremacy of the constitution
	10	Respect national anthem, flag, emblems, and shrines
	11	History of the country
	12	Traditions and cultures
	13	Democracy and Democratic principles
	14	Rule of law
	15	People power
	16	Peace and security
	17	Liberty, freedom of expression, association and movement
	18	Diversity of the people, tribes & languages
	19	Supremacy of God
	20	Liberation history and War Veterans
	21	No racism, tribalism & oppression
	22	Gender equality & rights
	23	Post-independence, internal conflicts & challenges.
	24	Equality before the law
	25	Accountable administration (Imported from Bill of rights)
		PARKED ISSUES
	1	Lands and natural resources as our heritage (see notes under parked issues above)
	23	...(Gukurahundi, Murambatsvina, June 27 2008)
		REMOVED ISSUES
	27	Unity Accord, GPA

	28	Food security
	29	Recognise national holidays

2. BILL OF RIGHTS

AGREED CONSTITUTIONAL ISSUES

The issues on Fundamental Rights recommended by the Technical Committee are inter-alia, vote and be voted for, access to information, life, liberty, protection against all forms of discrimination, freedom of and after speech, freedom of association, right to good governance and freedom of assembly.

Further issues recommended are, children to be taught in their mother language, protection from intimidation, human dignity and reputation, free political affiliation, form and or join any trade unions, strike, fairness in administrative issues, benefits from local resources, food, rights for the elderly, shelter, access to land, right to rule of law, movement, privacy, press freedom, conscience, equality before the law, no forced labour and slavery, fair trial, protection by the law and no racial discrimination.

A suggestion was made and accepted by the Technical Committee members that labour matters that fall under socio-economic and cultural rights be rephrased to include ‘No to slavery and servitude’.

In addition to the above the Technical Committee also recommended that there be access to justice (rephrased from its original language from the people “**the right to be heard**”), no to forced and arranged marriages, protection from arbitrary searches (agreed to remove **arbitrary searches by the police**), legal representation, recognition of women's rights, no to torture, protection of children rights, equality, right to private property, free, fair and regular elections, protection of ethnic's rights, gender equality and free legal representation for the poor.

On Socio-Economic and Cultural Rights the technical committee recommended on the following after clustering them; acquisition of identity registration without spouse, protection against discrimination of disabled, freedom to criticize government, right to public offices, recognise cultural diversity and practise one's culture and tradition, gender equality in salaries, no to tribalism, fair distribution of land to citizens of Zimbabwe which was rephrased from its original (**fair distribution of land to natives of each community**), protection of property, 50-50 representation, respect the family institution, respect customary marriage, women participation in business activities, own property, any amendments to bill of rights should be done through a referendum, right to sue the government, right to development and freedom of expression.

Human rights to be enshrined in the Bill of Rights, right to cultural practises in succession in traditional leadership, decentralisation of essential services to provinces, districts and local area, removal of abusive religious and traditional practises, protection against arbitrary displacement, women control over their reproduction, women ownership of land, no to child labour, right to self-defence, right to citizenship and voting for foreigners, free maternity health care, gender balance in education, right to procreation, right for children to inherit parents' estate, right to sports and recreation, protection from all forms of violence, right to compensation if displaced, right to intellectual property, access to traditional Court system, to be assisted by a person of choice when voting, accessible education, health, access to clean water, clean and safe environment, no to homosexuality and lesbianism, no to Satanism and free health .

PARKED ISSUES

Choice was parked because the Technical Committee did not agree on the definition of choice.

Right to title deeds in rural areas was parked for referral to Select Committee.

Death penalty was discussed and there was no agreement. The Technical Committee agreed to park it and have a look at other constitutions , the Russian, Iraq, Kenyans, South Africans, etc, and the National Report.

Numerous issues were referred to their relevant thematic areas while others were removed for non-relevance to the thematic area.

Detailed insight into recommended issues is shown in the table below.

Table: Bill of Rights

BILL OF RIGHTS		
Concept Fundamental Rights	#	ISSUES
		AGREED ISSUES
	1	Vote and be voted for
	2	Access to information
	3	Life
	4	Liberty
	5	Protection against all forms of discrimination
	6	Freedom of and after speech
	7	Freedom of association
	8	Right to good governance
	9	Freedom of assembly
	10	Children to be taught in their mother language

	11	Protection from intimidation
	12	Human dignity and reputation
	13	Free political affiliation
	14	Form and or join any trade unions
	15	Strike – except for those on essential services
	16	Fairness in administrative issues
	17	Benefits from local resources
	18	Food
	19	Rights for the elderly
	20	Shelter
	21	Access to land
	22	Right to rule of law
	23	Movement
	24	Privacy
	25	Press freedom
	26	Conscience
	27	Equality before the law
	28	No forced labour and slavery
	29	Fair trial
	30	Protection by the law
	31	No racial discrimination
	32	Access to justice (rephrased from the right to be heard)
	33	No to forced and arranged marriages
	34	Protection from arbitrary searches
	35	Legal representation
	36	Recognition of women's rights
	37	No to torture
	38	Protection of children rights
	39	Equality
	40	Right to private property
	41	Free, fair and regular elections
	42	Protection of ethnics rights
	43	Gender equality
	44	Free legal representation for the poor
	45	No to Homosexuality and Lesbianism
	46	No to Satanism
Socio-Economic And Cultural Rights	47	Acquisition of identity registration without spouse
	48	Protection against discrimination of disabled
	49	Freedom to criticize government

	50	Right to public offices
	51	Recognise cultural diversity & practise one's culture and tradition
	52	Gender equality in salaries
	53	No to tribalism
	54	Fair distribution of land to citizens of Zimbabwe
	55	Protection of property
	56	50-50 representation
	57	Respect the family institution
	58	Respect customary marriage
	59	Women participation in business activities
	60	Own property
	61	Any amendments to bill of rights should be done through a referendum
	62	Right to sue the government
	63	Right to development
	64	Freedom of expression
	65	Human rights to be enforced by the bill of rights
	66	Right to cultural practises in succession in traditional leadership
	67	Decentralisation of essential services to provinces, districts and local area
	68	Removal of abusive religious and traditional practises
	69	Protection against arbitrary displacement
	70	Women control over their reproduction
	71	Women ownership of land
	72	No to child labour
	73	Right to self defence
	74	Free maternity health care
	75	Gender balance in education
	76	Right to procreation
	77	Right for children to inherit parents' estate
	78	Right to sports and recreation
	79	Protection from all forms of violence
	80	Right to compensation if displaced
	81	Right to intellectual property
	82	Access to traditional court system
	83	To be assisted by a person of choice when voting
	84	Accessible education

	85	Health
	86	Access to clean water
	87	Clean and safe environment
	93	Free health
		PARKED AND REFERRED TO SELECT COMMITTEE
	88	Choice
	89	No beating of people to influence votes
	90	Self determination
	91	People to be consulted in major national decisions
	92	Right of citizens to recall leadership
	94	No to death penalty
Death Penalty	95	The issue was not discussed further, agreed to park it and have a look at other constitutions, the Russian, Iraq, Kenyans, South Africans, etc and the National report
		AGREED LEGISLATIVE ISSUES
		Under Labour
	96	Social welfare for all vulnerable groups
	97	Wages above poverty-datum line
	98	Collective bargaining
	99	Fair treatment at workplace
	100	Recognition of labour rights
		Under Languages
	101	Access to media in indigenous languages
	102	Right to language
	103	Disabled to access braille and sign language
		Under Schedules
	104	Right to participate in international human rights and they must be implemented
		Under health
	105	No to stigmatisation of HIV positive people
	106	Right to free and compulsory immunisation
	107	Right to sanitation
	108	Abortion on medical recommendation of at least 3 practitioners
	109	Free medication for the elderly
	110	Right to abortion e.g. in cases of rape and incest and when they is danger to the mother

		Other
	111	Right to unemployment benefits
	112	Free transport for the elderly
	113	No to violence during elections
	114	National youth service for youths
		Empowerment
	115	Equitable economic empowerment
		REMOVED ISSUES
	116	Right to citizenship and voting for foreigners
	117	Freedom from harassment
	118	Freedom from domestic violence
	119	Have an accountable police
	120	Right to outlaw abortion
	121	Corporal punishment
	122	Right to choose chiefs
	123	Women to also be appointed as traditional leaders
	124	Vote including foreign based citizens
	125	Right to elect traditional leaders by ballot
	126	No to mercy killing
	127	Easy access to self-registration without adults
	128	Respect of election results
	129	Respect for prisoners
	130	Right to use talent freely
	131	Civil protection
	132	Right to transport
	133	All rights as stated in united nations bill of rights
	134	Equitable share of resources

3. YOUTH

It was pointed out that in most constitutions the youth are recognised and taken care of through the Equality Clause and given the same status as adults. The Equality Clause allows for specific issues such as legislation promoting specific constitutional issues for specific groups.

a) Agreed Issues

Concept		Issues
Age range	1	15 – 35 years
Vocational Skills Training	3	Refer to Kenyan Constitution
Right to Economic Empowerment	4	This concept was accepted as desirable
Basic rights and freedoms	13	Protection from all forms of abuse (political, social, economic and cultural)
	19	Right to recreational facilities
	21	Right to maternity services
Basic Rights and Freedoms	25	No to homosexuality
National Registration	27	It was agreed that youth have the rights to have national documents

- Out of the eight page responses on age range in the National Report, the teams agreed that the age of youth is 15 -35 years as this was in line with the African Youth Charter
- On abortion it was agreed that this was covered under the Right to Life and that it be exported to the Bill of Rights
- The Right to maternity services was accepted and expanded to include legislation that would allow girls who fell pregnant to come back and complete their schooling. It was also agreed that this be exported to the Bill of Rights under Right to Health Care

b) Parked Issues

Concept		Issues
National Youth Service	28	No agreement on this issue

The discussions around this issue included:

- It was agreed that National Youth Service is important as supported by the views from the outreach

- Another view was that National Youth Service would violate the right to freedom of association and that it should be voluntary
- International best practices in the USA and Britain who convinced their Youths to serve in Afghanistan and Iraq were referred to.

c) Referred Issues Export to legislation and Bill of Rights

Concept		Issues
Right to Education	2	The feeling was that this right was already covered in the Bill of Rights
Lands	5	Access to lands
	6	Right to own land
Basic rights and freedoms	7	Freedom of choice
	8	Freedom of Association
	9	Freedom of expression
	10	Right to be heard
	11	Right to Health care
	12	Right to shelter
	14	Right to information
	15	Freedom of worship
	16	Right to political participation
	17	Right to property ownership
	18	Right to life
	20	Social Protection – exported to Bill of rights
	22	Right to Food
	23	Right to equal employment opportunities
	24	Right to a quota in decision making bodies
	26	No to abortion
	30	National youth commission
	31	Right to vote and be voted for
	32	Right to inheritance
Basic rights and freedoms	20	Social protection Post to the Bill of rights because it covers everybody in our society.
	23	Right to equal employment opportunities (Posted to the Bill of rights)
National Youth Council	29	It was suggested that this concept will be covered in the legislation.

- all the issues above were covered in the Bill of Rights except for the National Youth
- There was a discussion on the meaning and scope of Social Protection. It was agreed that this needs to be qualified; that it be exported to the Bill of Rights; and that it was to be noted that this could be achieved through progressive realisation.

d) Removed Issues

Concept		Issues
National Youth Commission		Removed

The issue was removed as it was felt that the National Youth Council was adequate.

4. DISABLED

It was agreed that this thematic area deals with rights of the disabled. It was also agreed that preferential treatment would be dealt with under the equality clause.

a) Agreed issues

Concept		
Rights	1	No discrimination (On the basis of disability)
	8	Vocational and Skills Training
	9	Economic Empowerment
	10	Right to own land
	18	Amenities (Provision of appropriate amenities)
	21	Preferential treatment (Positive)
	22	Right to integrated schools

- It was agreed that no discrimination should be amended to read no discrimination on the basis of disability
- That amenities be amended to “**provision of amenities**”

b) Parked Issues – none

c) Referred (Exports to Legislation and Bill of Rights)

Concept		Issues
Rights		BILL OF RIGHTS
	3	Right to free education
	4	Free health
	7	Self-representation in Parliament
	13	Right to information
	14	Right to protection from all forms of abuse

	15	Right to vote
	20	Right to food and clothing
		LEGISLATION
	2	State provided assistance (Welfare)
	5	Free public transport
	6	Assistive Devices
	11	Disability Commission (Council)
	12	Braille and Sign Language
	16	Right to quota system
	17	Decentralised institutions and shelter
	19	Registration of disabled
	23	Caregivers to receive government support
	24	Right to rehabilitation including community based

- a) That the Bill of Rights will include specific applications for different categories of people (Ref sec 52-58 of the Kenyan Constitution)
- b) It was also agreed that there would be legislation to cover the following;
- State provided assistance or disability grants
 - State assisted education, health and public transport
 - The setting up of a Disability Council and not a Commission
 - Decentralisation of institutions for ease of access by the disabled
 - That when there is a registration process like the census, the disabled be considered as a special category
 - Support of care givers
 - Issues related to rehabilitation

5. MEDIA

This thematic area deals with issues around press freedom and regulation of the media.

a) Agreed Issues

Concept		Issues
Press Freedom	2	Freedom of expression
	3	Right to free press
	7	Must be free from political control
	8	Freedom to media associations
	9	Press freedom should not infringe other people's rights
	10	Media accountability
	11	Access to information
Regulation	2	Independent media commission

b) Parked Issues

Concept		Issues
Press Freedom	6	Free airwaves
Regulation	1	Protection of state secrets
	3	Censorship
	4	Scrap censorship laws
	5	Self-regulation
	7	State regulation

- Freeing the airwaves was parked for technical input. It was pointed out that the air waves must be open to other operators. It was also recommended that Parliament pass appropriate legislation for the regulation of the air waves.
- In terms of protection of state secrets it was noted that the state has an obligation to protect state secrets (ref Millar case in the USA). The other view was that it violates the Right to access to information
- In relation to censorship the views were that:
 - ✓ the Independent Media Commission would take care of the censorship
 - ✓ that censorship is around content and should therefore be taken care of through legislation
 - ✓ that the Media cannot be a law unto itself, there is need for checks and balances in its operations
- In terms of self-regulation the argument was that the media can regulate itself like other professional bodies such as doctors, lawyers among others
- In relation to state regulation the argument was that this violates basic rights and

freedoms

c) Referred Issues (Exports to Legislation and Bill of Rights)

Concept		Issues
Press Freedom	1	Freedom to news coverage
Press freedom	5	All liberties and freedoms to be enshrined and protected Covered in the Bill of rights
Regulation	6	To ban interception of private conversation telephonic (Refer to the Namibian Constitution section 13)
	12	Promote local languages Posted to languages
	13	Use sign language and braille Posted to languages

- The banning of interception of private conversations was referred to legislation as per Sect 13 of the Namibian Constitution.
- That freedom to news coverage was not clear. It was pointed out that this issue included the right to be the source of news. The communities felt excluded and that news sources were urban areas.
- The promotion of languages and the use of sign language and braille were exported to languages arts and culture.
- It was agreed that the issue of liberties and freedoms being enshrined and protected, was covered in the Bill of Rights

d) Removed Issues

None

6. WAR VETERANS

a) Agreed Issues

CONCEPT	#	ISSUES
Define who is a war veteran	1	Those who carried guns, war collaborators and ex-detainees and should all be treated equally
Entitlement, recognition, respect and honour	5	Honour, recognise, and respect war veterans, war collaborators and ex-detainees

b) Referred Issues (Export to Legislation)

Concept		Issues
Recognition, honour and welfare	2	War Veterans commission
	3	Economic empowerment
Entitlement, recognition, respect and honour	6	Should be under an independent commission
Economic empowerment	7	To be accorded senior citizen status
	8	Disability funds
	9	Monthly pensions

It was recommended that while war veterans would be included in the Preamble and Founding Principles (clause in the constitution) it was necessary that there be legislation to deal with welfare.

c) Parked Issues

None

d) Removed Issues

None

7. EMPOWERMENT

The view was that the concept of empowerment is acceptable.

a) Agreed Issues

Concept		Issues
	1	empower marginalised areas (Replace areas with people)
Fair distribution of resources	5	Natural resources should benefit inhabitants in which they live
Empower local communities	7	The concept was accepted

Empowering marginalised areas was changed to marginalised people

b) Parked Issues

Concept		Issues
Skills training and education	6	Resettled farmers to be given title deeds to secure loans
		Other Issues
	17	Local ownership of resources 51% and 49% for foreigners (Disagreement)
	18	99 year lease agreements should be used as collateral when accessing funds (Disagreement) and changed to read 99 year lease agreements should be made bankable

- Local ownership of resources 51% and 49% for foreigners was rephrased to “**the promotion of majority ownership of local resources**” to guard against constant changing of percentages. It was also argued that owners must always own the majority shares. The other view was that this was a business arrangement that should be taken care of through legislation.
- The issue of loans for resettled farmers was parked because there was no agreement
- 99 year lease agreements to be used as collateral was amended to “**99 year lease agreements to be made bankable**”

c) Referred Issues (Exports to Legislation and Bill of Rights)

Concept		Issues
	2	independent empowerment board
Affirmative action	8	Support of women in self - help and empowerment projects and land allocation

	9	Women empowerment
	10	Youth empowerment
	11	To give preferential quota to the marginalised
Issues still to be agreed upon	14	Government to set up competitive agricultural markets
	15	Agricultural support for regions
	16	All foreigners to enter into joint ventures with locals

- The view is that affirmative action is an issue for legislation is already covered under legislation.
- Issues 14-16 are also legislative issues.

d) Removed Issues

Concept		Issues
Fair distribution of resources	3	Government assistance
Skills training and education	4	Skills training for empowerment
Investment and infrastructural development	12	Develop infrastructure and amenities in marginalised areas
Equal distribution of resources	13	Transparency in the distribution of natural resources and local resources should benefit local communities

- Government assistance was removed, as it is not clear
- Skills training for empowerment is covered under the right to education
- It was agreed that transparency in the distribution of resources and local resources for the benefit of locals was covered in response 5 which states that natural resources should benefit local communities
- The following issues were to be dealt with under legislation
 - Affirmative action for women, youth, preferential quota for the marginalised, development of infrastructure and amenities in marginalised areas
 - Government to set up competitive agricultural markets
 - Agricultural support for regions
 - All foreigners to enter into joint ventures with locals

8. ENVIRONMENT

The technical team agreed and proposed that the environment be protected and Government to be the custodians of the environment which was rephrased from the original Traditional Leaders to be the custodians.

Table 8: Environment

THEMATIC AREA		ENVIRONMENT
Concept	#	Issues
		AGREED ISSUES
Conservation/ Preservation	1	Protection of environment
	2	Government to be the custodians of the environment
		REFERRED TO LEGISLATION
	6	Miners to rehabilitate the environment
	7	Enact environment friendly legislation
	5	Locals to benefit covered in no 21 of the bill of rights
		REMOVED ISSUES
	3	Environmental court to be established
	4	Independent Commissions/Board

9. NATURAL RESOURCES

Agreed Issues

All natural resources and their proceeds to belong to the state and must be distributed equitably.

Ensure sustainable use

THEMATIC AREA		NATURAL RESOURCES
Concept		AGREED ISSUES
	1	All natural resources and their proceeds to belong to the state and must be distributed equitably
	5	Ensure sustainable use
	7	Accountability and transparency in exploitation of natural resources
		REFERRED ISSUES
	2	Proceeds from sell of local resources to be used to educate local communities Covered in the bill of rights
	3	Empower local communities through ploughing back of natural resources covered in empowerment
	4	Extraction companies to pay royalties to relevant authority To be covered by legislation
	6	Natural resources Commission appointed by parliament To be covered by legislation

10. LABOUR

The technical team proposed and agreed that most of the issues in the labour thematic had already been covered by the bill of rights such as Freedom of expression, No to all forms discrimination, No to slavery and servitude/forced and other issues that will be detailed in the table below.

They also proposed that, Adequate remuneration/living wage to all workers, Gazetted minimum wage, Pay on time and not in kind, Salary commensurate to qualification, be posted for legislation. Other issues posted for legislation are in the table below.

THEMATIC AREA		LABOUR
Concept	#	Response
		Suggestions to make use of the Specific Rights Application Clause e.g. Section 52-58 of the Kenyan constitution
		TRANSFERRED OR REFERRED TO LEGISLATION
	1	Adequate remuneration/ living wage to all workers
	2	Salary commensurate to qualification
	3	Gazetted minimum wage
	4	Pay on time and not in kind
	5	Collective bargaining
	6	Right to remuneration
	7	Equal pay for men and women
	8	Fair labour practices
	18	Adequate remuneration/ living wage to all workers
	19	Salary commensurate to qualification
	20	Gazetted minimum wage
	21	Pay on time and not in kind
	22	Easy access to pension benefits
	23	Sustainable/Living pension benefits
	24	Harmonisation of Labour laws
	25	Right to untaxed pensions
	26	Good working conditions
	27	Quick dispute resolution
	28	Retirement age to be 45, 60 or 65
	29	Domestication and ratification of the International Labour laws and Conventions Refer to the International Conventions Clause

	30	Establishment of the labour court Transfer to the judiciary
	9	Freedom of expression covered by bill of rights
	10	No to all forms discrimination covered by bill of rights
	11	Right to arbitration covered by bill of rights
	12	No to slavery and servitude/forced covered by bill of rights
	13	No to child labour covered by bill of rights
	14	Form and participate in Trade Unions covered by bill of rights

11. RELIGION

Parked and Referred to the Select Committee

1. Religious groups should be apolitical

- a) The supporting view said this was not a constitutional issue because it infringes on the right to freedom of association
- b) The contrary view said that they should be apolitical

There was no consensus. The issue was parked and referred to the Select Committee

THEMATIC AREA		RELIGION
Concept	#	ISSUES
		AGREED ISSUES
Freedom of Worship	1	Freedom of worship and association
Human rights	2	Religions to uphold human rights
	3	No to Satanism and wapusa-wapusa
	4	Outlaw homosexuality and same sex marriages
		PARED ISSUES
	5	Religious groups should be apolitical
		REMOVED ISSUES
	6	Outlaw extreme religions
	7	Religious organisations to be registered
	8	Churches should not be registered as private companies
		<u>REFERRED /EXPORTED ISSUES</u>
	9	Churches to observe rules of the country Covered in Preamble
	10	Recognise National Flag even at churches Covered in Preamble
	11	Religions should follow national holidays and national events Covered in Preamble
	12	There should be freedom of worship for all religions Covered in Bill of Rights
	13	Supremacy of God

		Covered in Preamble
	14	Religions should not prohibit inter marriages Covered in Bill of Rights
	15	Minor rights to health care irrespective of parents' religious beliefs Covered in Bill of Rights
	16	No to forced minor marriages Covered in Bill of Rights
	17	Religious organisations to uphold women's rights Covered in Bill of Rights 9
	18	No to forced marriages Covered in Bill of Rights
	19	African traditional beliefs should be upheld Covered in Bill of Rights

12. SYSTEMS OF GOVERNMENT

- On Systems of Government there are issues that the Technical Committee agreed on and these are: Zimbabwe is a Unitary State that is guided by the principles of devolution in governmental functions and responsibilities and provisions of resources to all people in all appropriate levels.
- The other issues that they agreed on provision for Provincial Governance and its members being voted for directly or indirectly with tenure of a 5 year term.
- On Local Government they also agreed that there be Local Government as they are with elected Councillors. Traditional Leader will also be part of the composition of rural councils but as ex-officio members
- They also agreed that Local Government should have the authority to formulate policies which raise revenue in their areas with recommendation that there is need for a schedule in the constitution which explicitly outlines the competences, functions and responsibilities of the local government.
- Local Government should also have authority to enact by-laws with the recommendation that there be a separate schedule for the jurisdiction of legislation by local and Provincial Governments. Reference can be made to Schedules 4 and 5 of the South African constitution. This issue is referred further for discussion on the schedules.
- Provincial Governments should also be able to craft their own budgets/taxation powers and do revenue collection.
- Provincial Governments should also see to their administration whilst empowering their areas.
- Governors should head and coordinate development projects

Parked Issues

Type of Government

To be a Provincial Council headed by Governors appointed by the President.

On the appointment of Head of the Provincial Council, the following suggestions were made though no consensus was reached;

- i. Election,
- ii. Appointment,
- iii. Selected from the elected members of the local government and appointment by the President after consultation with the Provincial government.

On the composition of the Provincial government Provincial Administrators were removed leaving it to comprise Traditional Leaders, Councillors, MPs and Governors.

The following are the recommendations and there was no consensus;

- i. Removal of Members of Parliament as they are responsible for the formulation of legislation at national level, rather incorporate them as ex-officio members

- ii. Inclusion of members of Parliament as they have to protect the interests of their constituencies. Their legislation needs to be in line with national legislation
- iii. Separate people to be elected into the Provincial Authority since MPs and councillors already have their constituency responsibilities
- iv. Inclusion of MPs and councillors since they are in a better position to bring concerns from the local levels. the Provincial Authority then serves as a platform where the local authority to interact with national authority to drive local development since it is an inclusive composite body
- v. Members selected from the local elections to be relegated and form the provincial authority which is a more cost effective approach

These following issues were also referred to the Select Committee for further discussion;

- i. Devolved structures/Decentralise government offices,
- ii. There should be governors who are MPs,
- iii. Built from wards,
- iv. To get governors from elected MPs and Senators,
- v. There must be led by the Provincial Administrator without a Governor,
- vi. To have Provincial Parliament with proportional seats for youth, men, women and all interest groups,
- vii. To have Provincial Parliament with proportional seats for youth, men, women and all interest groups,
- viii. The Provincial Governor should serve two 5 year terms up to a maximum of 10 years,
- ix. Governors must come from the area.

On this issue the Technical committee expressed the following views on whether the Mayor should be elected or not;

The following recommendations were discussed and there was no consensus;

- i. An executive mayor puts an obligation on the mayor to effectively deliver and it also keeps in checks and balance on the powers of the minister of local government
- ii. The election and powers of the mayor should be a matter regulated by the legislation which is easier to amend, repeal or create
- iii. Be directly elected

On the number of Provinces

- a. There was a view that the National report said 10 provinces
- b. There was a contrary view that there should be 5 provinces
- c. There was an issue that the available information was not sufficient to give a determination of provinces.
 - The facilitator quoted how South Africa did its determination of Provinces using a study by the Development Bank.

- The number of provinces was dependent on the Geographical, Geopolitical nature of the country.
- There was no consensus. The issues which included Determination of Provinces – Naming, Geographical and Geopolitical, population/Ethnicity, by decree, status quo and others were parked and referred to the Select Committee.

THEMATIC AREA		SYSTEMS OF GOVERNMENT
Concept	#	ISSUES
		AGREED ISSUES
System of Government	1	Zimbabwe is a Unitary state that is guided by the principles of devolution in governmental functions and responsibilities and provisions of resources to all people in all appropriate levels
Provincial Government	4	Yes to Provincial Governance
	35	Those voted for should have a 5 year term
		PARKED ISSUES
a) Type of Government	6	As it is /Maintain status quo/To come from a unitary state
	7	Provincial Parliaments
	9	Provincial Councils
	10	Provincial Assembly reporting to central government
	11	Elected Provincial Councils
	37	Governors must come from the area
	38	Yes to local Governance
	40	As it is
	48	Mayor is elected
	53	Elected Councillors
	61	Traditional leaders, Mayors and Councillors
	73	Formulate policies that raise revenue in their areas
	74	Enact and enforce by-laws
	75	Ensure good governance/democracy
	76	To fight corruption
	77	As it is/status quo
	78	Spearhead development (social, economic and infrastructural), social amenities
	79	To borrow funds for development areas
	80	Employment creation
	81	Distribute empowerment funds

	82	Food aid supply
	83	Manage education, health and natural resources
	84	Service Delivery
	85	Preservation and promotion of culture and local languages
	86	To advise central government
	87	To address people's grievances/representation in central government
	88	Bring business of government closer to the people/ implement government policy
	89	Should deal with all governance issues
	90	Provincial Governments to craft their own budgets/taxation powers and do revenue collection
	91	To be given adequate resources to run their constituencies
	95	Administration
	99	Empower their areas
	100	They should have a devolved system of government at local level
	102	Governor to head and coordinate development projects
	105	To have a provincial budget that is distributed equally
b) Appointment	12	To be a Provincial Council headed by Governors appointed by the President
	13	With elected Governors who have Provincial Councils
	14	Appointed by President
	15	Governor to be appointed by President in consultation with Parliament
	16	Appointed by Parliament
	17	Governor appointed by Executive President in consultation with Prime Minister
	18	Governors appointed by President
	19	By political party with majority seats in Parliament
	20	Governor's selected by 2/3rds majority in Parliament

	21	Governor comes from party with majority seats in the Province
	22	Elected Governor
	23	Elected by an Electoral College of members of the National Assembly from that Province
	24	Elected by the electorate
	25	By proportional representation
	26	Provincial Governors/Premiers
d) Composition	27	To start from Traditional Leaders, Councillors/MPs/Governors
	29	Devolved structures/Decentralise government offices
	30	There should be governors who are MPs
	31	Built from wards
	32	To get governors from elected MPs and Senators
	33	There must be led by the Provincial Administrator without a Governor
	34	To have Provincial Parliament with proportional seats for youth, men, women and all interest groups
	36	The Provincial Governor should serve two 5 year terms up to a maximum of 10 years.
	55	Mayor to be elected
	59	Provide for Mayors with executive powers
	62	Ceremonial Mayors
	44	Some must be appointed
	45	Parliament to appoint
	46	Mayor to appoint Town Clerk
	47	Elected DA to appoint Local Board
	49	DAs appointed on merit by Public Services Commission
	51	No appointments
	52	Town Clerks should be nominated by Councillors on contractual basis
	56	To be elected by the people and have the necessary qualifications/competence/potential capacity
	60	By District Administrators who are professionals
	63	Rural Councils should be headed by Chairpersons

	64	There should be Chiefs on top, followed by Councillors, followed by Headmen then Village Heads, War Veterans & War Collaborators
	65	Must be from local residents
	66	Necessary qualifications /competence/potential capacity
	67	Councillors must be property owners
	68	They should reside in their respective constituencies
	70	Councillors/Mayors should serve 5 year terms.
		Issues 106-161 have been parked and referred to the Select Committee due to mutual agreement that the material at the team's disposal is not enough to effectively deal with the issue of the determination of Provinces
	106	10 provinces
	107	5 provinces
	108	8 provinces
	109	11 provinces
	110	13 provinces
	111	4 provinces
	112	3 provinces
	113	9 provinces
	114	14 provinces
	115	20 provinces
	116	6 provinces
	117	10 provinces and above
	118	13 provinces and above
	119	12 provinces
Determination of Provinces a) Naming	120	As it is/status quo
	121	Manicaland, Mashonaland, Matabeleland, Midlands, Masvingo
	122	Not named on tribal grounds
	123	Matabeleland, Manicaland and Mashonaland
	124	Current names are fine
	125	Mashonaland West, Matabeleland North, Matabeleland South, Masvingo, Manicaland, Mashonaland East, Midlands, Mashonaland Central

	126	Manicaland, Mashonaland, Matabeleland, Midlands, Masvingo plus one
	127	Should be named after historical monuments and natural resources in the areas
	128	Masvingo should be divided into two Shangani and Karanga
b) Geographical and/or Geo-political	129	Nautical points
	130	Cardinal points (North, East, West, South)
	131	Natural resources
	132	North, East, West, South and Central
	133	By number of districts
	134	Natural regions
	135	By council area
	136	Using constituencies
	137	According to distances from service centres
	138	5 to 6 districts should make up a province
	139	According to capital assets
	140	Population density
	141	Local languages and cultural values
	142	On tribal grounds
	143	Traditional clans/ethnic regions
	144	Create a province for the Tonga people
	145	Chiefs to determine
	146	Traditional leadership
	147	According to large cities
By decree	148	10 provinces determined by Head of State
	149	5 provinces demarcated by Parliament
	150	For purposes of devolution, the boundaries and capitals of these provinces will be as prescribed in a schedule of this constitution
	151	Determined by the Delimitation Commission
	152	By Parliament
	153	Electoral Commission to determine
	154	By the President and the Prime Minister
	155	Chosen by the people/voting
	156	Determined by the President
e) Status Quo	157	As they were before inclusive government
	158	As they are currently delimited
f) Other	159	Present structure minus Bulawayo and Harare
	160	9 provinces, existing 10 provinces minus Bulawayo and Harare plus Beitbridge

	161	20 provinces, each province by 2
		REMOVED ISSUES
	39	No to local Governments
	41	Commission led by Senators and MPs
	42	Headed by Executive Commissions
	57	Elected DA
	58	Traditional leaders should not be voted for
	5	No to Provincial Governments
	28	Governor and the Board
	44	Some must be appointed
	45	Parliament to appoint
	46	Mayor to appoint Town Clerk
	47	Elected DA to appoint Local Board
	50	Presidential appointment for urban and by elections in rural areas after the recommendations of the Provincial Authority
	60	By District Administrators who are professionals
	64	There should be Chiefs on top, followed by Councillors, followed by Headmen then Village Heads, War Veterans & War Collaborators
	98	Must not be partisan
	103	To reduce rural to urban migration
		<u>REFERRED /EXPORTED ISSUES</u>
	8	Provincial Governments Covered in 4
	69	Voted for after every 5 years Covered in 70
	92	Equal distribution of resources between men and women Covered in the equality clause in the bill of rights
	93	To provide national registration documents
	96	Provinces to oversee District operations Covered in 74

		LEGISLATION
	71	An Act of Parliament will provide for the establishment and powers of the local government institution, including by-laws and regulations and levy rates and taxes
	72	To enact by-laws that protect, conserve and preserve the environment
	101	Ensure natural resources benefit their communities Covered in 99
	50	Presidential appointment for urban and by elections in rural areas
	51	No appointments
	52	Town Clerks should be nominated by Councillors on contractual basis
	56	To be elected by the people and have the necessary qualifications/competence/potential capacity
	65	Must be from local residents
	66	Necessary qualifications /competence/potential capacity
	67	Councillors must be property owners
	68	They should reside in their respective constituencies
	71	An Act of Parliament will provide for the establishment and powers of the local government institution, including by-laws and regulations and levy rates and taxes
	72	To enact by-laws that protect, conserve and preserve the environment
	94	To distribute land
	104	District must control its own affairs

13. ARMS OF STATE

AGREED ISSUES

On the Executive Powers, the Technical Committee recommended that the Executive Powers shall be vested in an **Executive President**, who shall be elected by the people and sworn in by the Chief Justice or any Judge.

The Technical Committee recommended that all Ministers shall be M.P's, appointed by the President. They also recommended that there be two houses of Parliament, the Upper and Lower House. In addition to the above the Technical Committee recommended that there should be seats reserved for women without mentioning numbers in houses. Traditional leaders and disabled to have reserved seats only in the Senate.

On the issue of organisation of our Court Systems the Technical Committee recommended that Status quo be maintained with an addition of the Traditional Court, plus Constitutional Court, while judges shall be appointed by the President, Judicial Service Commission on merit. There shall be separation of powers between the three arms of government.

PARKED ISSUES

The Technical Committee, after a substantive discussion, have parked the following issues:

- President and 2 V.P's as per Unity Accord,
- P.M and one V.P,
- President and 2 V.P's,
- President and one VP.

The discussion proceeded with others feeling that one of the Vice Presidents should come from Matabeleland. Others proposed that there be a President, and Prime Minister

The French example was mentioned in the discussion as having both the President and Prime Minister with Executive powers indicating that it does not work because there cannot be two centres of power unless they all come from the same political party. On that point the issues were parked for further discussion by Select Committee.

The Technical Committee recommended that MPs should not cross the floor with their seats. They also proposed that Special interest groups should not have reserved seats in parliament. Bulk of the issues was removed for their irrelevance on the thematic in question.

The table 13 below exemplifies how issues were dealt with by the Technical Committee.

Table 13 Arms of State

THEMATIC AREA		ARMS OF STATE
Concept	#	Response
		AGREED TO BE IN THE CONSTITUTION
Executive Powers	1	Executive President
	2	Separation of powers / Executive, Judiciary and Legislature
Leadership Type	3	Executive President
Executive Elections		
President	4	General election
	5	Sworn in by Chief Justice or any other judge
Should all Ministers be M.P's		Yes
How should Ministers be appointed	6	President
How many houses of Parliament should we have?	7	Two
Should there be M.P's who are appointed	8	Yes-house of Senate No-house of Assembly
Should M.P's be allowed to cross the floor with their seats?	9	NO
Should any seats be reserved for:		
i) Women	10	Yes - without number in both Houses
ii) Traditional leaders	11	Yes -reserve only in Senate.
iii) Disabled	12	Yes - reserve only in Senate
How should our court system be organised?	13	Status quo, Traditional, plus Constitutional court
How should the judges be appointed?	14	On merit
	15	President and JSC
		PARKED AND REFERRED TO SELECT COMMITTEE
Executive Powers	16	President and 2 V.P's as per Unity Accord
	17	President, P.M and one V.P
	18	President and 2 V.P's
	19	President ,PM and Parliament
Both	20	General election-
Prime Minister	21	Appointed by President

Leadership Types	22	Prime Minister
Prime Minister	23	Both
Both	24	General election
	25	Parliament
	26	From majority party in Parliament
How should Ministers be appointed?	27	Prime Minister
	28	President and one Vice President
		REMOVED ISSUES
	29	Parliamentary system
	30	President and Prime minister
	31	President and Cabinet
	32	President, P.M and Cabinet
	33	President and one V.P, P.M and one V.P.M
	34	Status quo
	35	President, Cabinet and Senate
	36	President Head of State and Prime Minister Head of Government
	37	Cabinet
	38	President and 3 Vice Presidents
Should any seats be reserved for:		
Special Interest groups	39	No
Should all Ministers not be M.P's	41	No (There might be a Constitutional crisis)
Should some Ministers be M.P's and others not	42	No
How should Ministers be appointed?	43	Parliament
	44	Judiciary
	45	Commission
	46	President and Parliament
	47	Merit
	48	Prime Minister and Parliament
	49	President and P.M
	50	Ceremonial President and Prime minister
	51	President and Parliament
	52	Installed by Traditional system
	53	President and V.P's
	54	Election

	55	Parliament on merit
	56	President and Senate
	57	Prime Minister and Parliament
	58	President on merit
	59	Prime Minister on merit
	60	Political Parties
	61	President, PM and Parliament
	63	President and Judiciary
	64	Quota system according to regions
How many houses of Parliament should we have?	65	One
	66	Three
	68	Four
	69	Five
	70	Six
	71	Above Six
How should our court system be organised?	72	Status quo
	73	Traditional to Constitutional court
	74	Customary Court to International Court
	75	President on merit
	76	Prime Minister on merit
	77	President in consultation with P.M
	78	Parliament
	79	President
	80	JSC
	81	Status quo
	82	President , P.M and JSC
	83	Minister of Justice in consultation with President
	84	Parliament and JSC
	85	Minister of Justice in consultation with Parliament
	86	Elections
	87	Parliament and President
	88	Minister of Justice on merit
	89	Parliament recommends to President in consultation with P.M
	90	Attorney General, JSC in consultation with Parliament
	91	Attorney General

	92	JSC and Senate
	93	Civic Society
	94	President , Parliament and JSC
	95	Parliament on merit
	96	President and Cabinet
	97	President and parliament
	98	Quota Systems according to regions

14. INDEPENDENT PUBLIC OFFICES

AGREED ISSUES

The Technical Committee recommended that there be: Attorney General, Auditor and Comptroller General, Public Protector/Ombudsman. On the functions of the Attorney General the Technical Committee recommended that he /she should be the legal advisor to government.

PARKED ISSUES

The Technical Committee could not reach a consensus on whether the National Prosecuting Authority could be included under Independent Public offices. The Technical Committee discussed on whether the Attorney General should be the Chief Prosecutor as one of his functions, over and above being the Government Advisor.

Others strongly felt that the Attorney General should be (non- partisan) arguing that it should be clearly stated in the constitution basing on the past experiences as a country where the Attorney General was allegedly being partisan while others did not see it as constitutional matter. The other view referred to the National report.

REFERRED OR EXPORTED ISSUES

The referred issues were seen as irrelevant to Independent Public Offices as a thematic and were exported to their relevant thematic areas, for example The Public Service Commission exported to Executive Commissions.

For details of the agreed, deferred, parked, exported/ referred and removed issues see Table 14 below:

Table 14: Independent Public Offices

THEMATIC AREA		INDEPENDENT PUBLIC OFFICES
Concept	#	Issues
		AGREED TO BE IN THE CONSTITUTION
Independent Public Offices.	1	Attorney General
	2	Auditor and Comptroller General
	3	Public protector/ Ombudsman
Functions of the Attorney General	4	Legal advisor to government
		PARKED AND REFERRED TO SELECT COMMITTEE
Provision for Attorney General	5	Appointed by President
	6	Appointed by Parliament
	7	Status quo

	8	Non- partisan
	9	President in consultation with Parliament
	10	President in consultation with Prime Minister
	11	President in consultation with Judicial Service Commission
	12	Appointed on merit
	13	By Prime Minister
	14	By Cabinet
	15	By the Senate
Provision for Auditor/Comptroller General	16	Appointed by President
	17	Appointed by Parliament
	18	By Prime Minister
	19	Judicial Commission
	20	Status quo
	21	President in consultation with Parliament
	22	President in consultation with Prime Minister
	23	President in consultation with Judicial Service Commission
	24	Appointed on merit
	25	Non- partisan
	26	By Cabinet
	27	By the Senate
Provision for Public Protector/ Ombudsman	28	Appointed by President
	29	By Prime Minister
	30	Appointed by Parliament
	31	Status quo
	32	Judicial Services Commission
	33	By President in consultation with Parliament
	34	By President in consultation with Judicial Services Commission
	35	President in consultation with Prime Minister
	36	By cabinet
Independent Public Offices	37	National Prosecuting Authority
Functions of the Attorney General	38	Chief prosecutor
	39	Non-partisan
Should the AG be the Legal advisor to government and the national prosecutor	40	Yes

	41	No
	42	Status quo
Provision for Attorney General	43	Appointed by President
	44	Appointed by Parliament
	45	Status quo
	46	Non -partisan
	47	President in consultation with Parliament
	48	President in consultation with Prime Minister
	49	President in consultation with Judicial Service Commission
	50	Appointed on merit
	51	By Prime Minister
	52	By Cabinet
	53	By the Senate
Provision for Auditor/Comptroller General	54	Appointed by President
	55	Appointed by Parliament
	56	By Prime Minister
	57	Judicial Commission
	58	Status quo
	59	President in consultation with Parliament
	60	President in consultation with Prime Minister
	61	President in consultation with Judicial Service Commission
	62	Appointed on merit
	63	Non- partisan
	64	By Cabinet
	65	By the Senate
Provision for Public Protector/ Ombudsman	66	Appointed by President
	67	By Prime Minister
	68	Appointed by Parliament
	69	Status quo
	70	Judicial Services Commission
	71	By President in consultation with Parliament
	72	By President in consultation with Judicial Services Commission
	73	President in consultation with Prime Minister
	74	By cabinet

Functions of the Attorney General	75	Advisor to Cabinet
	76	Advisor to President
	77	Custodian of the Constitution
	78	Transitional Authority
		REFERRED ISSUES
Independent Public Offices	79	Anti-Corruption (referred to independent commissions)
	80	Media (referred to independent commissions)
	81	Human Rights (referred to independent commissions)
	82	Public Service Commission (referred to Executive Commissions)
		REMOVED ISSUES
Independent Public Offices	83	Registrar General
	84	Status quo
Functions of the Attorney General	85	Status quo

15. TRANSITIONAL MECHANISMS

- The Technical Committee recommended handover takeover time period to be immediate; the condition being peaceful, smooth and transparent. In the event of incapacitation of the President the Technical Committee recommended that the Vice President would take over for a period of (90) ninety days during incapacitation of the President.
- Regarding Transitional authority during election period, the recommendation was that the Incumbent President remains in office until announcement of results. On Presidential terms, the Committee recommended that it be limited to two 5 year terms. On the issue of Release of election results the Committee recommended that they should be announced before the lapse of 48 hours from close of polls. Any candidate aspiring to be President has to be 40 or above. On age limit they recommended that it be unlimited with conditions on incapacitation.
- On announcement of results, the Chief Justice or any other Judge shall immediately swear in the President. With regards to transition to the New Constitution the Technical Committee recommended that it shall be done immediately and also recommended free and fair elections.
- The Technical Committee further recommended parking and removing bulk of issues as indicated by the Table 15 below.

Table 15 .Transitional Mechanisms

THEMATIC AREA		TRANSITIONAL MECHANISMS
Concept	#	Issues
		AGREED ISSUES
Handover Takeover (Time Period)	1	Immediately
Handover Takeover (Condition)	2	Peaceful
	3	Smooth
	4	Transparent
Incapacitation of the President (who takes over)	5	Vice President
Incapacitation of the President (Time period)	6	3 months (90 days
Transitional authority during election period	7	President to remain in office
Presidential terms	8	2x5 years term
Release of election results	9	48 hours (2 days

Presidential Age	10	40+
Presidential Age Limit	11	Unlimited (with condition of incapacitation)
Who Swears in?	12	Chief Justice or any other judge
Transition To New Constitution	13	Immediately
Other	14	Free and fair elections
		PARKED AND REFERRED TO SELECT COMMITTEE
Transition To New Constitution	15	To have a stipulated day for elections and inauguration
Other	16	Winning president to have 51% of the votes
**they chose one option (immediately) the rest become irrelevant		REMOVED ISSUES
	17	24 hours (one day)
	18	2 days (48 hours)
	19	Status Quo
	20	12 months
	21	4-6 months
	22	2 months
	23	5 days
	24	7 days
	25	3 days
	26	Two weeks
	27	Six months
	28	30 days
	29	5 months
	30	3 months
	31	21 days
	32	14 – 30 days
	33	10 – 15 days
	34	10 days
	35	9 months
	36	10 months
	37	40 days
	38	1 – 2 years
Incapacitation(who takes over)	39	Speaker of parliament
	40	Attorney general

	41	Chief Justice
	42	Senate President
	43	supreme court judge
	44	President of the Senate
	45	Prime Minister
Incapacitation (Time period)	46	Parliament to choose
	47	until end of term
	48	6 months
	49	5 months
	50	Two weeks
	52	24 months
	53	150 days
	54	3 months
	55	4 months
	56	40 – 100 days
	57	1 year
	58	Immediately
transitional authority	59	Speaker of Parliament
	60	Vice President
	61	Electoral Commission
	62	Parliament will decide
presidential term	63	Unlimited
	64	4 year term
	65	2 x 7 year terms
	66	Not more than 15 years
	67	1 x 3 year term
Release of election results	68	36 hours
	69	1 month
	70	1 week
	71	90 days
	72	Unlimited/unspecified
Presidential age	73	45+
	74	40 and below
	75	65
	76	35-65
	77	40-65
Presidential Age Limit	78	not more than 80 years
	79	70 years
	80	100
Who Swears in?	81	Judiciary
	82	Traditional Leaders

	83	Attorney General
	84	Electoral Commission

16. ELECTORAL SYSTEMS

- The Technical Committee proposed and agreed on Hybrid which is a combination of both the first past the post system and proportional representation.
- The following concepts First Past The Post and Proportional Representation were removed.

Table 16 - Electoral Systems

THEMATIC AREA		ELECTORAL SYSTEMS
Concept	#	AGREED ISSUES
Hybrid	1	Yes (incorporates first past the post and proportional representation))
		REMOVED ISSUES
First Past The Post	2	No
Proportional Representation	3	No

17. PUBLIC FINANCE**a) Agreed Issues**

Concept		Issues
Management of Consolidated Revenue Fund	19	Maintain status quo
Supervision and Oversight	22	By Auditor General
	31	Parliamentary oversight
Budget Formulation	32	Annual Budget by Minister of Finance
	34	Drawn up from provincial budgets to national budget (Estimates)
Management of Budget	39	Equitable distribution of resources
Accountability and Transparency	40	Act of Parliament
	41	Annual audited reports
	42	Auditor general to monitor
Monetary Policy	45	Regulate local currency
	46	Printing money
	47	Control inflation
	49	Regulate interest rates
	50	Regulate foreign currency
Appointment of R.B.Z Governor	52	By President (On Merit)
Supervision and Regulation	57	Be independent /have autonomy
	61	Independent Commission / Board
Accountability and Transparency	63	Independent audit
Functions of The R.B.Z.	65	Local bank supervision
	66	Government banker
	67	Lender of the last resort
	68	Promote economic development (Amended to Create an environment conducive to economic stability and development)
	69	Advisor to government

- i. In terms of management of the budget, it was agreed that there is need for an equitable distribution of resources and that further work needs to be done as this forms the foundation for revenue sharing between the centre and subnational levels

- ii. In terms of the functions of the RBZ it was agreed that issue 68 be amended to read “create an environment conducive to economic stability and development.
- For supervision and oversight the Auditor General and Parliament was picked out
 - Under budget formulation it was agreed that the annual budget should be prepared by the Minister of Finance and that the national budget should be drawn from provincial and district estimates.
 - In relation to the appointment of the RBZ Governor, it was agreed that this should be done by the President, on merit.
 - In terms of the functions of the RBZ it was agreed that issue 68 be amended to read “create an environment conducive to economic stability and development.

b) Parked Issues

None

c) Referred Issues (Exports to Legislation and Bill of Rights)

Concept		Issues
Revenue Collection	1	Disposal of government shares
	2	Dividends from state enterprises
	3	Farming and industries
	4	Fines
	5	Foreign Direct Investments
	6	Interest from loans
	7	International trade /exports
	8	Loans and borrowings
	9	Rentals
	10	Royalties and levies
	11	Sale of minerals and other natural resources
	12	Stock
	13	Taxes and duties
	14	Tollgate
	15	Tourism

- It was agreed that the issues under revenue collection are administrative and that a small group should be tasked to look at them for inclusion in a schedule of the constitution

d) Removed Issues

Concept		Issues
Management of Consolidated Revenue	16	Custody by Ministry of Finance

Fund		
	17	Custody by R.B.Z.
	18	Establishment of revenue authority
	20	Regulated by ministry of finance and the governor
Supervision and Oversight	21	By Attorney General
	23	By Board of Directors/Governors
	24	By Cabinet and Ministry of Finance
	25	By Cabinet and Parliament
	26	By President and Cabinet
	27	By Provincial Governors
	28	By R.B.Z.
	29	By Senate
	30	External borrowing to be authorised by Parliament
Budget Formulation	33	By Ministry of Finance and a Commission
	35	Grassroots consultation
	36	In consultation with Parliament
	37	Maintain status quo
	38	Stakeholder consultation
Accountability and Transparency	43	Independent audit
	44	Independent finance commission
Appointment of R.B.Z Governor	51	By Parliament
	53	By Senate
	54	Status quo
	55	Minister of Finance
	56	By Prime Minister
Supervision and Regulation	58	By Governor
	59	By Parliament
	60	By President
	62	Ministry of Finance
Accountability and Transparency	64	Publicize government expenditure

Under management of the consolidated revenue fund issues 16, 17, 18, 20 were removed because it was felt they were irrelevant.

18. TRADITIONAL INSTITUTIONS

a) Agreed Issues

Concept		Issues
Recognition, protection of traditional leaders	1	Traditional leaders should be in the constitution. (Provided for in the constitution)
	4	Traditional culture and values to be restored
	6	Their court systems to be recognised and respected
Method of selection/appointment	11	Installation to be done according to traditional practices
	12	Appointed on tribal and clan and not by ministers
Functions, duties and responsibilities	18	Preserve culture, tradition, history and heritage
	19	Fair treatment of subjects
	20	Stick to their jurisdiction
	21	Custodians of sacred shrines
	22	Enforce traditional and customary laws
	24	To observe human rights
	25	Legislation must guide their work
Relations with government/parliament	43	Be included in provincial and local governments
Welfare of traditional leaders	47	Remuneration by the state
	49	Have a Chief's Council
Political participation	50	Non partisan
	51	Be apolitical

- The recommendation was that the definitions under issue 1 be removed and amended to read “ **traditional leaders to be mentioned, recognised and provided for in the constitution**”

b) Parked Issues

None

c) Referred Issues (Exports to Legislation and Bill of Rights)

Concept		Issues
		BILL OF RIGHTS
Method of selection/	15	Women to be appointed as traditional leaders

Appointment		(Covered in the Bill of Rights)
	16	No to female chiefs (Covered under the acceptance of Cultural practices)
	41	Right to parliamentary representation
		LEGISLATION
Method of Selection/Appointment	17	Headman to be chosen by chiefs not by political parties
Functions, duties and responsibilities	27	Their judgement should be reviewed by the Magistrates
	29	Should preside over family related cases but never criminal cases
	30	Enforce environmental laws
	32	Judicial powers over communal cases
	33	To distribute land
	34	Manage natural resources
	35	Must have autonomous and administrative powers
Relations with government/parliament	38	Councillors should not interfere with the roles of traditional leaders
Welfare of traditional leaders	48	Have a ministry to look at welfare of traditional leaders

It was suggested that the following issues be referred to legislation:

- That the appointment of women as traditional leaders is covered under the Bill of Rights
- That the issue of female chiefs is covered under the acceptance of cultural practices
- That the issue of headmen is covered in the legislation
- That the chiefs' judgment should be reviewed by magistrates
- That they preside over family related cases but not criminal cases
- Enforcement of environment laws
- Distribution of land
- that chiefs should be included in the provincial and local governments and that the specifics should be with under legislation

d) Removed Issues

Concept		Issues
Recognition, protection of traditional leaders	2	Maintain status quo
	3	Increase their power and authority

	5	Commission for chiefs
	7	Chiefs must be phased out
	8	Traditional laws to be written
	9	There should be a king above chiefs
	10	They should revive the Ndebele Kingdom
Method of selection/appointment	13	DA and local government to appoint leaders
	17	Headman to be chosen by chiefs not by political parties
	14	To be chosen by President
Functions, duties and responsibilities	23	Chiefs should have direct access to the President
	26	Chiefs must not have judicial powers but retain administrative powers
	28	Chiefs to be custodians but not administrators of land and law
	31	Rule independently
	36	Right to cultural practices in succession in traditional leadership
	37	Traditional leaders must be given powers to control and monitor resources
Relations with government/parliament	39	Should not sit in parliament
	40	Create independent chiefs' council in parliament
	42	Should be a commission for chiefs
	44	Chiefs to swear in President
	45	Respect legislation and constitution
	46	Should be given power by the constitution
Political participation	52	Right to political affiliation
Issues still to be agreed upon	53	To be respected
	54	Benefits of chiefs should cascade to kraal heads and headmen

It was recommended that the following issues be removed:

- Maintaining the status quo
- Increasing their power and authority as this was a meaningless statement as it stands
- That chiefs must be phased out
- That traditional laws must be written as this as an aspiration

- That the Ndebele kingdom be revived and that there should a king above chiefs as this was not a constitutional issue
- That the DA and local government cannot appoint leaders
- Chief's access to the President is not a constitutional issue.
- Judicial powers of chiefs
- That chiefs must be custodians of the land
- That they rule independently is not a constitutional issue
- Powers to control and monitor resources
- Sitting in Parliament (irrelevant as they already sit in Parliament)
- Commission of chiefs
- Respect for legislation

19. WOMEN AND GENDER

This thematic area covers the political, economic, social and cultural aspirations of women. The issues discussed include the following:

a) Agreed Issues

Concept		Issues
Political	1	Occupy public offices (local and national governance)
	2	Reserved public office
	3	50/50 at all levels including parliament
	4	Equal decision making opportunities including traditional leadership positions
	5	Right to leadership positions including Presidium
	6	Right to self-representation in parliament
	7	No to quota system but equal contestation for positions
	8	No reserved seats in parliament
	9	Right to be elected
	10	Leadership representation on merit
	11	Right to vote
	12	Equal decision making opportunities including traditional leadership positions
	14	Choose political party of own choice
	15	Affirmative action for leadership posts to address previous gender imbalances
	17	Domestication of all international protocols
	18	Specific budget for women
Cultural	75	Right to full guardianship

b) Parked Issues

Concept		Issue
Political	29	One vice president to be female

There was no agreement on this issue so it was parked.

c) Referred Issues (Exports – Legislation and Bill of Rights)

Concept	Issues
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		LEGISLATION
Political	19	Protection from political party manipulation and abuse
Economic	41	Fully paid maternity leave
	42	Equal employment opportunities
	43	Equal share in resources
	44	Access loans in their own names
	45	No sexual harassment and abuse at work
	46	No employment discrimination against pregnant women
	56	Paternity leave
	58	Protection from HIV
	60	Access to ARV's (free)
	61	Children under 5 years to access free healthcare
	69	Quota systems for females in schools and tertiary institutions
	72	Free primary education for women
	73	Affirmative action towards empowering women at schools and colleges
	74	Right to inheritance after death of spouse
	82	Girl child to inherit parents property
	87	Conjugal rights for prisoners
Social - Health	55	Sanitary pads to be available for free
	57	No control to family planning
	59	Pregnant girl child not to be expelled from school
	62	Right to choose dress a one chooses
Education	67	ECD teachers to be paid like other teachers
Cultural	85	Remove all traditional laws that oppress women
	86	Abolish inheriting of widows – nhaka
Bill of Rights	88	Gender commission
		BILL OF RIGHTS
Political	16	No to affirmative action
	20	Not to be raped during election times
	21	Equal rights to governance and residence
	22	Reserved seats in parliament
	23	Right to equal opportunities and proportional representation
	24	Quota system for women
	25	Political participation
	26	Equal rights

	27	Representation in all arms and organs of the state
	28	Equality before the law
	30	Right to education and political leadership and not at home
	31	People can vote for who they please. Gender should not be an issue
Economic	36	Economic rights and empowerment (participation)
	37	Equal pay for equal work
	38	Quota system for employment
	39	Right to property
	40	Inclusion of the girl child in all economic activities
	47	Social welfare for widows and old women
	48	Property rights for widows
	49	Married Zimbabwean women should be free to undertake any work or business ventures of their choice
	50	Rights of women to public financing
Social Health	52	Right to land for single mothers
	53	Free access to family planning pills
	54	No to abortion
Education	64	Equal educational opportunities and access (gender equality)
	65	Right to affirmative action in education
	66	Adult education
	68	Right to education up to the highest level
	70	Equality in education
	71	Equal treatment in schools between boys and girls for expulsion for falling pregnant . Pregnant girl to continue with education
Cultural	76	No to domestic violence
	77	No to appeasement of ngozi
	78	No forced early marriages
	79	Right to obtain registration documents for children without spouse
	80	No gender based violence

Political

The issues relating to a quota/ reserved seats for women were grouped and the following were identified under this heading: issues 2, 3, 4, 7, 8, 1, 24 and 29. It was also agreed that the equality clause would cover the right to be elected and representation in all arms and organs of the state. The other issues agreed to are that:

- 50/50 representation be enshrined in the Constitution
- Issue 17 was amended to read ratification and domestication of all international protocols
- Issues covered under basic rights were identified as protection from political manipulation and the right to education and political leadership.
- Issues 31 -36 are covered under affirmative action

Economic

It was agreed that the following issues be referred to legislation:

- Fully paid maternity leave
- Equal employment opportunities
- Access to loans in their own names
- Sexual harassment and abuse at work
- Discrimination in employment against pregnant women which would also be dealt with under the non- discrimination clause in the Constitution
- Right to property
- Social welfare for widows and old women
- Property rights for widows
- Freedom of married women to undertake women any business venture/ work
- Right of women to access public financing (also dealt with in the equality clause)

Social

It was recommended that the following issues also be included in the Bill of Rights

It was also recommended that the following issues are covered elsewhere in the constitution

- Abortion is dealt with under the right to life
- Right to land for single mothers under the equality clause
- Pregnant girls to be allowed to go back to school under the equality clause
- The right to choose way of dressing under the equality clause

Social

It was agreed that the following be dealt with in terms of legislation

- Free access to family planning pills
- Paternity leave
- Protection from HIV
- Free access to ARVs
- Free health care for children under 5 years of age

It was further agreed that the following issues are not relevant

- No to property rights as it is in contradiction with the Bill of Rights
- No control to family planning

Education

All the issues under this concept are covered elsewhere in the constitution

The following are covered under legislation

- Adult education
- Free primary education for women amended to read for all children
- Right to inheritance after death of spouse

The following are covered under the equality clause

- Equal education opportunities and access
- Equality in education
- Equal treatment in schools between boys and girls

The following are covered under the affirmative clause

- Affirmative action towards empowering women at schools and colleges
- Quota systems for females in schools and tertiary institutions

Cultural

The following issues were referred to legislation:

- Right to inheritance after death of a spouse
- Girl child to inherit parent's property

Issues covered under basic rights were

- No to domestic violence
- Right to obtain registration documents for children without spouse
- Removal of harmful practices related to oppression and inheritance laws

Under the Bill of rights it was agreed that;

- Conjugal rights for prisoners be dealt with under legislation
- A Gender Commission

Removed Issues

Concept		Issue
Political	13	Ensure 1/3 female representation
	32	70% women representation in parliament,
	33	55% seats for women in parliament
	34	25% old representation
	35	50/50 minus 25% young
Economic	51	No to property rights
Cultural	81	Marriage age 18 – 25
	83	No special rights to be given to women
	84	Right to say no to sex

The following was agreed:

- That to be raped during election times is not a constitutional issue
- That issues 81 -84 were not constitutional issues
- That issues 13 -35 are in contradiction of the 50/50 representation

20. EXECUTIVE ORGANS OF THE STATE

Agreed Issues

THEMATIC AREA		EXECUTIVE ORGANS OF THE STATE
Concept	#	Response
	1	Police
	2	Defence
	3	Prisons
	4	Public Service
	5	Central Intelligence

The above Executive Organs were adopted. It was observed there are omissions that could be attributed to the structuring and formatting of the questions. It was therefore agreed that a smaller group be formed to look at the gaps and make suggestions on those that might have been left out.

21. INDEPENDENT COMMISSIONS

AGREED ISSUES

The Technical Committee agreed on the provision Independent Judiciary service commission, Anti-corruption, Land, Human Rights, Electoral and Media commission

PARKED ISSUES

On the issue of Parliament and President to appoint Commissions no consensus was reached but the following points were raised;

- i. Motion to combine parliament and president
- ii. The commissions have different procedures so their appointments should be treated individually
- iii. Consultations should the binding on the president
- iv. President to make only formal appointments
- v. President should only appoint the chairpersons and not all the appointees
- vi. Harmonisation of procedure for appointments in all independent commission

Parliamentary Services; no consensus was reached but the following recommendations were made;

- i. Not necessary as its responsibilities will be to minimal
- ii. Judiciary Service Commission not to outline the terms and conditions of service of parliamentarians as is the case now
- iii. Cannot be made independent since it will have to interrelate with the other departments of the state
- iv. Its independence does not mean that it does not interface with other entities
- v. Have it as a board instead of a commission but with full autonomy

Truth, Justice and Reconciliation

On the issue of Truth, Justice and Reconciliation no consensus was reached but the following points were raised;

- i. Not necessary in the constitution as it is a temporary matter
- ii. Truth being an on-going process needs to be enshrined in the constitution
- iii. Acts as a deterrent to the perpetration of violence and atrocities since Zimbabwe has a long history of the culture of violence, trauma and human rights abuses
- iv. Need for exposure of past and current abuses of power for the peoples' closure
- v. To be set up whenever necessary
- vi. Entrenchment of unity and diversity and not conflict
- vii. Can be entrenched in the preamble detailing the atrocities committed but promoting the spirit of unity then be supported by legislation

THEMATIC AREA	INDEPENDENT COMMISSIONS
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Concept	#	Response
		AGREED ISSUES
	1	Independent Judiciary Service Commission
	2	Anti-corruption
	3	Land
	4	Human Rights
	5	Electoral
	6	Media
Appointments	15	Parliament and President
	26	Constitutional protection
	27	Legislation protection
	28	Resources protection
		PARKED ISSUES
	7	Parliamentary Services
	11	Truth, Justice and Reconciliation
		REFERRED TO LEGISLATION
	9	Environment
	10	Tariffs and Competitions
	12	Teaching Services
	13	Sports & Recreation
	14	Natural Resources Commission
		REMOVED ISSUES
	17	President and Judicial Services Commission
	18	Sector Representative
	19	President & Prime Minister
	20	President & Senate
	21	Prime Minister
	22	Independent Commission (Appointments Commission)
	23	President & Cabinet
	24	Judiciary
	25	Select Committee
	29	Non partisan
	30	Non political interference
	31	No interference from Executive
	32	President
	33	Limited term
	34	Transparency

22. LANGUAGES, ARTS AND CULTURE

AGREED ISSUES

- All local languages should be officialised and the following are Zimbabwe's languages: Shona, Ndebele, Kalanga, Nambya, Chikunda, Venda, Shangani, Chewa, Nyanja, Sotho, Tonga, Xhosa, Pfumbi, Barwe, Hwesa, Tshawo, Doma, English and sign language. English to be the language of record for Zimbabwe. However there should be framework in the constitution which will make it possible to add more languages. Experts to be consulted on the correctness of some of the languages put forward.
- Equality and non-discrimination among languages must be promoted including braille and sign languages and they should be taught in schools. In addition, local languages should be respected, promoted, and protected.
- Right to use language of choice and Parliament and courts to use local language. Also tolerance of diversity in arts and national monuments to be protected.

THEMATIC AREA		LANGUAGES, ARTS AND CULTURE
Concept	#	Response
		AGREED ISSUES
	1	All local languages should be officialised.
	2	Promote and teach braille and sign languages.
	4	Equality and non-discrimination among languages.
	6	Local languages should be taught in schools
	7	All local languages should be respected, promoted, and protected.
	8	Right to use language of choice.
	9	Parliament and courts to use local languages.
	10	There should be a language policy.
	11	The following are Zimbabwe's languages: Shona, Ndebele, Kalanga, Nambya, Chikunda, Venda, Shangani, Chewa, Nyanja, Sotho, Tonga, Xhosa, Pfumbi, Barwe, Hwesa, Tshawo, Doma, English and sign language. English to be the language of record for Zimbabwe
	16	Tolerance of diversity in arts.
	17	National monuments to be protected.
		REFERRED ISSUES
	12	Promote, protect and preserve local arts and craft. Covered in bill of rights

	13	Establish national arts commission, boards and centres. Covered in bill of rights
	14	Freedom of expression and operation. Covered in bill of rights
	15	No censorship. This issue was parked in media
	18	Promote, respect and preserve culture. Covered in bill of rights

23. LANDS

Parked and Referred to the Select Committee

1. Land Reform is irreversible

- i. There was one view that said Land reform is irreversible
- ii. The contrary view said Land reform is reversible

After discussions, there was no consensus. The issue was parked and referred to Select Committee

2. Tenure

There was a view that there should be 99 Year lease and no title deeds

- i. There was a contrary view that there should be title deeds
- ii. To be regulated by legislation
- iii. Should land with title deeds be changed to state land?
- iv. Agricultural land to remain state land until the inconsistencies from land reform are corrected
- v. Is to be regulated by legislation
- vi. Support of 99 year leases for foreigners eg section 64 in the Kenyan constitution

After some discussions it was decided to park and refer to Select Committee

3. Administration

- i. There was one view that traditional leaders should preside over land,
- ii. traditional leaders to allocate land,
- iii. There was a view that section 26 of Traditional Leaders act says newly resettled areas should fall under their jurisdiction
- iv. There was a contrary view that Traditional Leaders should not preside over land,
- v. Traditional Leaders should not allocate land,
- vi. That Traditional Leaders should not be custodians of land.

After some discussions it was decided to park and refer to Select Committee

4. Compensation

- i. There was a view that Compensation for expropriation of land as a principle is generally accepted and its even there in the current constitution.
- ii. There was another view that since all land is to remain State land, the issue of compensation falls away.
- iii. There was another view that compensation be accepted as a principle in the constitution but the modalities to be in the schedules.

Since there was no agreed formulation it was decided to park and refer to the Select Committee

5. Foreigners not to own land but have leasehold

- i. The contrary view to the issue that “foreigners not to own land but have leasehold” is that since all land is now State land and all people are now lessees there is no reason to single out foreigners.
- ii. The supporting view referred to the Kenya Constitution, Section 26 which prohibits foreigners to own land.

After some discussions it was decided to park and refer to Select Committee

THEMATIC AREA		LANDS
Concept	#	ISSUES
		AGREED ISSUES
	1	Redistribution of land
	3	Land reform to continue
	4	Agricultural land to remain state land To include forestry and conservancies
	1	Land Security
	4	Urban land must have title deeds
	7	Regulated land reform
	1	Equitable distribution of land
	4	Land commission
	5	Productive use of land
		PARKED ISSUES
	2	Land reform is irreversible
	2	99-Year lease
	3	Land should be owned by Zimbabwean citizens
	3	Title Deeds
	5	No to title deeds
	2	Traditional leaders to preside over land
	6	No compensation
	13	Traditional Leaders to allocate land
	14	Traditional Leaders to be custodians of land
	18	Compensation to be paid
	20	Foreigners not to own land, but have leasehold
		REMOVED ISSUES
	6	20-50 year lease of land
	8	40 year lease
	9	25 year lease

	19	Whites to compensate for land they used
		REFERRED TO LEGISLATION
	7	Women to have land Covered in women and gender
	8	Disabled must have land Covered disabled
	9	One man one farm policy <u>Discussion</u> To be regulated by legislation
	10	State land should not be sold <u>Discussion</u> To be regulated by legislation Change the wording to state land
	11	No multiple farms To be regulated by legislation
	12	Agricultural support To be regulated by legislation
	15	Land to benefit locals Covered in land
	16	Land must be conserved Covered in environment
	17	Local communities first Covered in bill of rights
	18	Land audit To be covered in legislation

24. CITIZENSHIP

Parked and referred to the Select Committee

To Dual Citizenship

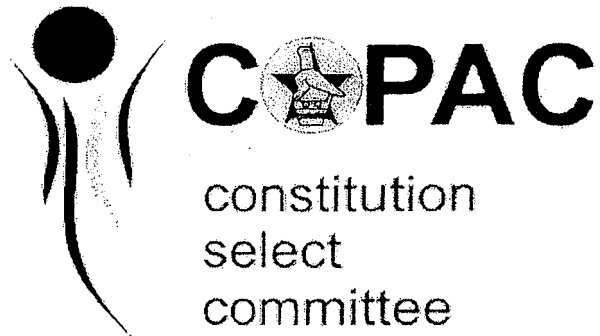
- i. Section 16 of Kenya constitution allows it
- ii. To be dealt with by legislation since it is a complex issue
- iii. Ugandan constitution does not allow it
- iv. Need for dual citizenship to reign in the human capital we have in the past lost due to migration
- v. Kariba draft leaves it to legislation
- vi. Practicality to be the driving force since it is a national matter which does not require being myopic
- vii. Dual citizenship compromises the principles of allegiance and patriotism with a corresponding part on the state to protect its citizens.
- viii. Vote including foreign based citizens referred from bill of rights.

After some discussions it was decided to park and refer to Select Committee

THEMATIC AREA		CITIZENSHIP
Concept	#	ISSUES
		AGREED ISSUES
1.Acquisition of Citizenship	1	By Birth
	2	By Descent
	3	By Marriage
	4	By Registration
		PARKED ISSUES
2.Dual Citizenship	5	Yes to Dual Citizenship
	6	No to Dual Citizenship
	7	Vote including foreign based citizens Refer to electoral systems



GAP FILLING
LEOPARD ROCK, VUMBA
6TH JANAURY 2012



REVISED GAP FILLING ON IDENTIFIED ISSUES FOR THE CONSTITUTION

LEOPARD ROCK, VUMBA

6TH JANUARY 2012

GAP FILLING ON IDENTIFIED ISSUES FOR THE CONSTITUTION: LEOPARD ROCK, BVUMBA, 6 JAN 2012

As recommended by the Technical Committee for the attention of the

Select Committee

Name	Signature
Hon. M. P. Mangwana (MPM)	
Hon. E. T. Mkhosi (ETM)	
Hon. D. T. Mwonzora (DTM)	
Hon. F. Buka	
Hon. Chief Charumbira	
Hon. A. Chibaya	
Hon. W. Chidakwa	
Hon. G. Chimanikire	
Hon. L. Dokora	
Hon. G. Gombami-Dube	

Hon. B. Gaule	
Hon. I. Gonese	
Hon. J. Gumbo	
Hon. I. Kay	
Hon. M. Khumalo	
Hon. J. Majome	
Hon. C. Makuyana	
Hon. E. Matamisa	
Hon. T. Mathuthu	
Hon. T. Mohadi	
Hon. O. Muchena	
Hon. R. Muchihwa	
Hon. M. Mutsvangwa	
Hon. B. Tshuma	

GAP FILLING ON IDENTIFIED ISSUES FOR THE CONSTITUTION: LEOPARD ROCK, BVUMBA, 6 JAN 2012

Technical Committee

Name	Signature
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Hon. J F Mudenda (Chairperson, JFM)	
Mrs. Angela S. Mahlamvana-Tofa (Chairperson, ASMT)	
Adv. F.G Gijima	
Dr. Maxwell Hove	
Mr. J James	
Chief. M Khumalo	
Hon. Morgan Komichi	
Dr. A. Magaisa	
Prof. J Makumbe	

Mr. G Masimirembwa	
Mr. J Moyo	
Hon. S Mushonga	
Mr. M Ncube	
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Mr. Rejoice Ngwenya	
Mrs. B Nyamusamba	
Mr C Chibaya	
Mr. J Tshuma	
Adv. C. Damiso	

GAP FILLING ON IDENTIFIED ISSUES FOR THE CONSTITUTION: LEOPARD ROCK HOTEL, BVUMBA, 6 JAN 2012

Rapporteurs

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Mr. Paul Vurayai	
Mrs. Theresa Muchovo	
Ms. Cecilia R Chimbiri	
Mrs. Virginia Makanza	
Ms. Thandiwe Gosha	
Mr. Peter Mukuchamano	
Mr. Mathambo Ngoma	
Ms. Isabel Chioniso	

GAP FILLING ON IDENTIFIED ISSUES FOR THE CONSTITUTION: LEOPARD ROCK, BVUMBA, 6 JAN 2012

As recorded by the Rapporteurs to the Technical Committee

Supporting Resources

COPAC Secretariat

Mr. G. Marunda

Mrs. S Fundira-Buhera

Mrs. FT Mabeza

Mr. A Masumba

Mr. I Mukwishu

Mr. T. Mudzengi

Mrs. C Gavi

Mrs. G Ganyani

Mrs. A Hobwana

Mr. E Nyamukachi

Mr. G Sibanda

Mr. O Ruwodo

Mr. C Mbiri.

Mr. F Madziwa

Mr. A Chiwara

Mrs. S Makombe
Mrs. P Marecha
Ms. I Madamombe
Ms. R Njanji
Ms. V Dube

Presenters

Justice. Ben Hlatwayo
Mr. Hassen Ebrahim

UNDP Zimbabwe

Mr. Mfaro Moyo
Mrs. Noria Mashumba

Concepts and Principles

FRAMEWORK	GAPS	Concepts/ Principles
PREAMBLE		
1. Sovereignty and Independence	<i>1. We the people of Zimbabwe :-</i>	
2. Recognise and uphold human rights	<i>2. The Constitution is the Supreme Law of Zimbabwe ----</i>	
3. Unity of the people	<i>3. Adoption clause of the Constitution by the people of Zimbabwe</i>	
4. Recognise traditional leaders	<i>4. Justice, tolerance and prosperity</i>	
5. Land and Natural Resources as our national heritage - (PARKED)	<i>5. Democracy</i>	
6. Pre and Post-independence internal conflicts and challenges	<i>6 Freedom</i>	
7. Gukurahundi Murambatsvina and 27 th June 2008 - (PARKED)	<i>7. Freedom of assembly</i>	
8. Diversity of the people, tribes and languages	<i>8. Committing to the future</i>	
9. History of the country		
10. Patriotism to the country		
11. Good governance		
12. Founding fathers and nationalist heroes	<i>9. Mothers, Heroines</i>	
13. No racism, tribalism and oppression		
14. Respect national anthem, flag and shrines.		

FRAMEWORK	GAPS	Concepts/ Principles
15. Liberty, freedom of expression and movement		
16. Peace and security		
17. Supremacy of God		
18. Traditions and Cultures		
19. Accountable administration		
20. People's power		
21. Gender equality and independence		
22. Liberation history		
CHAPTER I		
THE REPUBLIC AND THE CONSTITUTION		
Section		
1. The Republic	<i>1. The Republic</i>	<i>Zimbabwe is a sovereign, democratic, Unitary state guided by principles of devolution and integration</i>
2. Territory of Zimbabwe	<i>2. Territory of Zimbabwe</i>	<i>Boundaries, as recognised by the international community</i>
3. Sovereignty of the people	<i>3. Sovereign authority of the people</i>	<i>Authority derives from the people</i>
4. Supremacy of the Constitution	<i>5. Enforcement of the Constitution</i>	<i>The Constitution is the supreme law and any other law that is inconsistent with it is null and void</i> <i>Duty on all organs of the state to observe the Constitution</i>

FRAMEWORK	GAPS	Concepts/ Principles
	<i>7. Promotion of awareness of the constitution</i>	<i>Duty on all organs of the State to promote awareness of the Constitution</i> <i>The state should encourage or permit civic education with regards to the Constitution</i> Agreed to adopt the formulation in the Constitutional Draft of 2000 section 8
5. Provinces, Districts and Local Authorities		
6. National Flag		
7. National Anthem		
8. Coat of Arms		
9. Public Seal		
10. National days		
11. Languages 12. Cultures		<i>Recognition of all indigenous languages including sign language.</i> <i>The official languages are: List – (Ministry of Education to provide the comprehensive list).</i> <i>The language of record is Shona, IsiNdebele Kalanga and English.</i> <i>An Act of Parliament may prescribe further languages as languages of record</i>
13. State and religion		

FRAMEWORK	GAPS	Concepts/ Principles
14. Defence of the Constitution	6. Defence of the constitution	Duty on every citizen to defend the Constitution
15. Promotion of awareness of Constitution		
CHAPTER II		
THE FOUNDING PRINCIPLES		
PART I: FUNDAMENTAL CONSTITUTIONAL PRINCIPLES	1. Respect for Human Rights and Democratic principles 2. Accountable Administration 3. Promotion of Gender Equality 4. Universal adult suffrage	- Duty on all persons including juristic persons and organs of the state to promote the values and principles that underlie the Constitution - Accountable, transparent, open, accessible and responsive administration - Duty on all persons and organs of the state to promote and observe all the principles of gender equality - All persons aged 18 and above shall have the right to vote freely and be voted into public office subject to this Constitution - Regular, free and fair elections - Common voters roll

FRAMEWORK	GAPS	Concepts/ Principles
	5. <i>Constitutional democracy</i> 6. <i>Constitutional transfer of power</i> 7. <i>Authority of the people</i> 8. <i>Constitutionalism</i> 9. <i>Political pluralism</i> 10. <i>Republicanism</i> 11. <i>Protection of ethnic and marginalised groups</i> 12. <i>Separation of powers</i>	• <i>Multiparty System</i> • <i>Supremacy of the Constitution</i> • <i>Adherence to the principles of Constitutionalism and the rule of law</i> • <i>Lawful and orderly transfer of power in terms of this Constitution after an election</i> • <i>All Constitutional organs of the state have a duty to ensure an orderly transfer of power after an election</i> • <i>Power to rule and govern is derived from the people</i> • <i>Limited government/power (Power limited in and by the constitution)</i> • <i>Promotion of multiparty democracy</i> • <i>Adherence to the principles of elected representative government</i> • <i>Recognition of the rights of ethnic, racial, cultural, linguistic, religious and political minorities</i> • <i>Duty on all organs of the state to respect and promote the principle of separation of powers with checks and balances</i>

FRAMEWORK	GAPS	Concepts/ Principles
16. Authority of the people		
17. National unity, peace and stability		
18. Unitary State with Devolution and integration	<i>Unitary State -----Uplifted from Systems of Government</i>	
19. Democratic principles		
20. Constitutional Democracy		
21. Rule of law		
22. Equality before the law		
23. Gender equality		
PART II: NATIONAL OBJECTIVES	<i>1. Social Protection</i> <i>2. Foreign policy objectives</i> <i>3. Access to justice</i>	<i>The duty of the state to take practical measures within limits of the resources to provide social security and social care</i> <i>Guided by the need to protect national interests</i> <i>Respect for international law</i> <i>Peaceful coexistence</i>
Objectives to guide all organs and agencies of State and Government		
NATURE OF OBJECTIVES		
24. Development and Wealth Creation		
25. Good governance		

FRAMEWORK	GAPS	Concepts/ Principles
26. Food security		
27. Environment		
28. Traditions and cultures		
29. Foreign policy objectives		
30. Gender / Women		
31. Ethnic communities		
32. Children		
33. Youths		
34. Elderly persons		
35. Persons with disabilities		
36. Work and labour relations		
37. Protection of the family		
38. Economic empowerment		
39. Education		
40. Shelter		
41. Health services		
42. Social welfare		
43. Legal aid		
CHAPTER III		
BILL OF RIGHTS		
RIGHTS AND FREEDOMS		
PART I: PRELIMINARY		
44. Duty to respect human rights		
45. Application of Chapter III	<i>1. Duty of the State to protect, promote, fulfil and respect the Bill of Rights</i>	<i>Duty of the State to protect, promote, fulfil and respect the Bill of Rights</i>

FRAMEWORK	GAPS	Concepts/ Principles
	<i>2. Vertical and horizontal application of the Bill of Rights to all organs of the state including the executive, legislature, and judiciary including local government and all persons including natural and juristic persons</i>	<i>2. Vertical and horizontal application of the Bill of Rights on all organs of the state including the executive, legislature, and judiciary including local government and all persons including natural and juristic persons (Make it simpler)</i>
46. Interpretation of Chapter III	<i>1. Entrenchment of the Bill of Rights</i> <i>2. In Interpreting the Bill of Rights the courts must take full account of the founding and fundamental principles set out in the Constitution.</i> <i>3. Such interpretation should also take into account international conventions, treaties and international law.</i> <i>5. Recognition of other rights to the extent they are consistent with the Bill of rights</i>	<i>Supremacy of the Bill of Rights</i> <i>In Interpreting the Bill of Rights the courts must take full account of the founding and fundamental principles set out in the Constitution. Interpretation to be liberal and to give protection to individual rights</i> <i>Such interpretation should also take into account international conventions, treaties and international law.</i> <i>Recognition of other rights to the extent they are consistent with the Bill of rights (Parked for elaboration by the Technical Committee)</i>
47. Chapter III does not preclude	<i>1. These rights must not be inconsistent</i>	<i>These rights must not be</i>

FRAMEWORK	GAPS	Concepts/ Principles
existence of other rights	<i>with the Bill of Rights</i>	<i>inconsistent with the Bill of Rights</i>
48. Right to life		
49. Right to personal liberty		
50. Right to personal security	<i>1. Right to the security of the person</i>	<i>To be free from all forms of violence whether by state or non state actors</i> <i>Not to be subjected to medical or scientific experiments without one's informed consent or undue influence on account of socio-economic status</i>
51. Freedom from slavery and forced labour		
52. Freedom from torture and inhuman or degrading treatment		
53. Right to dignity and reputation		
54. Freedom from discrimination		
55. Freedom of conscience		
56. Freedom of speech and expression		
57. Right to language and cultural life		
58. Freedom of assembly and association		
59. Freedom of movement and residence		
60. Protection of law: equality before the law		
61. Protection of law: fairness in criminal cases		

FRAMEWORK	GAPS	Concepts/ Principles
62. Protection of law: fairness in civil proceedings		
63. Protection of the law: Domestic and gender based violence		
64. Right to information		
65. Right to just administrative action		
66. Rights of children, their parents and guardians		
67. Rights of youths		
68. Rights of the elderly		
69. Rights of persons with disabilities		
70. Rights of women		
71. Rights of ethnic groups		
72. Right to establish and maintain educational institutions		
73. Right to property		
74. Agricultural land acquired for resettlement		
75. Land acquired for other purposes		<i>Forestry and conservancies</i>
76. Freedom from arbitrary eviction		
77. Right to privacy Section 59 Kariba		
78. Political rights		
79. Consumer rights		
80. Language and culture		
81. Access to justice		
82. Family		
83. Labour relations		
84. Right to education		

FRAMEWORK	GAPS	Concepts/ Principles
85. Right to shelter		
86. Right to sanitation	<i>Clean and safe water</i>	<i>Duty on all levels of government to provide clean and safe water</i>
PART 1A. SPECIFIC APPLICATION OF RIGHTS	<i>Specific Applications of certain Rights</i> <i>Women</i> <i>Children</i> <i>Youth</i> <i>Disabled</i> <i>Elderly</i> <i>Labour</i> <i>Minorities</i> <i>Arrested and detained people</i> <i>Accused persons</i> <i>Languages, Arts and Culture</i> <i>Religion</i> <i>Media</i>	<i>The specific applications of these rights does not limit the scope of the rights provided for in the declaration of the Bill of Rights</i>
PART II: LIMITATIONS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS		
	<i>Limitations should be reasonable and justifiable in a democratic and open society and be proportionate.</i> <i>Limitations should also be in terms of the law</i>	<i>Limitations should be reasonable and justifiable in a democratic and open society and be proportionate.</i> <i>Limitations should also be in terms of the law</i>

FRAMEWORK	GAPS	Concepts/ Principles
	3. Consider - the nature of the right or freedoms. - the importance of the purpose of the limitation. - the nature and extent of the limitation, - relationship between the derogation and the purpose of the derogation, - less restrictive mechanisms of achieving the purpose of the derogation	Consider - the nature of the right or freedoms. - the importance of the purpose of the limitation. - the nature and extent of the limitation, - relationship between the derogation and the purpose of the derogation, - less restrictive mechanisms of achieving the purpose of the derogation
	Identify non derogable rights	As defined under international law (Not clear – Technical Committee to do further research)
87. Extent to which fundamental rights and freedoms may be limited		
88. General limitations		
89. Limitations during emergency		
90. Specific limitations		
91. Empowerment of indigenous people and marginalized groups		
PART III: ENFORCEMENT OF BILL OF RIGHTS AND FREEDOMS		
	1. Duty to obey the decisions of the courts	Duty of every person, institution or organ of the state to obey and

FRAMEWORK	GAPS	Concepts/ Principles
		<i>enforce the decisions of the Courts</i>
92. Application to Constitutional Court for redress	<i>1. Procedure to apply to the Constitutional Courts needs to be set out.</i> <i>2. Who may approach the Constitutional Courts?</i> <i>3. Any other public interest groups</i>	<i>• Must be simple and accessible</i> <i>• The person affected</i> <i>• Person acting on behalf of a person affected</i> <i>• Association</i> <i>• In the public interest</i>
93. Reference of question to Constitutional Court		
94. Jurisdiction of Constitutional Court	<i>1. Includes the power to give advisory opinions</i>	<i>• Includes the power to give advisory opinions</i>
95. Saving of jurisdiction of other courts		
96. Right of Attorney General to be heard in constitutional cases		
97. Right of Minister to make representations in certain constitutional cases		
98. Rights of persons detained under law declared unconstitutional		
CHAPTER IV		

FRAMEWORK	GAPS	Concepts/ Principles
99. States of Emergency	1. <i>Circumstances and who can declare</i> 2. <i>Schedule defining the limitation and extent of the limitation and safeguards</i> 3. <i>Role of parliament</i> 4. <i>Role of Judiciary in the declaration of a state of emergency.</i>	• <i>Where the nation is threatened by a war, invasion, general insurrection, natural disaster or other public emergency.</i> • <i>By Head of State and ratified by Parliament within 14 days</i> • <i>There would be no immunity, amnesty or indemnity for those who commit unlawful acts during the states of emergency</i> • <i>Derogable and Non derogable rights during an emergency</i> • <i>Ratification/rejection within 14 days</i> • <i>And lasts no more than 30 days unless extended by Parliament</i> • <i>Extension of the state of emergency requires a simple majority of the total membership</i> • <i>Constitutional Court to determine the validity of the declaration of the States of Emergency</i> • <i>Agreed to adopt the formulation in the current Constitution Section 31J on who declares a state of emergency and adopt the South African Constitutional</i>

FRAMEWORK	GAPS	Concepts/ Principles
		<i>formulation under Section 37 on the reasons for declaring a state of emergency and the rights of persons under an emergency</i>
Agreed issues not in the Frame work YOUTH	<i>Refer to Bill of Rights – Specific applications</i>	
Agreed issues not in the Frame work DISABLED		
	<i>Refer to Bill of Rights</i>	
Agreed issues not in the Frame work MEDIA	<i>Refer to specific applications under Bill of Rights</i>	
Agreed issues not in the Frame work LABOUR	<i>Refer to Bill of Rights – Specific Applications</i>	
Agreed issues not in the Frame work RELIGION	<i>Refer to Bill of Rights – Specific Applications</i>	

FRAMEWORK	GAPS	Concepts/ Principles
CHAPTER V		
CITIZENSHIP		
100. Zimbabwe Citizenship	1. Zimbabwe Citizenship 2. Principles of equality of citizens 3. Equality between men and women 4. Duties and obligations of and entitlements to citizens 5. Obligations to guard against statelessness 6. Protection of citizenship on marriage or dissolution in obtaining citizenship to be dealt with in legislation 7. Prevention of abuse against the Institution of marriage 8. Rights of children in citizenship of foundlings (street kids) (Kenyan Constitution Article 14(4))	• Common Citizenship (Explain – Technical Committee) • Principles of equality of citizens • Equality between men and women • Duties and obligations of and entitlements to citizens (Explain – Technical Committee to articulate the duties and obligations) • Obligations to guard against statelessness • Protection of citizenship on marriage or dissolution in obtaining citizenship to be dealt with in legislation • Prevention of abuse against the Institution of marriage

FRAMEWORK	GAPS	Concepts/ Principles
	9. Prohibition of distinction based on circumstances of birth e.g reference to legitimate and illegitimate children.	- Rights of children in citizenship of foundlings (street kids) (Agreed to adopt the formulation in the Kenyan Constitution Section 14(4)) - Prohibition of distinction based on circumstances of birth e.g reference to legitimate and illegitimate children.
101. Acquisition, loss and restoration of citizenship	Acquisition, loss and restoration of citizenship	- To be determined by legislation - Legislation to set up a citizenship and immigration board
102. Citizenship by birth		
103. Citizenship by descent		
104. Citizenship by registration		
105. Mono or dual citizenship		
106. Revocation of citizenship	1. Revocation of citizenship	To be determined by legislation
107. Obligation of the state to protect its citizens	2.	
CHAPTER VI		
LAND, ENVIRONMENT AND NATURAL RESOURCES		
107. Principles of land policy		
108. Classification of land		
109. Public land		
110. Communal land		
111. Private land		

FRAMEWORK	GAPS	Concepts/ Principles
112. Landholding by non citizens		
113. Regulation of land use and property		
114. Legislation on land	<i>Positive measures to be adopted to ensure access to land to all previously disadvantaged persons including women, disabled, youth, etc.</i>	• Affirmative action • To be dealt with through legislation
115. Obligations in respect of the environment		
116. Enforcement of environmental rights		
117. Agreements relating to natural resources		
118. Land Commission	1. Establishment, composition, functions and powers of the commission 2. Legislation to provide	• Legislation to provide
(a) Functions of the Commission		
(b) Commissioner of lands		
(c) Organization and administration of Land		
119. Legislation relating to the environment		
CHAPTER VII		
FOUNDING FATHERS/MOTHERS, NATIONALISTS, HEROES/HEROINES AND WAR VETERANS	<i>FOUNDING MOTHERS, HEROINES</i>	• Add accordingly
120. Definition		
121. Entitlement, recognition and honour – to be dealt with in legislation		

FRAMEWORK	GAPS	Concepts/ Principles
CHAPTER VIII (Parked – whether it should be a stand-alone chapter)		
INDIGENISATION AND ECONOMIC EMPOWERMENT	<i>Uplift to derogation provisions of Bill of Rights</i>	<i>Uplift to derogation provisions of Bill of Rights</i>
122. Affirmative action and indigenisation		
123. Empowerment of local communities		
124. Empowerment of the indigenous		
CHAPTER IX		
THE LEGISLATURE		
PART I: LEGISLATURE AND PARLIAMENT		
125. Legislative authority		Research on best practice
126. Powers of legislature		"
127. Parliament		"
PART II: THE SENATE		
128. Composition of Senate	1. Number of seats for first past the post 2. Number of seats for proportional representation 3. Number of reserved seats	Pending
129. Functions and Powers of Senate		Research on best practice
130. Election of President of Senate		"
131. President of Senate not a Senator		"
132. Resignation and vacation of office by President of Senate		"
133. Deputy President of Senate		"
PART III: THE NATIONAL ASSEMBLY		
134. Composition of National Assembly	1. Number of seats for first past the post	Pending

FRAMEWORK	GAPS	Concepts/ Principles
	2. <i>Number of seats for proportional representation</i> 3. <i>Number of reserved seats</i>	
135. Functions and Powers of National Assembly		<i>Research on best practice</i>
136. Election of Speaker		"
137. Speaker not a member of National Assembly		"
138. Resignation and vacation of office by Speaker		"
139. Deputy Speaker		"
PART IV: GENERAL MATTERS RELATING TO PARLIAMENT		
140. Privileges and immunities of Parliament		<i>Research on best practice</i>
141. Oath of affirmation of Member of Parliament		"
142. Tenure of seat of Member of Parliament		<i>5 years</i>
143. (a) Expulsion or suspension of Member of Parliament (b) Effect of an appeal against conviction or sentence		<i>Research on best practice</i>
144. Remuneration of President of Senate, Speaker and Members of Parliament		"
145. Clerk of Parliament and other staff		"
146. Parliamentary Legal Committee		"
147. Functions of Parliamentary Legal		"

FRAMEWORK	GAPS	Concepts/ Principles
Committee		
148. Floor crossing relating to all levels of elected officials including independents		"
148.a	<i>Right of recall – PARKED</i>	- Political party – under Proportional Representation System - The Constituency - Modalities to be provided for in an Act of Parliament – Parked
149. Parliamentary Service Commission	<i>Establishment, Composition, Functions and powers of the Commission</i>	Established under the Constitution but Legislation to deal with details
150. Vote of no confidence in Government		Research on best practice
151. Parliamentary internal arrangements and regulations	<i>1. Code of conduct for MPs</i>	Established under the Constitution but Legislation to deal with details
152.a	<i>1. Eligibility for membership of Parliament</i> <i>2. Eligibility for MPs to hold other public offices</i> <i>4. Effect of an appeal against conviction or sentence by an MP</i>	Age : MPs – 21 years Senators – 40 years (excluding chiefs) - Criminal record as is (Agreed that the effect of a disqualification should be for a period of 5 years and the offences should be clearly defined) - MPs cannot hold other public office e.g. sit on the boards of public institutions – Agreed to adopt the formulation in Section 41 of Current Constitution Agreed that the law relating

FRAMEWORK	GAPS	Concepts/ Principles
		<i>to appeals should also apply to MPs</i>
PART V: PROCEDURE IN PARLIAMENT		
152. Person presiding in Senate		
153. Person presiding in National Assembly		
154. Person presiding at joint sittings of Parliament		
155. Quorum in Parliament		
156. Decisions of Parliament		
157. Right of Ministers, Parliamentary Legal Committee Chairperson and Attorney General to sit and speak in either House		
158. Presidential addresses and messages to Parliament		
159. Standing Rules and Orders		
160. Validity of proceedings in Parliament		
PART VI: LEGISLATIVE POWERS		
161. Bills		
162. Procedure for passing Bills	1. Distinction between ordinary and constitutional Bills 2. Procedure for resolving conflicts between the two houses.	• Substantive provisions in the text and Details in a Schedule
163. Presidential assent to Bills	Procedure for resolving differences between President and the Parliament	• Substantive provisions in the text and Details in a Schedule

FRAMEWORK	GAPS	Concepts/ Principles
164. Acts of Parliament and their commencement		
165. Enrolment of Acts		
166. Amendment of Constitution	<i>Distinguish between amendment of general provisions and that of entrenched clauses</i>	The Bill of Rights is entrenched. Can only be amended by a Referendum
PART VII: SUMMONING, PROROGATION AND DISSOLUTION OF PARLIAMENT	<i>Who dissolves Parliament and under what circumstances?</i>	- The President except where impeachment proceedings have commenced - Parliament may resolve to dissolve itself with two thirds majority (Research on best practice)
167. Sessions		
168. First and special sittings of Parliament		
169. Power of parliament to determine its sittings		
170. Life of Parliament	<i>Who swears in Members of Parliament and when?</i>	The Chief Justice or any other judge, alternatively The Clerk of Parliament as soon as the results are announced (Research on best practice)
171. Prorogation or dissolution of Parliament		
PART VIII: ELECTIONS		
172. General elections	<i>Peaceful conduct of elections</i>	(to do further research on who is the

FRAMEWORK	GAPS	Concepts/ Principles
		<i>transitional authority during elections)</i>
173. Qualifications of voters		
174. Electoral law		
175. Number of constituencies		
176. Delimitation of constituencies		
	177.a. Floor crossing	• Must relinquish seat • Should apply to Independents as well
	177.b. Right to Recall – Parked	• Legislation to provide details (Further research by Technical Committee)
CHAPTER X		
THE EXECUTIVE		
PART I: EXECUTIVE AUTHORITY	1. In whom does it rest? 2. Constitutional principles guiding the executive in the performance of their duties	• The President and Cabinet • Servant leadership derived from the people and exercised on behalf of the people in accordance with the Constitution
PART II: THE PRESIDENT		
177. The President		
178. Duty of President to uphold		

FRAMEWORK	GAPS	Concepts/ Principles
Constitution		
179. Qualifications for election as President		
180. Election of President		
181. Assumption of office by President		
182. Tenure of office by President		
183. Resignation of President		
184. Impeachment of President		
185. Presidential immunity	<i>Limitations of the Presidential immunity</i>	
186.A	<i>Presidential prerogative (e.g. of mercy)</i>	As in current Constitution (Research on best practice)
186. Acting President		
187. Remuneration of President and Acting President	<i>Pensions of former Presidents</i>	Must be Constitutionally provided
188. President not to hold other office or employment		
PART III: VICE PRESIDENT(S), MINISTERS AND CABINET		
VICE PRESIDENT(S)		
189. Appointment of Vice President (s)		
190. Functions of Vice President(s)		
191. Removal of Vice President(s)		
192. Remuneration and benefits of Vice President(s)		

FRAMEWORK	GAPS	Concepts/ Principles
THE CABINET		
193. Composition		
194. Functions and Powers	<i>Constitutional principles guiding the Executive in their duties</i>	<i>Servant leadership derived from the people and exercised on behalf of the people in accordance with the Constitution</i> <i>Good governance</i>
MINISTERS AND DEPUTY MINISTERS		
195. All Ministers and Deputy Ministers to be Members of Parliament		
196. Appointment of Ministers and Deputy Ministers		
197. Ministers and Deputy Ministers not to hold other office or employment	<i>Ministers not to hold a paid office of employment while in office</i>	<i>Ministers not to hold a paid office of employment while in office</i>
198. Tenure of office of Ministers and Deputy Ministers		
199. Remuneration of Ministers and Deputy Ministers		
CHAPTER XI		
THE JUDICIARY		
PART I: THE JUDICIARY AND THE COURTS		
200. Judicial authority		
201. Judicial Governance		
202. The Judiciary		

FRAMEWORK	GAPS	Concepts/ Principles
203. Independence of judiciary 204. Qualifications and experience of Judges		
205. Constitutional Court	<i>Establishment,</i> <i>Composition,</i> <i>Appointment,</i> <i>Powers and functions for all courts</i>	<i>Agreed on the establishment of a new and separate Constitutional Court headed by a Chief Justice</i> <i>Chief Justice, Deputy Chief Justice, Judge President and other Judges of the Constitutional not less than 7 with a quorum of 5.</i> <i>In matters relating to the Bill of Rights the Constitutional court will sit as a full bench</i> <i>The President after consultation with the Judicial Service Commission, an Independent Professional Body.</i> <i>Agreed to adopt the formulation in Section 106 of the Law Society Draft and Section 172 of the South African Constitution and section 157 (4) (a) and (b) in respect of qualifications for judges of the constitutional court and matters relating to infringements on the Bill of Rights.</i>

FRAMEWORK	GAPS	Concepts/ Principles
		It was agreed that the Constitutional court would be the highest court in respect of constitutional matters and the Supreme Court would be the highest court in civil and criminal matters.
206. Supreme Court		
207. High Court		
208. Magistrates Court		
209. Traditional Courts		
210. Specialised Courts		
211. Criminal Jurisdiction of Courts		
PART II: APPOINTMENT AND TENURE OF JUDGES		
212. Qualification of judges		
213. Appointment of judges		
214. Acting judges		
215. Tenure of office of judges		
216. Removal of judges from office	<i>Procedure and circumstances</i>	Agreed to adopt the formulation in Section 87 of the current Constitution and incorporate clauses (4) and (5) of Section 166 Kariba Draft
PART III: PROVISIONS APPLICABLE		

FRAMEWORK	GAPS	Concepts/ Principles
TO MEMBERS OF JUDICIARY GENERALLY		
217. Appointment of members of judiciary	<i>Fair, open and transparent process</i>	• <i>Fair, open and transparent process</i> • <i>Gender</i> • Agreed to adopt the formulation in Section 174 Subsection 2 of the South Africa minus the item of race. This should be replaced by a formulation referring to broadly representative of the diversity and gender composition of Zimbabwe • <i>Public hearings to include all senior public offices (Principle accepted but examples are needed – Further research by Technical Committee)</i>
218. Oath of office		
219. Remuneration of members of judiciary		
220. Security of tenure of members of the judiciary		
221. Conclusion of part heard cases by former members of judiciary		
PART IV: JUDICIAL SERVICE COMMISSION		
222. Judicial Service Commission	<i>Establishment, composition and powers</i>	• Agreed to adopt the

FRAMEWORK	GAPS	Concepts/ Principles
		<i>formulation in Section 172 of the Kariba Draft without the participation of the Minister of Justice and to indicate that there would be a representative of the Chiefs Council.</i> <i>Agreed to adopt from the Law Society Draft Section 124 the participation of the Chief appellate judge and to adopt (1) (e) and (f) in respect of the appointment of other members by the President</i> <i>Powers that promote the autonomy of the Judiciary and good governance</i>
223. Functions of Judicial Service Commission		
CHAPTER XII		
REPRESENTATION OF THE PEOPLE		
PART I: ELECTORAL SYSTEM AND PROCESS		
224. General principles for the electoral system	<i>Hybrid</i>	<i>Hybrid</i>
225. Legislation on elections		
226. Legislation to effect gender parity		<i>Gender parity</i>
227. Registration as a voter		
228. Candidates for election and		

FRAMEWORK	GAPS	Concepts/ Principles
political parties to comply with code of conduct		
229. Eligibility to stand as an independent candidate		
230. Voting		
231. Electoral disputes		
PART II: DELIMITATION COMMISSION	<i>Delimitation and Boundaries Commission</i>	<i>Established in terms of the Constitution and details in legislation</i>
232. Composition, functions and powers		
PART III: POLITICAL PARTIES		
233. Basic requirements for political parties (including the obligation to be democratic)		
234. Funding of political parties		
235. Legislation on political parties		
236. Obligation on gender parity in political parties – PARKED!		Gender parity
237. Allocation of party list seats		
CHAPTER XIII		
ATTORNEY GENERAL		
238. Appointment of Attorney General	1. Establishment of Attorney General's Office 2. Oath of Office	- President on the advice of JSC with the approval of parliament - Agreed to adopt the formulation in the Kenyan Constitution Section 156 with the modification that the appointment should be on the

FRAMEWORK	GAPS	Concepts/ Principles
		<i>advice of the Judicial Services Commission</i>
239. Functions and powers of Attorney General		
240. Independence of Attorney General		
241. Conditions of service of Attorney General		
242. Removal from office of Attorney General	<i>Procedure for discipline Procedure for removal</i>	Agreed to adopt the formulation in Kariba Draft section 178 (Should be the same as Judges of the High Court)
243. Staff of Attorney General		
CHAPTER XIV		
NATIONAL PROSECUTING AUTHORITY – (PARKED)		
244. Establishment of National Prosecuting Authority		<i>The principle of establishing the NPA was agreed. Whether it should be under the AG or not was parked</i>
245. Appointment of National Director		
246. Functions and powers of National Prosecuting Authority		
247. Independence of National Prosecuting Authority		
248. Conditions of service of National Prosecuting Authority		
249. Removal from office of National	<i>Procedure for appointment, discipline and</i>	<i>As applicable to members of the</i>

FRAMEWORK	GAPS	Concepts/ Principles
Prosecuting Authority members	<i>removal</i>	<i>Judiciary</i>
250. Staff of National Prosecuting Authority		
CHAPTER XV		
PUBLIC SERVICE		
251. Public Service	<i>Principles and values underpinning the Public Service</i>	Agreed to adopt the formulation in the South African Constitution section 195 with the addition of gender balance and mainstreaming in (1) to remove the reference to redressing imbalances of the past. In (3) at the end to the sentence to add (1) above.
252. Organization and administration of Public Service		
253. Public Service Commission	<i>Appointment and composition</i>	- Gender – That the Chair and Deputy Chair must be from different genders - The President with the approval of parliament Agreed to adopt the formulation in Kariba Draft Section 182
254. Functions of Public Service		

FRAMEWORK	GAPS	Concepts/ Principles
Commission		
255. Permanent Secretaries	<i>Appointment and functions</i>	
256. Ambassadors and other principal representatives of Zimbabwe	<i>Appointment, functions and removal from office</i>	
CHAPTER XVI		
DEFENCE FORCES		
257. Defence Forces	<i>Principles governing National Security</i>	• Uphold the constitution, rule of law, fundamental rights and democracy • Subject to the Constitution and Parliament • Adherence to principles of International law • Derive authority from the Constitution • Defend and protect Zimbabwe, its people, its Constitution, Its national security and interests and its territorial integrity • Respect and reflect the diverse

FRAMEWORK	GAPS	Concepts/ Principles
		<i>cultures and communities in Zimbabwe</i> • <i>Reflect the diversity of Zimbabwean people in the recruitment</i>
258. Primary function of Defence Forces		
259. Deployment of Defence Forces		
260. Command of Defence Forces		
261. Organization and administration of Defence Forces		
262. Defence Forces Service Commission	<i>Appointment, composition and functions</i>	• <i>Must include civilians</i> • <i>Agreed to adopt the formulation in the 2000 Draft Section 194. That this would also apply to the Police and Prison Service</i>
263. Accountability of all forces to the civilian authorities – (PARKED)		<i>Research on best practice</i>
CHAPTER XVII		
POLICE FORCE		<i>There was no agreement on whether this organ should be called a Police Force or Police Service</i>
264. Police Force and its functions	<i>Principles governing National Security</i>	• <i>As in Defence forces above</i>
265. Commissioner of Police		

FRAMEWORK	GAPS	Concepts/ Principles
(Commissioner General)		
266. Organization and administration of Police Force		
267. Police Force Service Commission	<i>Appointment and composition</i>	• <i>As in Defence Forces above</i>
268. Accountability of all forces to the civilian authorities – (PARKED)		<i>Research on best practice</i>
CHAPTER XVIII		
PRISON SERVICE		
269. Prison Service and its function	<i>Principles governing National Security</i>	• <i>As in Defence Forces above</i>
270. Commissioner of Prisons		
271. Organization and administration of Prison Service		
272. Prison Service Commission	<i>Appointment and composition</i>	• <i>As in Defence Forces above</i>
273. Accountability of all forces to the civilian authorities – (PARKED)		
CHAPTER XIX		
INTELLIGENCE SERVICES – (PARKED)		
274. Intelligence Service and its functions	<i>Principles governing National Security</i>	• <i>As in Defence Forces above</i>
275. Director /Commissioner of Intelligence Service		
276. Organization and administration of Intelligence Service		
277. Intelligence Service	<i>Appointment and composition</i>	• <i>Must include civilians</i>

FRAMEWORK	GAPS	Concepts/ Principles
Directorate/Commission		• <i>Kariba Draft Section 192</i> • <i>Law Society Section 142</i> • <i>2000 Draft Section 194</i>
278. Accountability of all forces to the civilian authorities		
CHAPTER XX		
GENDER COMMISSION	<i>(Whether independent or executive commission)</i>	For further research
279. Gender Commission and its functions 280. Term of office	1. <i>Principles governing the commission</i> 2. <i>Powers</i>	• <i>Must have gender parity in its composition</i> • <i>Must promote respect, protect and develop Gender equality</i> • <i>Agreed to adopt the formulation in the South Africa constitution Section 187 with the addition that an Act of Parliament shall provide for the powers and functions of the commission. The appointment and composition of the commission shall be spelt out in the constitution</i> • <i>The power to monitor, investigate,</i>

FRAMEWORK	GAPS	Concepts/ Principles
		<i>research, educate, advise and report on issues of gender and gender equality</i> • <i>Legislation can add on to the functions and powers.</i> • <i>Report to Parliament</i>
281. Commissioner of Gender Commission		
282. Organization and administration of Gender Services		
283. Gender Commission 284. Term of office	<i>Appointment, establishment and composition</i>	• <i>As in 277 above</i>
Agreed Issues not Covered in the Frame work		
WOMEN AND GENDER	<i>Transferred to Bill of Rights – Specific Applications (Page 18 hereof)</i>	
Political		
CHAPTER XXI		
INDEPENDENT INSTITUTIONS SUPPORTING CONSTITUTIONAL DEMOCRACY		
PART I: ELECTORAL COMMISSION		
285. Establishment and composition of Electoral Commission	<i>Establishment, appointment procedure and composition of the Commission</i>	• <i>Agreed to adopt the formulation in the current</i>

FRAMEWORK	GAPS	Concepts/ Principles
		<i>Amendment No. 19 Section 100b with amendments. Specifically that the chairperson would be appointed by the President on the recommendation of the Judicial Services Commission and the approval of parliament (Other members to be appointed as in other commissions, refer to 294)</i>
286. Functions of Electoral Commission		
287. Disqualification for appointment to Electoral Commission		
288. Members of Electoral Commission not to be members of political parties		
289. Remuneration, allowances and benefits of members of Electoral Commission		
290. Removal of member of Electoral Commission from office		
291. Provisions to ensure Independence of the Electoral Commission		
292. Reports of Electoral Commission		
293. Term of office		
PART II: HUMAN RIGHTS COMMISSION		
294. Establishment and composition of Human Rights Commission	<i>Establishment, appointment procedure and composition of the Commission</i>	<i>Agreed to adopt the formulation in the Law Society</i>

FRAMEWORK	GAPS	Concepts/ Principles
		Draft section 156 accompanied by the following principles: (i) Open system of inviting applications (ii) Assessment (iii) President must fill vacancy from nominees submitted by parliament (iv) President can advise Speaker of unsuitability of any of the candidates in which case there should be a resubmission
295. Functions of Human Rights Commission		
296. Powers of Human Rights Commission		
297. Term of office		
PART III: ANTI-CORRUPTION COMMISSION		
298. Establishment and composition of Anti-Corruption Commission	<i>Establishment, appointment procedure and composition of the Commission</i>	As in Human Rights Commission above
299. Functions of Anti –Corruption Commission		
300. Powers of Anti –Corruption Commission		

FRAMEWORK	GAPS	Concepts/ Principles
301. Term of office		
PART IV: MEDIA COMMISSION		
302. Establishment and functions of Media Commission	<i>Establishment, appointment procedure and composition of the Commission</i>	<i>As in Human Rights Commission above</i>
303. Powers of Media Commission		
304. Term of office		
PART V : TRUTH, JUSTICE AND RECONCILIATION COMMISSION (PARKED)		
305. Establishment and functions of the Commission	<i>Establishment, appointment procedure and composition of the Commission</i>	<i>As in Human Rights Commission above</i>
306. Powers of the Commission		
307. Term of office		
CHAPTER XXII		
PUBLIC PROTECTOR	<i>Independent Public Protector</i>	
308. Public Protector 309. Term of office	<i>Establishment, appointment procedure and qualification</i>	<i>Agreed to adopt the formulation in the Kariba Section 218 with the amendment that the Public Protector shall be appointed by the President on the recommendation of the Judicial</i>

FRAMEWORK	GAPS	Concepts/ Principles
		<i>Services Commission with the approval of parliament</i> • <i>Must be a person who is qualified to be a Judge of the High Court</i> • <i>Whose office shall be a public office but shall not form part of the public service</i>
310. Functions of Public Protector/Ombudsman		
311. Conditions of service of Public Protector/Ombudsman		
312. Removal from office of Public Protector/Ombudsman		
313. Staff of Public Protector/Ombudsman		
CHAPTER XXIII		
COMPTROLLER AND AUDITOR GENERAL		
314. Comptroller and Auditor General	<i>Establishment, appointment procedure and composition</i>	• <i>Agreed to adopt the formulation in Kariba Draft Section 235</i> • <i>Specifically that the President would appoint on the advice of a body representing that profession with the approval</i>

FRAMEWORK	GAPS	Concepts/ Principles
		<i>parliament</i>
315. Functions of Comptroller and Auditor General		
316. Term of office		
317. Conditions of service of Comptroller and Auditor General		
318. Removal from office of Comptroller and Auditor General		
319. Staff of Comptroller and Auditor General		
CHAPTER XXIV		
FINANCE		
PART I: PRINCIPLES OF REVENUE SHARING	1. Assignment of taxation powers on each level of Government	To be provide for in the Schedule (To do further research on the

FRAMEWORK	GAPS	Concepts/ Principles
	2. National budget is shared among levels of government 3. Equalisation grant in order to uplift underdeveloped areas 4. Principles of public finance management	taxation powers to be accorded to each level of government – Technical Committee) - The government shall ensure that the wealth of the state is equitably shared among all levels of government for the welfare of its people Agreed to adopt the formulation in the South African constitution Section 214 (1) and incorporate some sections of the Kenyan constitution section 201 It was also agreed to establish a Financial and Fiscal Commission and to adopt the formulation in the South African constitution section 220 - Promote transparency, accountability and effective financial management of the economy. - The budget in each sphere of government must show the sources of revenue.
PART II: PARLIAMENTARY CONTROL OVER TAXATION, EXPENDITURE AND BORROWING		

FRAMEWORK	GAPS	Concepts/ Principles
320. Parliamentary control over taxation		
321. Parliament to monitor Government expenditure		
322. Limits of State borrowings, public debt and State guarantees		
283.A	283.A . <i>The National Financing and Fiscal Commission</i>	• Agreed to adopt the formulation in the South Africa Section 220 • <i>Must have representatives from provincial and district level spheres of government</i>
PART III: CONSOLIDATED REVENUE FUND		
323. Consolidated Revenue Fund		
324. Withdrawals from Consolidated Revenue Fund and other public funds		
325. Debts and other expenses to be charged upon Consolidated Revenue Fund		
PART IV: AUTHORISATION OF EXPENDITURE FROM CONSOLIDATED REVENUE FUND		
326. Estimates of revenue and expenditure		
327. Information to be provided to Parliament		
328. Appropriation Bills		

FRAMEWORK	GAPS	Concepts/ Principles
329. Additional or supplementary appropriations		
330. Authorization of expenditure in advance of appropriation		
331. Excess or unauthorized expenditure		
PART V: SAFEGUARDING OF PUBLIC PROPERTY AND AUDIT OF ACCOUNTS		
332. Duty of custodians of public funds and property		
333. Auditor general		
334. Functions of Auditor General		
335. Matters to be provided for in Act of Parliament		
336. Procurement		
337.		
PART VI: RESERVE BANK OF ZIMBABWE		
338. Establishment and object of Reserve Bank of Zimbabwe	<i>Provision for independence of the RBZ and restriction to monetary issues</i>	With regard to the establishment and object of the Reserve Bank of Zimbabwe, structure and functions it was agreed to adopt the formulation in the 2000 Draft Section 238 - 239 <i>Must perform its functions independently and without fear, favour or prejudice</i>

FRAMEWORK	GAPS	Concepts/ Principles
339. Structure and functions of Reserve Bank of Zimbabwe	1. Board 2. Composition 3. Governor	To be provided through an Act of Parliament
340. Appointment of the Governor of the Reserve Bank		<i>It was agreed that the Governor of the reserve Bank would be appointed by the President with the approval of parliament</i>
AGREED ISSUES NOT COVERED IN FRAME WORK		
CHAPTER XXV		
SYSTEMS OF GOVERNMENT	<i>Uplift to a new Chapter preceding the national legislature</i>	<i>Uplift to a new Chapter preceding the national legislature</i>
SYSTEMS OF GOVERNMENT		
UNITARY STATE AND DEVOLVED GOVERNMENT		
PART I: OBJECTS AND PRINCIPLES OF DEVOLVED GOVERNMENT		
341. Objects of devolution		
342. Principles of devolution		
343. Tiers of support structures of Government		
344. Delineation of powers of the functions of National, Provincial and Local Governments	<i>This goes to a schedule and legislation (Key constitutional powers of each level of government to be in the constitution for role clarity)</i>	<i>This goes to a schedule and legislation</i>
PART II: PROVINCIAL GOVERNMENTS		

FRAMEWORK	GAPS	Concepts/ Principles
345. Provincial Governor - (PARKED)		
a. By appointment		
b. By election		
346. Determination of Provinces - (PARKED)		
347. Provincial councils - (PARKED)	<i>Composition</i>	• Provincial Governor, Provincial Councillors, Traditional Leaders or their representatives (ex-officio), Representatives of Women, Youth, Disabled, Civic Society. • Provincial Governor, Legislators, Reserved Seats (Chiefs, Women, Youth, Disabled) • Provincial Governor, Senators and Members of National Assembly (ex-officio voting), Representative of Councillors from the local authorities, Representatives of Traditional Leaders (ex-officio voting).
348. Chairpersons of Provincial Councils - (PARKED)		
349. Provincial Budgets		
PART III: LOCAL AUTHORITIES		
350. Principles of local Authorities		
351. Local Authorities		

FRAMEWORK	GAPS	Concepts/ Principles
352. Rural and Urban councils		
353. Powers of urban and rural councils		
CHAPTER XXVI		
TRADITIONAL INSTITUTIONS		
354. Recognition of traditional leadership	<i>1. Levels of Council of Chiefs</i> <i>2. An Act of Parliament will attend to the establishment of any other structures of traditional leaders</i>	<i>Provide for the National Council of Chiefs</i> <i>Refer to 2000 Draft Section 251</i> <i>An Act of Parliament will attend to the establishment of any other structures of traditional leaders (Deferred)</i>
355. Appointments of traditional leaders	<i>1. Security of tenure</i> <i>2. Procedure for the removal of traditional leaders</i>	<i>In terms of tradition and culture and as provided in legislation</i>
356. National, Provincial and Local Institutions of Traditional leaders	<i>1. Functions of the structures of Chiefs</i>	
357. Functions and powers of Traditional leaders	<i>Principles</i>	<i>Subject to this Constitution and the law</i> <i>Shall not be subject to the control or direction of any person or authority</i> <i>Their appointment and removal shall be in terms of the relevant traditions and customs</i>

FRAMEWORK	GAPS	Concepts/ Principles
	<i>An Act of Parliament should provide for the powers and functions of traditional leaders</i>	<i>Traditional leaders shall not engage in partisan politics or hold positions in political parties or they risk losing their privilege</i> <i>Act within their powers and exercise them for proper purpose</i> <i>Remuneration of traditional leaders to be paid from the Consolidated Revenue Fund</i> <i>An Act of Parliament shall provide for the Secretariat for the Councils of Chiefs</i>
CHAPTER XXVII		
GENERAL AND SUPPLEMENTARY PROVISIONS		
PART I: GENERAL PROVISIONS AS TO COMMISSIONS		
358. Interpretation in Part I		
359. Commissions to be independent	<i>Appointment procedure and composition</i>	<i>Appointment by the President from a list provided by parliament</i> <i>Current Constitution Section 61</i> <i>Law Society draft Section 156</i>
360. Membership of Commissions and conditions of service of members		
361. Functions and procedure of Commissions		

FRAMEWORK	GAPS	Concepts/ Principles
387. Diligent performance of constitutional obligations		
388. Disclosure of assets by public officers		
389. Funding for political parties		
PART VI: TRANSITIONAL MECHANISMS		
Agreed Issues not in the frame work		
LANGUAGES	<i>Languages uplifted to specific applications of rights</i>	
SCHEDULES		<i>As much as possible items in the schedules to be captured under specific chapters</i>
FIRST SCHEDULE: Oaths and Affirmations		
SECOND SCHEDULE: Qualifications for Senators, members of National Assembly and voters		
THIRD SCHEDULE: Procedure as to Bills and other matters in Parliament		

FRAMEWORK	GAPS	Concepts/ Principles
FOURTH SCHEDULE: Savings and supplementary provisions		
FIFTH SCHEDULE: Delineation of the borders of the provinces		
SIXTH SCHEDULE: National Flag, Coat of Arms, National Anthem and Public Seal.		
SEVENTH SCHEDULE: Appointment of Parliamentary Office bearers		
EIGHTH SCHEDULE : Limitations of Fundamental Rights and Freedoms under States of Emergency		
NINTH SCHEDULE : Transitional Mechanisms		



CONSTITUTIONAL PRINCIPLES



COPAC

constitution
select
committee

ensuring a people-driven constitution

LIST OF CONSTITUTIONAL PRINCIPLES

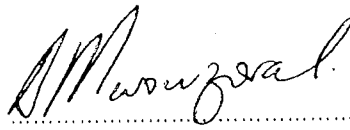
The following are the constitutional principles guiding the drafting of the new constitution for Zimbabwe:

1. Supremacy of the constitution
2. Recognition of Zimbabwe's liberation, democracy, sovereignty of the state and its people
3. Recognition of the principle of separation of powers
4. Recognition of land and natural resources as belonging to all Zimbabweans
5. The constitution should contain mechanisms of redressing colonial imbalances in the distribution of natural resources including land
6. The new constitution must ensure the maintenance of unity, in diversity, peace, stability, security and prosperity for all the people of Zimbabwe
7. Recognition of the rule of law, good governance and democracy
8. Recognition that power to rule and govern must be derived from the authority of the people
9. The recognition of fundamental human rights
10. All organs of the state to respect, protect, promote and fulfill the rights and freedoms spelt out in the Bill of Rights
11. Recognition of the principle of decentralization
12. Recognition of the principle of devolution of power
13. Recognition of gender equality and gender mainstreaming in all spheres of governance
14. The recognition of the rights of children, the youth, the disabled, women, workers and vulnerable groups
15. The recognition of universal adult suffrage
16. The recognition of the importance of an electoral system that guarantees regular, free and fair and effective elections that ensure adequate representation of the electorate
17. Recognition of the importance of Bill of Rights by entrenching it in the constitution and its justiciability
18. Recognition of the principle of checks and balances among the levels of government and the Arms of the State
19. Recognition of the need for equitable resource sharing mechanisms
20. Recognition of the rights of racial, ethnic, cultural, linguistic, religious and political minorities
21. That the management of public finances should be informed by transparency, responsiveness, accountability, responsibility, integrity and equity
22. All arms of state to uphold the principles of democracy and good governance
23. Recognition of the principle of constitutional transition and orderly transfer of power
24. All Arms of State must uphold the constitution, respect human rights, be non-partisan and professional
25. The constitution must recognize the diversity of languages, customary practices and traditions

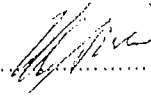
- and must seek to protect and promote these
26. The institution, status and role of traditional leadership, according to indigenous law, shall be spelt out and recognized in the constitution



Hon. MP Mangwana
Co-chair



Hon. DT Mwonzora
Co-chair



Hon. ET Mkhosi.
Co-chair

