

Framework for the Drafting of a New Constitution for Zimbabwe

Following the disputed election on June 27 2008, the three main political parties in Zimbabwe entered into negotiations for the resolution of the Zimbabwe crisis [i.e. the deepening economic and humanitarian crises] in a SADC led initiative. Ultimately this led to the signing of the Global Political Agreement on 15 September 2008 which paved way for the establishment of a Government of National Unity. One of the components of the agreement was that the political parties agreed to the drafting of a new democratic constitution for the country in an all inclusive, people driven process. Thus Article 6 of the GPA which appears as schedule 10 of Constitutional Amendment no 19 of the constitution sets out the framework to be followed in the drafting of the new constitution. In the Short Term Economic Recover Programme (STERP) set out by the Minister of Finance in presenting a revised budget paragraph 8 thereof identifies the Constitution and the constitution making process as priority areas of political and governance issues. The process to be followed is thus as follows:-

The parties shall

Set up a Select Committee of Parliament whose role shall be:

- a. to set up sub committees chaired by a member of Parliament composed of MP's and representatives of civil society
- b. to hold public hearings and consultations with the public
- c. to convene an all stakeholders conference to consult stakeholders
- d. to table a draft constitution at a second stakeholders conference
- e. report to Parliament its recommendations for the new constitution
- f. submit draft constitution to a referendum

The whole process for the drafting of a new constitution is estimated to take approximately 18 months.

Summary

Max time	Deadline	Event
	13 February 2009	Inception of new GNU
2 months allowed for next stage	13 April 2009	Select Committee of Parliament
	No timeframes	Select Com creates sub committees
3 months	13 July 2009	First All stakeholders conference
4 months	13 November 2009	Public consultations complete
3 months	13 February 2010	Draft Constitution tabled at second stakeholders conference
1 month	13 March 2010	Draft Const tabled before Parliament
1 month	13 April 2010	Debate in parliament complete
No time frame set		Gazetting of Draft constitution from Parl
3 months after MPs end debate	13 July 2010	Referendum
If voters approve of draft	13 August 2010	Gazetted as Constitutional Bill
30 days legal req	12 October 2010	Bill introduced in Parliament
	No time frame set	Enacted into law

To date it has been agreed that the Select Committee be constituted of 28 members of Parliament. These are to be appointed by the respective parties according to an agreed formula.

Commitments to Gender

Article XX of the GPA seeks to create gender parity in the appointment of women to strategic posts. Paragraph 38 of STERP emphasizes that the Constitution should address the critical areas for women's rights in political and decision making, affirmative action, personal law and control and ownership of resources. Para 42 goes further to state that resources should be availed to ensure women's effective and equal participation in the Constitution making process.

Lessons Learnt from Previous Constitutional Reform Processes

- **Benchmarks.** Women must have bench marks of what their minimum demands are bearing in mind that it is impossible to get everything they demand. This should inform any decision on whether to accept the Constitution at a referendum or not
- **Good negotiators.** There must be good negotiators who have clarity on issues and remain defiant in the face of opposition noting that the negotiating spaces are based on male chauvinistic norms.
- **Unity of Purpose.** Women as a marginalized group should unify and amplify their voices. Fragmentation only serves to give ammunition to the opposition. i.e. the divide and rule. Despite whatever loyalties we may have to male mainstream organizations, parties etc. in the very end our uniting force is that as women we face discrimination from men by virtue of us being women.
- **Preparing Technical Arguments before hand.** Women must have already stated positions on Critical issues and position papers in place to defend certain positions we may wish to advance. This includes drafting special clauses on the Constitution for instance on gender as well as positions on contentious issues such as customary law and the arguments for the setting up of a Gender Commission as examples.
- **Crating a Consensus on Women's Positions.** There is a need to review the Women's Charter. In particular the Charter should articulate women's demands beyond the Bill of Rights issues, that is to speak to women's demands in relation to other sections of the Constitution e.g. on the preferred electoral systems.
- **Constitutional Literacy.** The Constitution needs to be unpacked to enable grassroots women to understand it. This will enrich the Constitutional debate. Women must also be prepared to decipher the consultations as not all input is relevant to the constitution making process.
- **Constituency Building.** Women need to build a critical mass i.e. play the numbers game to gain legitimacy on where we derive our mandate.
- **Research and technical support to Women in Processes.** There must be women who are a resource to the Women's Parliamentary Caucus providing technical support, to the women in the drafting teams.
- **Media and Advocacy Strategy.** There must be an advocacy and media team that manage the process based on clear strategies.
- **Engaging Sympathetic Men.** Women need to build alliances with men who support their cause and are able to influence the drafting process. In most instances men caucus outside meetings and they lead the processes. Men listen to other men when they talk and are quick to take a point from another man.
- **Human Resource capacity.** Constitutional review processes are very involving. There is need to have full time programme officers manning the programme and secondly there must be a national command centre that manages information coming from the public consultations and manages processes overall.
- **Dedication.** The process is taxing and can be at times emotionally draining. In the previous process some women resigned, attacks became personal. Women will need to withstand the pressure. Other challenges are around managing processes such as feedback to grassroots women and managing NGO mercenaries.

- **Engaging women in mainstream organizations.** We need to engage with women in mainstream organizations who may not be participating in the main women's processes as they can influence debates in other bigger organizations.
- **Keeping the momentum.** The process is taxing there is need to maintain momentum, process is long and at times momentum is lost.
- **Involving young women.** The Coalition needs to involve young women more in the process, they have less baggage i.e. gender roles hence have increased mobility.
- **Regional Exchanges.** We need to learn and share experiences from other in the region. For instance Zambia is also reviewing their own constitution and South Africa offers a good learning point. We must review some of the decided cases that have tried to interpret the Constitution and those can inform the basis of women's demands in this constitution making process. For instance questions on what is the effect of having justiciable Bill of rights that includes social and economic rights.
- **Vigilance.** Those in the drafting teams must be astute as concessions may be put in and later taken out without notification. Thus they must remain very vigilant and closely follow the draft as it progress.
- **Train of Trainers.** There must be a strategy of training other resource persons training of trainers.
- **Mapping.** As a nationwide advocacy the Coalition must in the initial stages map out the areas where each one of their members is working and what they are doing. The members can carry out some of the work co-opting it to their own programmatic work.
- **Managing Content and Process.** Women need to run a campaign that focuses on both the content and the process. Women must engender the whole process making reference to the AU guidelines and the 50/50 campaign.
- **Keeping Constituencies informed.** At all stages leaders must communicate progress, disclose information on critical issues and transparency and accountability on resources as they are potentially contentious issues.

Constitutional Reform Process: Way Forward

- The meeting agreed that it was critical that Gender Forum actively ensures that the momentum felt and seen at the meeting be maintained until the logical conclusion of the process. In this regard, all the issues raised in the lessons learnt paper were adopted as critical to engage with during the current Constitutional Reform Process.
- UNIFEM was tasked with drawing up names of organizations/individuals with comparative advantages in matters of the Constitution that would form a committee that crafts a strategy document and work plan on the best way forward for Gender Forum's engagement with the process. The outcomes of the Constitution Committee will be broadly shared with the Gender Forum membership.
- In the interim, organizations working in the Constitutional arena were encouraged to share with the broader group what they were doing to ensure collective engagement. General Constitutional Process information sharing was particularly encouraged.
- The meeting was encouraged to be conversant with the current Constitution as a starting point of being able to understand processes of Constitutional Reform Process.

Following presentations by ZWLA, during plenary, the meeting emphasized the need for the following issues to be adopted as critical areas that Gender Forum consider to work around during the Constitutional Reform Process:

- Constitutional literacy
- Participate in consultations
- Lobby for inclusion of women in the parliamentary sub committees- submit names, profile and come up with criteria
- Mobilise women and educate them
- Participate in all processes laid out

- Mass education
- Position papers
- Technical support to women MPs